



AGENDA REPORT

- CITY COUNCIL
- COMMUNITY DEVELOPMENT COMMISSION
- SUCCESSOR AGENCY
- BUENA SANITATION DISTRICT
- JOINT POWERS FINANCING AUTHORITY

Department: City Manager

Item No: D1

Prepared By: Tony Winney, Asst. to the City Manager
Aly Zimmermann, Assistant City Manager

Meeting Date: September 22, 2015

Approved By: Patrick Johnson, City Manager

Agenda Location: Discussion

SUBJECT: REGULATION OF THE SALE OF DOGS AND CATS AT RETAIL PET STORES

RECOMMENDATION:

1. Introduce and Adopt City Council Ordinance No. 2015- , adding Chapter 6.10 to the Vista Municipal Code regarding the sale of dogs and cats; or
2. Provide direction to staff to modify the proposed ordinance; or
3. Take no action at this time.

PRIOR ACTION: On August 25, 2015, directed staff to return to City Council with an ordinance proposing a ban on retail pet stores (Vote: 5-0).

STATEMENT ON THE SUBJECT:

Background. In August, Councilman Campbell requested the City Manager place a discussion item on the August 25, 2015 City Council meeting agenda for restrictions on the sale of dogs and cats to retail pet stores. At the August 25 meeting, the City Council directed staff to return with an ordinance with regulatory options to prevent the sale of dogs and cats sourced from “puppy mills” and other businesses that do not meet minimum standards of care for animals in their possession.

Pet stores are currently allowed in the City of Vista in the C-1, C-2, C-3 and M-1 zones. Currently, the City of Vista has five retail stores that sell fish, small rodents, and/or reptiles. Exhibit 2 is a list of the Highway 78 corridor cities and the City of San Diego and whether they have adopted similar regulations. Approximately 50 cities nationwide have adopted similar regulations.

In 1966 Congress passed the Animal Welfare Act (AWA), which outlines specific minimum standards of care for dogs, cats, and other kinds of animals bred for commercial resale. The AWA is enforced by the United States Department of Agriculture (USDA). Under the AWA, most large scale commercial breeders are required to be licensed and inspected by the USDA. The Inspector General of the USDA has audited the agencies’ enforcement division on multiple occasions, most recently in 2010, and concluded that their enforcement process was ineffective against problematic commercial dealers and in need of additional resources. According to the Humane Society of the United States, commercial dog and cat breeders produce up to 5 million puppies annually in the U.S. and most of those are sold by retail

ACTION: Approved above recommendation, introduced and adopted City Council Ordinance No. 2015-17. Vote: 3-2 (Rigby and Franklin opposed)



Clerk/Secretary

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pet stores. These pets, including cats and rabbits, are sometimes raised in substandard conditions that are of concern to many animal advocates.

According to the American Pet Products Association’s annual survey of pet owners, approximately:

- 31% of cats and 23% of dogs were adopted from an animal shelter.
- Friends and relatives were the source of 28% of cats and 20% of dogs.
- 34% of dogs were purchased from breeders, while 3% of cats were purchased from breeders.
- 4% of dogs and 2% of cats are obtained from pet stores.

Proposed Ordinance. Based on direction from the City Council, staff evaluated the ordinances currently in place in the cities of Oceanside, Encinitas and San Diego. Presented for consideration is a draft ordinance for the City of Vista (Exhibit 1). The ordinance is similar to the “Option 2” ordinance provided by Councilman Campbell at the August 25 City Council meeting. The ordinance does not include an exemption for non-commercial breeders to sell dogs and cats to retail pet stores and does not ban the sale of rabbits by retail pet stores. It does contain a requirement for pet stores to provide a “certificate of source” be posted in a conspicuous place, within three feet of each dog or cat enclosure, ensuring the dog or cat was obtained from an animal shelter, rescue organization, or individuals/breeders that have given the dogs and cats to the pet store for free.

