

ORDINANCE NO. 2019-02

AN ORDINANCE OF THE CITY OF INDIAN HARBOUR BEACH, BREVARD COUNTY, FLORIDA AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES OF THE CITY ENTITLED “ANIMALS” BY CREATING ARTICLE III, ENTITLED “RESTRICTIONS ON RETAIL PET SALES AND PET MILLS” BY CREATING SECTIONS 4-50, “DEFINITIONS”; SECTION 4-51 “PROHIBITIONS”; SECTION 4-52 “EXEMPTIONS”; SECTION 4-53 “CERTIFICATE OF SOURCE”; SECTION 4-54 “PENALTY”; SECTION 4-55 “ENFORCEMENT”; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING FOR THE REPEAL OF ORDINANCES AND RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Indian Harbour Beach finds that the humane treatment of animals is a vital public purpose; and

WHEREAS, the City Council of the City of Indian Harbour Beach finds that what is referred to as “pet mills” are inhumane and unsanitary commercial breeding facilities for animals in which the health of animals is disregarded in order to maintain a low overhead and maximize profits; and

WHEREAS, the City Council of the City of Indian Harbour Beach finds that because of the lack of proper animal husbandry practices at these pet mills, animals born and raised there are more likely to have genetic disorders and lack adequate socialization. Further breeding animals that are utilized there for that purpose are often subject to inhumane housing conditions and are indiscriminately disposed of when they reach the end of their profitable breeding cycle; and

WHEREAS, these facilities may house animals in overcrowded and unsanitary conditions without adequate veterinary care, food, water, and socialization, allowing the spread of heritable and congenital disorders; infectious diseases; and potentially causing environmental contamination that may present immediately after a sale or not until several years later; and

WHEREAS, the practices used by these mass-breeders may be cruel, inhumane, or at least considered unreasonable to most pet owners, and detrimental to the pets used for breeding; and

WHEREAS, numerous alternatives exist to find pets, including adoption of animals from public animal shelters and private animal rescue organizations or purchase from reputable and conscientious breeders, and

WHEREAS, the City Council of the City of Indian Harbour Beach finds that prohibiting the retail sale of dogs, cats, rabbits, ferrets, guinea pigs, poultry or fowl in pet stores within the city limits will promote community awareness of animal welfare and, in turn foster more humane environment as encourage pet consumers to adopt said pets from tax payer funded pet shelters, thereby saving the lives of many animals and reducing the cost of publicly funded animal shelters, and

WHEREAS, this Ordinance does not affect a consumer's ability to obtain a pet (as defined herein) of his or her choice directly from a breed-specific animal rescue organization or an animal shelter, or from a reputable breeder where the consumer can directly see the conditions in which the animals are bred, or can confer directly with the reputable local breeder concerning said conditions; and

WHEREAS, the City Council of the City of Indian Harbour Beach hereby finds and declares that the adoption of this ordinance is appropriate, and in the public interest of the citizens of this community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF INDIAN HARBOUR BEACH, BREVARD COUNTY, FLORIDA, that:

SECTION 1. A new Article III is hereby added to Chapter 4 of the Code of Ordinances to read as follows:

ARTICLE III - RESTRICTIONS ON RETAIL PET SALES AND PET MILLS

Sec. 4-50. - Definitions.

Definitions. For purposes of this section, the following definitions shall apply:

Animal rescue organization means humane society or other duly incorporated or organized nonprofit organization operated as a bona fide charitable organization under Section 501(c)3 of the Internal Revenue Code, which organization is devoted to the rescue, care and/or adoption of stray, abandoned, injured or surrendered animals and which does not breed animals.

Animal shelter means a municipal or related public animal shelter or duly incorporated or organized nonprofit organization operated as a bona fide charitable organization under Section 501(c)3 of the Internal Revenue Code devoted to the rescue, care and/or adoption of stray, abandoned, injured or surrendered animals, and which does not breed animals.

Cat means an animal of any age of the Felidae family of the order Carnivora.

Certificate of source means a document from the source or county animal shelter or animal control agency, humane society, non-profit rescue organization or hobby breeder declaring the source of origin of a pet on the premises to be sold or transferred or offered for sale or transfer. A certificate of source shall include at a minimum:

- (a) A brief description of the pet (dog, cat, rabbit, ferret, or guinea pig), the name, address, telephone number, and e-mail address of the source of the pet;
- (b) Shall be signed by the pet store certifying the accuracy of the certificate; and
- (c) Shall be signed by the purchaser or transferee of the pet acknowledging receipt of the certificate of source.

