

**CITY OF HOMESTEAD, FLORIDA**

**ORDINANCE NO. 2014-10-16**

**AN ORDINANCE OF THE CITY OF HOMESTEAD, FLORIDA, AMENDING CHAPTER 4 "ANIMALS", ARTICLE III "DOGS AND CATS" OF THE CITY CODE BY CREATING DIVISION 4 "RETAIL SALE RESTRICTIONS" TO PROVIDE REGULATIONS GOVERNING THE RETAIL SALE OF DOGS OR CATS WITHIN THE CITY; PROVIDING FOR PROHIBITIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; 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, including 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 that these breeders 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 dogs and cats from pet stores that the consumers believe to be healthy and genetically sound, but in reality, the animals often face an array of health problems including communicable diseases or genetic disorders present immediately 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” or “kitten factories,” that mass-produce animals for sale to the public with many of these animals being sold at retail in pet stores; and

**WHEREAS**, according to USDA inspection reports, some additional 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**, while “puppy mill” puppies and “kitten factory” kittens are being sold in pet stores, many dogs and cats are euthanized by Miami-Dade County’s Animal Control Services; and

**WHEREAS**, across the country, thousands of independent pet stores as well as large chains operate profitably with a business model focused on the sale of pet services and supplies and not on the sale of dogs and cats; many of these stores collaborate with local animal sheltering and rescue organizations to offer space and support for showcasing adoptable homeless pets on their premises; and

**WHEREAS**, while the City Council recognizes that not all dogs and cats retailed in pet stores are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to pet stores as a “puppy mill” or “kitten

factory,” it is the City Council’s belief 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**, the City Council believes that eliminating the retail sale of dogs and cats in pet stores in the City will promote community awareness of animal welfare and, in turn, will foster a more humane environment as well as 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 City Council finds that this Ordinance is in the best interest and welfare of the residents of the City.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA, AS FOLLOWS:**

**Section 1.** The above recitals are true and correct and are incorporated herein by this reference.

**Section 2.** That Division 4 “Retail Sale Restrictions” of Article III, “Dogs and Cats” of Chapter 4 “Animals” of the Code of the City of Homestead is hereby created to read as follows:

**DIVISION 4. Retail Sale Restrictions.**

**Section 4-121. Definitions.**

For purposes of this division, the following definitions shall apply:

- (a) “Animal shelter” means a public animal shelter or duly incorporated nonprofit organization devoted to the rescue, care and adoption of

stray, abandoned or surrendered animals, and which does not breed animals.

- (b) "Cat" means an animal of the Felidae family of the order Carnivora.
- (c) "Dog" means an animal of the Canidae family of the order Carnivora.
- (d) "Existing pet store" means any pet store or pet store operator that displayed, sold, delivered, offered for sale, offered for adoption, bartered, auctioned, gave away, or otherwise transferred cats or dogs in the City on the effective date of this Section and complied with all applicable provisions of the Code of Ordinances.
- (e) "Pet store" means a retail-establishment open to the public and engaging in the business of offering for sale and/or selling of animals at retail.
- (f) "Pet store operator" means a person who owns or operates a pet store, or both.

**Section 4-122. Prohibition.**

No pet store shall display, sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of dogs or cats in the City on or after the effective date of this Section.

**Section 4-123. Existing Pet Stores.**

An existing pet store may not continue to display, offer for sale, offer for adoption, barter, auction, give away, or otherwise transfer cats and dogs as of the effective date of this ordinance.

**Section 4-124. Exemptions.**

This Division shall not apply to:

- (a) A person or establishment that sells, delivers, offers for sale, barter, auctions, gives away, or otherwise transfers or disposes of only animals that were bred and reared on the premises of the person or establishments that are not retail in nature;
- (b) A publicly operated animal control facility or animal shelter;
- (c) A private, charitable, nonprofit humane society or animal rescue organization; or
- (d) A publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue organization that operates out of or in connection with a pet store.

**Section 4-125. Adoption of Shelter and Rescue Animals.**

Nothing in this division shall prevent a pet store or its owner, operator or employees from providing space and appropriate care for animals owned by a publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue agency and maintained at the pet store for the purpose of adopting those animals to the public.

**Section 3. Severability.** Should any section or provision of this Ordinance, or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder as a whole or part thereof, other than the part declared invalid.

**Section 4. Conflict.** All ordinances in conflict herewith shall be and are hereby repealed to the extent of the conflict.

**Section 5. Inclusion in the Code.** It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the City Code; that the 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 6. Effective Date.** This Ordinance shall be effective immediately upon adoption on second reading.

**PASSED AND ADOPTED** on first reading this 23<sup>rd</sup> day of September, 2014.

**PASSED AND ADOPTED** on second reading this 22<sup>nd</sup> day of October, 2014.

  
\_\_\_\_\_  
JEFF PORTER  
Mayor

ATTEST

*Elizabeth Sewell*  
ELIZABETH SEWELL, MMC  
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY  
FOR THE USE AND BENEFIT OF THE CITY ONLY:

*[Signature]*

WEISS, SEROTA, HELFMAN, COLE, BIERMAN & POPOK, P.L  
City Attorney

Motion to adopt by Councilman Burgess, seconded by Councilwoman Waldman.

**FINAL VOTE AT ADOPTION**

<i>Mayor Jeff Porter</i>	<u>YES</u>
<i>Vice Mayor Stephen Shelley</i>	<u>YES</u>
<i>Councilwoman Judy Waldman</i>	<u>YES</u>
<i>Councilwoman Patricia Fairclough</i>	<u>YES</u>
<i>Councilman Elvis Maldonado</i>	<u>YES</u>
<i>Councilman Jon Burgess</i>	<u>YES</u>
<i>Councilman Jimmie L. Williams, III</i>	<u>ABSENT</u>