Based on prior directions from the City Council, staff recommends City Council adopt the proposed ordinance as outlined in Exhibit 1, which would ban the sale of dogs and cats by retail pet stores in Vista, and excludes an exemption for non-commercial breeders to sell dogs and cats to retail pet stores. A review of the City’s business license database found no licensed non-commercial breeders of dogs or cats holding a Vista business license.

Optional Exemption Language. Part of the discussion at the August 25 City Council meeting was on the subject of whether or not to include an exemption for the sale of dogs and cats by non-commercial breeders. If the City Council desires to include the exemption, staff proposes that the exemption be designated subsection 5 of Section 6.10.030 of the proposed ordinance, and be defined as follows:

A “non-commercial breeding establishment” is defined as a person, firm, partnership, corporation or other entity that has sold, transferred or given away all or part of three or fewer litters, or less than twenty (20) dogs, or less than twenty (20) cats during the preceding twelve (12) months that were bred and reared on the premises of the person, firm, partnership, corporation, or other association.

From a staff perspective, the inclusion of this exemption raises two potential concerns. First, there is no easy way for a pet store to verify whether the seller actually sells three or fewer litters in a year (or falls below other limits). Similarly, the City is not equipped to verify compliance with this exemption. Second, some parties are concerned that non-commercial breeders sometimes raise dogs and cats in substandard conditions and would continue to serve as a source for retail pet stores.

Alternative. The City Council could choose to not adopt an ordinance regulating retail pet sales.

FISCAL IMPACT: There is no direct fiscal impact associated with the proposed ordinance. If a certificate of source is required, and a retail pet store within Vista began to offer dogs and cats for sale, staff resources would be required to perform compliance inspections on occasion. The cost of those inspections would be determined at that time.

EXHIBITS:

1. City Council Ordinance No. 2015- , adding Chapter 6.10 to the Vista Municipal Code regarding the sale of dogs and cats
2. List of North County area cities’ regulations on the sale of dogs and cats by retail pet stores

ORDINANCE NO. 2015-

AN ORDINANCE OF THE CITY COUNCIL OF THE CHARTERED CITY OF VISTA, CALIFORNIA, ADDING CHAPTER 6.10 TO THE VISTA MUNICIPAL CODE REGARDING THE SALE OF DOGS AND CATS

The City Council of the City of Vista does ordain as follows:

1. Findings. The City Council hereby finds and declares the following:

A. This ordinance is enacted pursuant to the powers vested in the City of Vista’s pursuant to Article XI, Sections 5 and 7 of the California Constitution.

B. The City is subject to several statutory obligations for animal control and animal sheltering services.

C. California Health & Safety Code sections 121690(e)-(f) require cities and counties to “maintain or provide for the maintenance of a pound system and a rabies control program” as well as “to provide dog vaccination clinics, or to arrange for dog vaccination at clinics operated by veterinary groups or associations, held at strategic locations throughout each city.

D. California Health and Safety Code section 121695 provides that “[n]othing in this chapter and [s]ection 120495 is intended or shall be construed to limit the power of any city, city and county, or county in its authority in the exercise of its police power or in the exercise of its power under any other provisions of law to enact more stringent requirements, to regulate and control dogs within the boundaries of its jurisdiction.

E. Limiting the retail sale of dogs and cats to animals from designated sources as provided in this Chapter will lead to a greater adoption rate of shelter and rescued animals, enable an improved allocation of limited public resources, and offer the public a selection of pets which pose a reduced chance of exhibiting problematic behaviors or conditions.

F. The City seeks to prohibit the sale of dogs and cats in retail pet shops from commercial breeders, and address the overpopulation of dogs and cats within the City of Vista by increasing the adoption rates of shelter and rescue dogs and cats.

