

**ORDINANCE NO. 2015-21**

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA AMENDING CHAPTER 14, ENTITLED "ANIMALS" OF THE CITY CODE OF ORDINANCES BY CREATING A NEW SECTION 14-3, TO BE ENTITLED "RETAIL SALE OF DOGS AND CATS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES AND RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; AND, PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, existing state and federal laws regulate dog and cat breeders, as well as pet stores that sell dogs and cats, which laws include the Animal Welfare Act ("AWA") (7 U.S.C. Section 2131 et seq.); and

**WHEREAS**, the AWA requires, among other things, the licensing of certain breeders of dogs and cats and specifies that such breeders must maintain minimum health, safety and welfare standards for animals in their care with enforcement of these requirements by the United States Department of Agriculture ("USDA"); and

**WHEREAS**, according to The Humane Society of the United States, American consumers purchase from pet stores dogs and cats that consumers believe to be healthy and genetically sound, but in reality, the animals often face an array of health problems including communicable diseases, genetic disorders or both that present themselves immediately or soon after sale or that do not surface until several years later, all of which lead to costly veterinary bills and distress to consumers; and

**WHEREAS**, according to The Humane Society of the United States, hundreds of thousands of dogs and cats in the United States have been housed and bred at substandard breeding facilities known as "puppy mills" and "kitten factories", which mass-produce animals for sale to the public, and many of these animals are sold at retail in pet stores; and

**WHEREAS**, despite existing regulation, according to USDA inspection reports, documented problems found at puppy mills include: (1) sanitation problems leading to infectious disease; (2) large numbers of animals overcrowded in cages; (3) lack of proper veterinary care for severe illnesses and injuries; (4) lack of protection from harsh weather conditions; and (5) lack of adequate food and water; and

**WHEREAS**, according to the Humane Society of the United States, while an estimated 2.11 million puppies who originated from puppy mills are sold annually from USDA licensed and non-licensed facilities, an estimated 1.2 million dogs and 1.8 million cats are euthanized by shelters every year in the United States; and

**WHEREAS**, according to Brevard County Sheriff's Office records, from October 1, 2014 to September 30, 2015, 1,861 dogs and cats were euthanized at Brevard County animal shelters; and

**WHEREAS**, \$3.8 million is allocated to animal control and shelters in Brevard County's 2015-16 budget, which amounts to approximately \$6.89 per capita; and

**WHEREAS**, while the City Council recognizes that not all dogs and cats sold in pet stores are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to pet stores as the operator of a puppy mill or kitten factory, it is the belief of the City Council that puppy mills and kitten factories continue to exist in part because of public demand for dogs and cats offered for sale in pet stores, and that the most effective way to stop puppy mills and kitten factories is to discourage the purchase and sale of animals produced at those inhumane facilities; and

**WHEREAS**, numerous alternatives exist for people 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**, across the country, many independent pet stores and large chain pet stores operate profitably with a business model focused on the sale of pet services and supplies and not on the sale of dogs and cats; and

**WHEREAS**, many of these stores collaborate with local animal shelters and rescue organizations to offer space and support for showcasing adoptable homeless pets on their premises; and

**WHEREAS**, the City Council believes that prohibiting the retail sale of dogs and cats in pet stores in the City will promote community awareness of the plight of animals in puppy mills and kitten factories and, in turn, will foster a more humane environment as well as encourage consumers to adopt dogs and cats from shelters and rescue organizations, thereby saving animals' lives and reducing the cost to the public of sheltering animals.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of West Melbourne, Brevard County, Florida, as follows:

**Section 1.** **Findings.** That the foregoing "Whereas" clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

**Section 2.** **City Code Amended.** That Chapter 14 entitled "Animals" of the City's Code of Ordinances is hereby amended by creating a new section 14-3, which shall read as follows:

**Sec. 14-3. Retail Sale of Dogs and Cats.**

(a) *Definitions.* For purposes of this section, the following definitions shall apply:

*Animal rescue organization* means a duly incorporated nonprofit organization devoted to the rescue, care and adoption of stray, abandoned or surrendered animals, and which does not breed animals.

*Animal shelter* means a publicly operated animal shelter or animal control facility.

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

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

*Hobby breeder* means any person or entity that causes or allows the breeding or studing of a dog or cat resulting in no more than a total of two (2) litters per adult animal per calendar year. This does not include any person or entity that sells dogs or cats to pet stores.

*Pet store* means a pet shop, dog beauty parlor, dog or pet hospital or other retail establishment open to the public and engaging in the business of selling or offering for sale pet supplies, pet services, and/or animals at retail.

- (b) *Sale or Transfer of Dogs and Cats Prohibited.* No pet store shall display, sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of any cat or dog in the City on or after the effective date of this section.
- (c) *Exemptions.* This section shall not apply to:
- (1) An animal shelter.
  - (2) An animal rescue organization.
  - (3) An animal shelter or an animal rescue organization that operates out of or in connection with a pet store or other retail store.
  - (4) The display, sale, delivery, offer for sale, bartering, auction, giving away, or other transfer or disposal of dogs or cats by a hobby breeder from the premises on which they were bred and reared, provided that the premises is properly zoned for such activity and not retail in nature.
- (d) *Adoption of Shelter and Rescue Animals.* Nothing in this section shall prevent a pet store or its owner, operator or employees from providing space and appropriate care for animals owned by an animal shelter or animal rescue organization, and maintained at the pet store for the purpose of adopting those animals to the public.
- (e) *Violations, enforcement.* Each day any violation of any provision of this section shall continue shall constitute a separate offense.
- (1) The code inspector is authorized to enforce this section in accordance with all remedies set forth in Chapter 2, Article II, Code Enforcement, of the City's Code of Ordinances and the Local Government Code

Enforcement Act, Chapter 162, Florida Statutes, as may be amended from time to time.

- (2) Law enforcement officers are authorized to enforce this section, and any person violating this section shall, upon conviction, be punished as provided in section 1-16 of this Code.
- (3) In addition to the remedies set forth above, whether civil or criminal, the City may also enforce this section by suit for declaratory, injunctive or any other appropriate legal or equitable remedy authorized by law in a court of competent jurisdiction.

**Section 3. Severability.** That the provisions of this ordinance are declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held by a court of competent jurisdiction to be invalid or unenforceable, such decision shall not affect the validity of the remaining terms, provisions, clauses, sentences, or sections of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

**Section 4. Conflict.** That all ordinances or resolutions or parts thereof that may be determined to be in conflict herewith are hereby repealed.

**Section 5. Inclusion in the Code.** It is the intention of the City Council of the City of West Melbourne that the provisions of this ordinance shall be made a part of the City of West Melbourne Code of Ordinances and the sections be renumbered to accomplish such intention.

**Section 6. Effective Date.** That this Ordinance shall become effective immediately upon its adoption by the City Council on second reading.

PASSED AND ADOPTED by the City Council of the City of West Melbourne, Brevard County, Florida, this 3<sup>rd</sup> day of November, 2015.

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HAL J. ROSE, MAYOR

ATTEST:

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SUE FRANK, CITY CLERK

Reviewed as to form and content:

  
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Morris Richardson, City Attorney

1ST READING: October 20, 2015  
2ND READING: November 3, 2015