

**CITY OF HOLMES BEACH  
ORDINANCE 17-03**

**AN ORDINANCE OF THE CITY OF HOLMES BEACH, FLORIDA (“CITY”), RELATING TO ANIMAL CONTROL FOR THE CITY OF HOLMES BEACH; PROVIDING FOR FINDINGS OF FACT; AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES BY AMENDING SECTION 10-7 DEFINITIONS; BY ADDING SECTION 10-8 VIOLATIONS; BY ADDING SECTION 10-9 PROHIBITIONS AND REQUIREMENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 828.27, Florida Statutes, authorizes the City to enact an Ordinance relating to Animal Control and Cruelty; and

**WHEREAS**, it is in the interest of the public health, safety and general welfare of the citizens of Holmes Beach to enact this article to regulate, restrict, or prohibit, if necessary, the ownership of animals; and

**WHEREAS**, animal control regulations are necessary to protect the public from unvaccinated, diseased, stray, roaming, dangerous, wild, or exotic animals; and

**WHEREAS**, animal control regulations establish uniformity in the control and eradication of rabies; and

**WHEREAS**, animal control regulations help abate nuisance created by animals that interfere with the enjoyment of property or the peace and safety of the community; and

**WHEREAS**, animal control regulations help regulate animal population; and

**WHEREAS**, animal control regulations protect animals from abuse or conditions harmful to their well-being; 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; and

**WHEREAS**, undercover pet store investigations performed by The Humane Society of the United States have repeatedly proven that most pet stores get their puppies from puppy mills, despite claims to the contrary; and

**WHEREAS**, national animal welfare organizations, including The Humane Society of the United States (HSUS), The Humane Society Veterinary Medical Association

(HSVMA) and the American Society for the Prevention of Cruelty to Animals (ASPCA) all concur that the Animal Welfare Act Standards are insufficient to protect dogs in puppy mills, and that even those breeders who repeatedly violate those weak standards seldom face a significant penalty; and

**WHEREAS**, cats and dogs that are bred in puppy mills or kitten factories often suffer from health, social, and/or temperament problems that frequently result in costly treatment or even death; and

**WHEREAS**, in addition to the congenital and hereditary conditions resulting from substandard breeding facilities, dogs and cats bred at these facilities may arrive in pet stores and their new homes with giardia, parvovirus, and distemper, illnesses that can be transmitted to healthy family animals; and

**WHEREAS**, according to the Humane Society of the United States, Florida has the highest number of consumer complaints submitted to the Humane Society regarding sick puppies purchased from puppy mills; and

**WHEREAS**, the City Commissioners of Holmes Beach deem the prohibition of the retail sale of dogs and cats in the city limits to be in the best interest of the health, safety, and welfare of its residents and citizens and the public at large, that such prohibition constitutes a municipal purpose and will encourage pet consumers to adopt dogs or cats from shelters or home based breeders, thereby promoting consumer protection, saving animals' lives, and reducing the cost to the public of sheltering and euthanizing animals.

NOW THEREFORE, be it ordained by the City Commissioners of the City of Holmes Beach, Florida as follows:

Section 1. Findings of fact. The City Commissioners of the City of Holmes Beach, Florida, hereby adopt the above whereas clauses as findings of fact.

Section 2. Definitions. Section 10-7 is amended to add the following definitions:

*Adoption Fee* means remuneration to recover the costs of feeding, sheltering, and providing care for an animal, not including transportation of animal, without profit.

*Animal Shelter* means any state, county or municipal animal shelter or animal control facility devoted to the rescue, care and adoption of stray, abandoned or surrendered Animals and which does not breed Animals.

*Animal Welfare Organization* means a duly incorporated non-profit organization that has tax exempt status under Section 501(c) (3) of the United States Internal Revenue Code, whose mission is devoted to the welfare, care, and adoption of stray, abandoned, or surrendered Animals, and which does not breed Animals. An Animal Welfare Organization does

not auction, barter, display for sale, offer for sale, give away, or sell Animals, but rather only accepts an Adoption Fee which does not exceed the cost of boarding, feeding and care of the Animal being adopted.

*Cat* means an Animal of the Felidae family of the order Carnivora.

*Certificate of Source* means a document declaring the source of the origin of the Dog or Cat sold, transferred or offered for sale or transfer. This certificate shall include the breed, color, age, and approximate weight of the Animal, the name, address and telephone number of the original source of the Dog or Cat and shall be signed by the purchaser or transferee of the Animal acknowledging receipt of the certificate.