Dog means an animal of any age of the Canidae family of the Carnivora.

Ferret means an animal of any age with the scientific name of Mustela Putorius Furo.

Guinea Pig means an animal of any age with the scientific name of Cavia Porcellus.

Hobby breeder means any person or entity that causes or allows the breeding or studding of a pet, as defined herein, resulting in no more than a total of one (1) litter per calendar year whether or not the animals in such litter are offered for sale or other transfer.

Owner means and includes any person feeding, owning, harboring or keeping any animal within the territorial limits of the city.

Pet means a dog, cat, rabbit, ferret, guinea pig, **poultry or fowl**.

Pet mill means a facility where pets are bred for the purpose of selling them and where any two (2) of the following conditions are found to exist:

- (1) More than twenty (20) dogs under the age of twelve (12) weeks or more than twenty (20) cats under the age of sixteen (16) weeks are kept at a single time;

- (2) No genetic or heredity health testing appropriate for the breed of pet is conducted;
- (3) No long-term [over one (1) year] guarantees are honored;
- (4) A single female pet is bred every cycle;
- (5) A single female pet is bred more than twice in one calendar year;
- (6) There are no records of the pets' parents;
- (7) More than eight pets are kept in a single cage or kennel area.

Pet store means any retail establishment open to the public that sells or transfers, or offers for sale or transfer, pets, regardless of the age of the pet.
Pet store operator means a person who owns or operates a pet store.

Poultry means domestic fowls, including chickens, turkeys, geese and ducks

Rabbit means an animal of any age with the scientific name of *Oryctolagus Cuniculus*.

Sec. 4-51. - Prohibitions.

- (a) Sale or transfer of pets. No pet store shall display, sell, trade, deliver, barter, lease, rent, auction, give away, transfer, offer for sale or transfer, or otherwise dispose of pets on or after the effective date of this section unless the pet store is exempt under [section] 4-52.
- (b) Pet Mills. No pet mills shall be permitted to operate in the City of Indian Harbour Beach.

Sec. 4-52. - Exemptions.

The prohibitions contained in section 4-51 shall not apply to:

- (a) An animal shelter.
- (b) An animal rescue organization.
- (c) An animal shelter or animal rescue organization that operates out of or in connection with a pet store or other retail store.
- (d) Pet stores that possess an active City of Indian Harbour Beach local business tax receipt on the effective date of this ordinance shall have thirty (30) days therefrom to comply with the certificate of source in section 4-53.
- (e) A hobby breeder as defined above.
- (f) A farm operation as defined in FS 823.14.**

Sec. 4-53. - Certificate of Source.

A pet store that obtains pets from a permitted source shall post conspicuously on the cage of each pet a signed certificate of source which shall specify at minimum:

(a) A description of the pet including species breed, sex, color, and distinctive markings, physical condition and health, and age (if known); and

(b) The name and address of the source from which the pet was obtained and date thereof;

(c) For each pet receiving medical care while in the custody or control of the pet dealer or pet shop, the type of service rendered, date, and veterinarian's name.

(d) A copy of the certificate of source shall be signed by and provided to the purchaser or transferee of any pet at the time of sale.

Sec. 4-54. - Penalty.

Violations of section 4-51 and 4-53 shall be punishable by Sections 1-11 and 21-1 through 2-10 of the Code of Ordinances.

Sec. 4-55. Enforcement

This article shall be enforced by the city's police department or any code enforcement official of the city authorized to enforce this article. The city may enforce the provisions of this ordinance by referring the violation to the City's Special Magistrate or by enforcement in a court of proper jurisdiction. The enforcement provisions herein are not exclusive.

Sec 4-56 – 4-60 Reserved.

SECTION 2: Severability/Interpretation Clause: In the event that any term, provision, clause or section of this ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, or illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this ordinance, and this ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

SECTION 3: That all ordinances or resolutions or parts thereof that may be determined to be in conflict herewith are hereby repealed.

SECTION 4: The City Clerk of the City is hereby directed to incorporate this Ordinance into the Code of Ordinances of the City.

SECTION 5: That this ordinance shall become effective upon adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF INDIAN HARBOUR BEACH, BREVARD COUNTY, FLORIDA, ON THIS 22nd DAY OF JANUARY 2019.

CITY OF INDIAN HARBOUR BEACH
BREVARD COUNTY, FLORIDA

DAVID A. PANICOLA, MAYOR

ATTEST:

SUE FRANK, MMC

First Reading: January 8, 2019

Second Reading and effective date: January 22, 2019