ORDINANCE 18-______

AN ORDINANCE OF THE CITY OF BOYNTON BEACH, FLORIDA AMENDING CHAPTER 4, ANIMALS AND FOWL, BY ADDING A NEW SECTION 4-39, TO ADOPT NEW REGULATIONS REGARDING THE RETAIL SALE OF DOGS AND CATS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

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, many of which are sold in pet stores; and

WHEREAS, the May 2010 U.S. Department of Agriculture, Inspector General’s Audit Report concluded that the Animal and Plant Health Inspection Services (APHIS) Animal Care (AC) unit’s enforcement process was ineffective in achieving breeder/dealer compliance with the Federal Animal Welfare Act (AWA) and that APHIS took little or no enforcement actions against violators; and

WHEREAS, such lack of enforcement weakened the agency’s ability to protect the animals and as a result 2,416 of 4,250 violators repeatedly violated AWA, including violations of minimum care standards intended to ensure the humane care and treatment of animals; 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 and the highest number of complaints about puppies purchased from pet stores; and

WHEREAS, pursuant to Florida’s Municipal Home Rule Powers Act, Chapter 166, Florida Statutes the City of Boynton Beach may exercise any power for a municipal purpose unless otherwise expressly prohibited; and
WHEREAS, the City Commission deems the prohibition of the retail sale of dogs and cats in the City of Boynton Beach to be in the best interest of the health, safety, and welfare of the residents and citizens of the City of Boynton Beach, and the public at large, that such prohibition constitutes a municipal purpose and will encourage pet consumers to adopt dogs and cats from shelters, thereby saving animals’ lives and reducing the cost to the public of sheltering and euthanizing animals.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BOYNTON BEACH, FLORIDA that:

SECTION 1. The foregoing recitals are hereby affirmed and ratified.

SECTION 2. The City Commission of the City of Boynton Beach, Florida, hereby declares and finds that puppy mills and kitten mills are inhumane breeding facilities, with documented and widespread instances of; unsanitary conditions leading to infectious diseases; overcrowding in cages; a consistent lack of proper veterinary care for severe illnesses and injuries; a consistent lack of protection from harsh weather conditions; and a consistent lack of adequate food and water. The Commission further declares and finds that animals from mills often face an array of communicable diseases, genetic disorders, and other health problems that may present immediately after sale or not until several years later, which lead to costly veterinary bills and distress to consumers. The Commission further finds that pet store dogs and cats come from puppy mills and kitten mills, and the most effective way to stop puppy mills and kitten mills is to prohibit the purchase and sale of puppies and kittens produced at these inhumane facilities whether those facilities be in state or out of state. Accordingly the Commission finds that it is reasonable and necessary to prohibit the sale of dogs and cats within the municipal boundaries of the city in order to protect the health, safety, and welfare of animals and the public at large.

SECTION 3. Chapter 4. Animals and Fowl of the Code of Ordinances of the City of Boynton Beach, Florida is hereby amended by adding a new Section 4-39 as follows:

Sec. 4-39 - Retail sale of dogs and/or 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 welfare, protection, rescue, care, humane treatment, and adoption of stray, abandoned, or surrendered animals, and which does not breed animals. The term adoption does not include the sale of an animal for profit.

Animal shelter means a state, county, municipal, or related public 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. The term adoption does not include the sale of an animal for profit.
Pet store or net supply store means any retail establishment open to the public that sells or transfers, or offers for sale or transfer, dogs and/or cats regardless of the age of the dog or cat. Additionally, such establishments may also be identified by the sale of animals other than those from the Canidae or Felidae families that are traditionally considered to be domestic pets and/or the sale of grooming services and/or domestic pet supplies and accessories (including but not limited to food, bedding, toys, grooming products, collars, leashes and the like).

(b) Retail sales of dogs and/or cats prohibited. No pet store or pet supply store shall display, sell, trade, deliver, barter, lease, rent auction, give away, transfer, offer for sale or transfer, or otherwise dispose of dogs or cats within the City of Boynton Beach.

(c) Exemptions. This section does not apply to an animal shelter, an animal rescue organization, or an animal shelter or animal rescue organization that operates out of or in connection with a pet store or net supply store.

(d) Adoption of shelter and rescue animals. Nothing in this section shall prevent a pet store or pet supply store, its owner, operator, or employees from providing space and appropriate care for dogs and cats at the store if such animals are owned by an animal shelter or animal rescue organization and are maintained at the store for the purpose of adopting those animals to the public.

(e) Enforcement.

1. Any person who commits an act in violation of this section may be prosecuted for such violation in accordance with chapter 2, administration, of this Code of Ordinances, F.S. ch. 162, and/or any other means of enforcement available under state or federal law.

2. The city may initiate a civil action in any court of competent jurisdiction to enjoin any violation of this section.

(f) Effective date. Any pet store or pet supply store that is lawfully operating on the effective date of this ordinance [from which this section derives] shall be permitted to continue its sale of dogs and cats for a period of time not to exceed eighteen (18) months from September 6, 2018, to wit: March 5, 2020.

SECTION 4. All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

SECTION 5. 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 of this Ordinance.

SECTION 6. Specific authority is hereby given to codify this Ordinance.

SECTION 7. This Ordinance shall become effective immediately upon adoption.

FIRST READING this ____ day of _________________, 2018.
SECOND, FINAL READING AND PASSAGE this _________ day of ______, 2018.

CITY OF BOYNTON BEACH, FLORIDA

YES  NO

Mayor – Steven B. Grant  ______  ______

Vice Mayor – Christina L. Romelus  ______  ______

Commissioner – Mack McCray  ______  ______

Commissioner – Justin Katz  ______  ______

Commissioner – Vacant  ______  ______

VOTE  ______

ATTEST:

Judith A. Pyle, CMC
City Clerk

(Corporate Seal)