*Commercial Establishment* shall mean a business which is open to the public and that engages in a Retail Sale.

*Dog* means, but expressly is not limited to, domestic dog, *Canis familiaris*, and any genetic hybridization thereof, including, but expressly not limited to, wolf hybrids and coyote hybrids, that is not under the jurisdiction of the Florida Fish and Wildlife Conservation Commission.

*Home Based Breeder* means a person that barter, offers for sale, displays for sale, or sells, Cats, Dogs, or both, only from the premises on which they were bred and reared, and is not retail in nature.

*Public Thoroughfare, Public Common Area, and Flea Market Sales* means the sale or transfer, offer for sale or transfer, auction, barter, display, advertisement for sale, giving away or otherwise disposing of any live Dog or Cat on any public thoroughfare, public common area, roadside area, in any parking lot, or in any flea market, to any member of the public.

*Retail Sale* means the auction, barter, display for sale, offer for sale, or selling of any live Dog or Cat.

Section 3. Sec. 10-8. Animal Sale Prohibitions and Requirements is added to read as follows:

(a) *Prohibitions.* The following acts shall be a violation of this Ordinance:

- (1) Any Retail Sale of any Dog or Cat from a Commercial Establishment.
- (2) Any Public sale of any Dog or Cat from any and all Public Thoroughfares, Public Common Areas, or Flea Market Sales.

(b) *Exemptions.* The following shall be exempt from the prohibitions in subsection (a) this section:

- (1) Animal Shelters.
- (2) Animal Welfare Organizations.
- (3) Home Based Breeders.

(c) *Adoption of Animals.* Nothing in this Article shall prevent a Commercial Establishment from providing space and appropriate shelter, food, or care for Animals owned by any Animal Welfare Organization or Animal Shelter and collecting an Adoption Fee.

Section 4. Violations. Section 10-9 is added to read as follows:

- a. Violations of Section 10-8 may also be prosecuted in the same manner misdemeanors are prosecuted pursuant to F.S. 125.69, punishable by a fine not to exceed \$500.00, per day per animal or by imprisonment in the County jail not to exceed 60 days, or by both fine and imprisonment. Each Animal produced, reared, bred, kept, sold or released in violation of Section 10-9 shall be deemed a separate offense.
- b. The City may also enforce this ordinance by action in equity, including injunctive or declaratory relief, in the appropriate court of competent jurisdiction.
- c. Any person who knowingly violates any provision of this ordinance, including refusal to allow a law enforcement officer, animal services officer, or code enforcement officer to make an inspection under this ordinance, shall also be punished in the same manner as a misdemeanor as provided by general law.

Section 5. Severability. If any section, sub-section, paragraph, sentence, clause or phrase in this Ordinance shall be held invalid by a court of competent jurisdiction, then such invalidity shall not affect the remaining portions hereof.


Section 6. Effective Date. This Ordinance shall take effect on adoption by the City Commission at the earliest to occur of the following: approval by the Mayor, or expiration of the time allowed for signature of the Mayor, in accordance with the Charter of the City of Holmes Beach.

**PASSED AND ADOPTED**, by the City Commission of the City of Holmes Beach, Florida, in regular session assembled, this 28<sup>th</sup> day of February, 2017.

First Reading: 2-14-17

Publication Date: 1<sup>st</sup> PNLG - 1-28-17  
2<sup>nd</sup> PNLG - 2-18-17

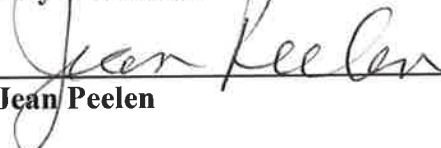
Second Reading and Public Hearing Date: 2-28-17

  
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Patrick Morton

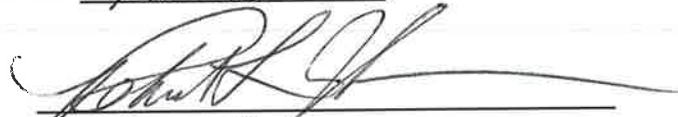
  
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Carol Soustek

  
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Marvin Grossman

  
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Judy Titsworth

  
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Jean Peelen

APPROVED BY ME THIS 1<sup>st</sup> DAY OF March, 2017

  
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Bob Johnson, Mayor

ATTEST:   
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Stacey Johnston, MMC, City Clerk