

ORDINANCE NO. 2014-05

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA; AMENDING CHAPTER 1 "GENERAL PROVISIONS" OF THE CITY CODE OF THE CITY OF AVENTURA BY CREATING SECTION 1-17, "RETAIL SALE OF DOGS AND CATS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR PENALTY; PROVIDING FOR 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 Animal Welfare Act 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 that 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; and many of these animals are 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 Commission 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 Commission’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 Commission 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.

NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, AS FOLLOWS:

Section 1. Findings. That the forgoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. City Code Amended. That Chapter 1” General Provisions”, of the City’s Code of Ordinances is hereby amended by creating a new Section 1-17, to read , as follows¹:

Section 1-17. Retail Sale of Dogs and Cats

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

- (1) “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.
- (2) “Cat” means an animal of the Felidae family of the order Carnivora.

¹ Underlined text indicates proposed additions to the City Code; ~~stricken-through~~ text indicates proposed deletions from existing City Code text.

- (3) “Dog” means an animal of the Canidae family of the order Carnivora.
 - (4) “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 pet supplies and/or services and/or offering for sale and/or selling animals at retail.
 - (5) “Pet store operator” means a person who owns or operates a pet store, or both.
 - (6) “Retail sale” includes display, offer for sale, offer for adoption, barter, auction, give away, or other transfer of any cat or dog.
- (b) *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.
- (c) *Exemptions.* This Section shall not apply to:
- (1) 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 establishment;
 - (2) A publicly operated animal control facility or animal shelter;
 - (3) A private, charitable, nonprofit humane society or animal rescue organization; or
 - (4) 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.
- (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 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. 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 to be invalid or unconstitutional, such decision shall not affect the validity of

the remaining sections, sentences, clauses, and phrases 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. Inclusion in the Code with Cross Reference. That it is the intention of the City Commission and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the City Code of the City of Aventura, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, that the word Ordinance shall be changed to Section or other appropriate word and that a cross reference to Section 1-17 shall be added to Sections 31-144(c)(1)h. and 31-144(c)(1)t.

Section 5. Penalty. Any person who violates any provisions of this Ordinance shall, upon conviction, be punished by a fine not to exceed \$500.00 or imprisonment for a term not to exceed 60 days, or by both such fine and imprisonment. Each day any violation of any provision of this Ordinance shall continue shall constitute a separate offense. This Ordinance shall be subject to enforcement under the Local Government Code Enforcement Act, Chapter 162, F.S. as amended and Article V of Chapter 2 of the City Code, as amended. Enforcement may also be by suit for declaratory, injunctive or other appropriate relief in a court of competent jurisdiction.

Section 6. Effective Date. That this Ordinance shall be effective upon passage by the City Commission on second reading.

The foregoing Ordinance was offered by Commissioner Cohen, who moved its adoption on first reading. This motion was seconded by Commissioner Luz Weinberg and upon being put to a vote, the vote was as follows:

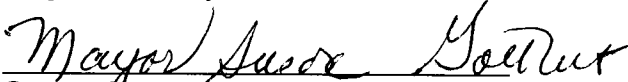
Commissioner Enbar Cohen	yes
Commissioner Teri Holzberg	yes
Commissioner Billy Joel	yes
Commissioner Michael Stern	yes
Commissioner Luz Urbáez Weinberg	yes
Vice Mayor Howard Weinberg	yes
Mayor Susan Gottlieb	yes

The foregoing Ordinance was offered by Commissioner Cohen, who moved its adoption on second reading. This motion was seconded by Vice Mayor Weinberg, and upon being put to a vote, the vote was as follows:


Commissioner Enbar Cohen	yes
Commissioner Teri Holzberg	yes
Commissioner Billy Joel	absent
Commissioner Michael Stern	yes
Commissioner Luz Urbáez Weinberg	yes
Vice Mayor Howard Weinberg	yes
Mayor Susan Gottlieb	yes

PASSED on first reading this 4th day of February, 2014.

PASSED AND ADOPTED on second reading this 4th day of March, 2014.


Susan Gottlieb, Mayor

ATTEST:


TERESA M. SOROKA, MMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:


CITY ATTORNEY