2. Code Amendment

A. Chapter 6.10 is added to the Vista Municipal Code to read as follows:

**“CHAPTER 6.10
RETAIL SALES OF DOGS AND CATS**

Section 6.10.010	Definitions
Section 6.10.020	Prohibition on Certain Sales of Dogs or Cats
Section 6.10.030	Exemptions
Section 6.10.040	Retail Sale of Shelter and Rescue Animals
Section 6.10.050	Certificate of Source

Section 6.10.010 Definitions

Whenever the following words or terms are used in this Chapter, they shall have the meaning ascribed below:

“Animal shelter” means a public animal shelter operated by any city or any county or other public agency or an entity operating under contract with any city or county or other public agency. Animal shelter shall also include a humane society or duly incorporated organization devoted to the rescue, care and adoption of stray, abandoned or surrendered animals.

“Cat” means an animal of the Felidae family of the order Carnivora.

“Certificate of source” means a document declaring the source of the dog or cat sold or transferred by the pet store. The certificate shall include the name and address of the source of the dog or cat.

“Dog” means an animal of the Canidae family of the order Carnivora.

“Pet store” means a retail establishment or store open to the public and engaging in the business of offering dogs or cats for retail sale.

“Pet store operator” means a person who owns or operates or a pet store, or both, and/ or who hires employees at a pet store to engage in the retail sale of dogs or cats.

“Retail sale” includes to display, offer for sale, barter, auction, give away, lease, or transfer any dog or cat.

Section 6.10.020. Prohibition on Certain Sales of Dogs or Cats.

No pet store or pet store operator shall sell a dog or a cat unless: the dog or cat was obtained directly from an animal shelter or the sale is exempt pursuant to Section 6.10.030.

Section 6.10.030. Exemptions.

This chapter does not apply to:

1. A person or establishment that sells, delivers, offers for sale, barter, auctions, gives away, leases or otherwise transfers or disposes of dogs or cats that were born and reared on the premises of the person or establishment;
2. A publicly operated animal shelter;
3. A private humane society or duly incorporated organization devoted to the rescue, care and adoption of stray, abandoned or surrendered dogs or cats;
4. A publicly operated animal shelter, humane society, or duly incorporated organization devoted to the rescue, care and adoption of stray, abandoned or surrendered dogs or cats that operates out of or in connection with a pet store.

Section 6.10.040. Retail sale of shelter and rescue animals.

Nothing in this chapter shall prevent a pet store or pet store operator from providing space and appropriate care for dogs or cats owned by an animal shelter, or duly incorporated organization devoted to the rescue, care and adoption of stray, abandoned or surrendered dogs or cats and maintained at the pet store for the purpose of engaging in the retail sale of those animals.

Section 6.10.050. Certificate of source.

A pet store operator shall post and maintain in a conspicuous place, on or within three (3) feet of each dog's or cat's kennel, cage or enclosure, a certificate of source for each dog or cat offered for retail sale ensuring the dog or cat was obtained in full compliance with this chapter, and the pet store operator shall provide a copy of such certificate of source to the purchaser or transferee of any dog or cat."

3. Effective Date. This ordinance shall be in full force and effect on the 31st day following the date of adoption.

4. Adoption. INTRODUCED AND ADOPTED at a meeting of the City Council held September 22, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

JUDY RITTER, MAYOR

APPROVED AS TO FORM:
DAROLD PIEPER, CITY ATTORNEY

ATTEST:
MARCI KILIAN, CITY CLERK

By: _____

By: _____

APPROVED
Darold Pieper
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EXHIBIT 2

List of North County area cities' regulations on the sale of dogs and cats by retail pet stores				
City	Retail Pet Store Ban	Month/Year Adopted	Exemption for non commercial breeder sales to pet stores?	Notes
Carlsbad	No	Oct-13	N/A	Oct. 2013 ban overturned by City Council in Nov. 2013.
Encinitas	Yes	Jul-15	No	Cats and dogs, only
Escondido	No	N/A	N/A	
Oceanside	Yes	Jan-15	Yes	Cats and dogs, only
San Marcos	Temporary Moratorium	Apr-15	N/A	Moratorium expires in March 2016
San Diego	Yes	Aug-13	No	Cats, dogs and rabbits