

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 23 OF THE TOWN'S ADOPTED CODE OF ORDINANCES ENTITLED ZONING AND PLANNING; AMENDING SECTION 23-5 ENTITLED USE REGULATIONS, B-1 BUSINESS DISTRICT TO MODIFY THE LIST OF PROHIBITED USES TO INCLUDE (AND PROHIBIT) THE SALE OF LIVE ANIMALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Bay Harbor Islands adopted the first Zoning and Planning Code for the community in June 1957; and

**WHEREAS**, the Town Council periodically studies various land development and uses trends and issues and amends the Zoning and Planning Code accordingly; and

**WHEREAS**, the Town Council is charged with the protection of the health, safety and welfare of the Town's residents; and

**WHEREAS**, the Town Council encourages pet ownership so long as pets are properly treated and restrained so as not to create a nuisance; and

**WHEREAS**, according to the Humane Society of the United States, thousands of dogs and cats in the United States have been housed and bred at substandard breeding facilities known as "puppy mills" or "kitten factories"; and

**WHEREAS**, according to the Humane Society of the United States, animals born and raised at those facilities are more likely to have genetic disorders and lack adequate socialization, while breeding animals utilized there are subject to inhumane housing conditions and are indiscriminately disposed of when they reach the end of their profitable breeding cycle; and

**WHEREAS**, while not all dogs and cats sold in retail pet stores are the products of inhumane breeding conditions and not every commercial breeder selling dogs or cats to pet stores operates "puppy mills" or "kitten factories," the Humane Society of the United States believes that puppy mills and kitten factories continue to exist in part because of public demand and the sale of dogs and cats in pet stores; and

**WHEREAS**, according to the Humane Society of the United States, the prohibition of the retail sale of live animals will also encourage pet consumers to adopt dogs and cats from shelters, thereby saving animals' lives and reducing the cost to the public of sheltering animals; and

**WHEREAS**, the Town Council, based upon the foregoing, wishes to prohibit the sale of all live animals in the Town, including without limitation, dogs, cats, ferrets, rabbits, turtles, gerbils, hamsters, cows, horses, sheep, and other domestic animals or livestock of any kind as a permitted use; and

**WHEREAS**, the Town Council recognizes that the current Zoning and Planning Code provisions do not adequately address this land use activity; and

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA:**

**Section 1:** That the Town of Bay Harbor Islands Zoning and Planning Code is hereby amended to amend Section 23-5 entitled Use Regulations, B-1 Business District to modify the list of prohibited uses to include (and prohibit) the sale of live animals, as more fully set forth in the attached Exhibit “A”, and by reference is made a part hereof.

**Section 2:** That if any section, paragraph, sentence or word of this Ordinance or the application thereof to any person or circumstance is held invalid, that the invalidity shall not affect the other sections, paragraphs, sentences, words or application of this Ordinance.

**Section 3:** That it is the intention of the Town Council of the Town of Bay Harbor Islands, Florida, and it is therefore ordained, that the provisions of the Ordinance shall become and be made a part of the Town of Bay Harbor Islands’ Code of Ordinances, that sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions, and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

**Section 4:** That all Ordinances, parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

**Section 5:** That this Ordinance shall be in full force and take effect immediately upon its passage and adoption.

**PASSED** on First Reading this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

**PASSED AND ADOPTED** on Second Reading this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

\_\_\_\_\_  
**Robert Yaffe**  
**Mayor**

**ATTEST:**

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**MARLENE MARANTE**  
**Town Clerk**

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY:**

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**CRAIG SHERMAN, ESQ.**  
**Town Attorney**