

ORDINANCE NO. 14-03

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, REGULATING THE RETAIL SALE OF DOGS OR CATS WITHIN THE TOWN; PROVIDING FOR PROHIBITIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND 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 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 Town 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 Town 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 Town Council believes that eliminating the retail sale of dogs and cats in pet stores in the Town 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 Town Council finds that this Ordinance is in the best interest and welfare of the residents of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AS FOLLOWS:

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

Section 2. Retail Sale of Dogs and Cats Regulations. The Town Council hereby adopts the following Ordinance:

Retail Sale of Dogs and Cats

A. Definitions.

For purposes of this article, 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.
3. “Dog” means an animal of the Canidae family of the order Carnivora.

4. "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 Town on the effective date of this Ordinance and complied with all applicable provisions of the Code of Ordinances.
5. "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.
6. "Pet store operator" means a person who owns or operates a pet store, or both.

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 Town on or after the effective date of this article.

C. 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. ~~until six (6) months after the effective date of this Ordinance. If requested, in writing, prior to six (6) months after the effective date of this Ordinance, the Town Manager is authorized to grant a one-time extension not to exceed six (6) months.~~

D. Exemptions.

This article 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.

E. Adoption of Shelter and Rescue Animals.

Nothing in this Ordinance 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. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 5. Inclusion in the Code. It is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Cutler Bay; 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.

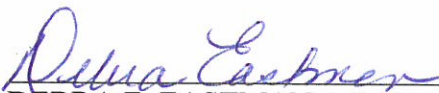
PASSED on first reading this 16th day of July, 2014.

PASSED AND ADOPTED on second reading this 20th day of August, 2014.


EDWARD P. MACDOUGALL

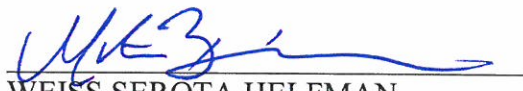
Mayor

Attest:


DEBRA E. EASTMAN, MMC
Town Clerk



APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:


WEISS SEROTA HELFMAN
PASTORIZA COLE & BONISKE, P.L.
Town Attorney

Moved By: Council Member Bell
Seconded By: Council Member Mixon

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall	yes
Vice Mayor Ernest N. Sochin	no
Council Member Peggy R. Bell	yes
Council Member Sue Ellen Loyzelle	yes
Council Member Mary Ann Mixon	yes