

ORDINANCE 37 - 19

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 12, "OFFENSES AND MISCELLANEOUS PROVISIONS", BY CREATING ARTICLE XIII, "RETAIL SALE OF DOGS AND CATS PROHIBITED", SECTION 12-128, PERTAINING TO PROHIBITING THE RETAIL SALE OF DOGS AND CATS IN THE CITY; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROHIBITION; PROVIDING FOR DISCLOSURES; PROVIDING FOR AMORTIZATION; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2, Constitution of the state of Florida, and Chapter 166, Florida Statutes, the Cape Coral City Council ("Council") is authorized to adopt ordinances, except as otherwise provided by law; and

WHEREAS, the humane treatment of animals is an important public purpose; and

WHEREAS, the practice of commercial breeding facilities, not including medical research, sometimes referred to as "puppy mills" and "kitten factories", contribute to domestic animal overpopulation; and

WHEREAS, according to the Humane Society of the United States ("HSUS"), a significant number of puppies and kittens sold at retail pet stores come from large-scale, commercial breeding facilities where the health and welfare of the animals are not adequately provided for. The HSUS estimates that 10,000 puppy mills produce more than 2,400,000 puppies per year in the United States and that most retail pet store dogs and cats come from puppy mills and kitten factories; and

WHEREAS, according to United States Department of Agriculture reports, documented problems found at puppy mills and kitten factories include: (1) sanitation problems leading to infectious diseases; (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, according to the HSUS, although pet consumers purchase dogs and cats believing the pets to be healthy and genetically sound, in reality, animals that come from puppy mills and kitten factories often face an array of health problems, including not only communicable diseases or genetic disorders that present immediately after sale, but also diseases or disorders that do not surface until several years later, all of which lead to costly veterinary bills and emotional distress to consumers; and

WHEREAS, while the Council recognizes that not all dogs and cats sold in pet stores are products of inhumane breeding conditions, puppy mills and kitten factories continue to exist in part due to the supply and demand of dogs and cats offered for retail sale at pet stores; and

WHEREAS, an effective tool to eliminate the retail market for domestic dogs and cats bred through puppy mills and kitten factories is to require that pet stores utilize an adoption-based business model, which ensures that the animals sold by retail outlets are sourced from animal care facilities and animal rescue organizations, which encourages the adoption of homeless pets and reduces the financial and emotional toll on consumers who purchase mill-bred pets with latent physical and behavioral problems; and

WHEREAS, numerous alternatives exist for people to find pets, including adoption of animals from public and private animal rescue organizations or purchase from reputable and conscientious breeders; and

WHEREAS, this Ordinance is not intended to affect a consumer's ability to obtain a dog or cat of his or her choice directly from a breed-specific animal care facility or rescue organization, or from a reputable breeder where a consumer can directly observe and evaluate the conditions in which the dogs or cats are bred; and

WHEREAS, prohibiting the retail sale of dogs and cats is likely to decrease the demand for puppies and kittens bred in puppy mills and kitten factories, and is likely to increase demand for animals from animal shelters and rescue organizations; and

WHEREAS, according to the HSUS, 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 pet stores collaborate with local animal shelters and

rescue organizations to offer space and support for showcasing adoptable homeless pets on their premises; and

WHEREAS, the Council believes that prohibiting the retail sale of dogs and cats in the City will promote community awareness of animal welfare and, in turn, will foster a more humane environment for animals; and

WHEREAS, the Council believes that the prohibition of the retail sale of dogs and cats in pet stores in the City will reduce impulse purchases of pets, which can lead to abandonment or mistreatment of animals once they have outgrown their initial puppy or kitten appeal, and 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 Council hereby finds that this ordinance is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 12, Article XIII, Section 12-128, is hereby created to read as follows:

CHAPTER 12: - OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE XIII: - RETAIL SALE OF DOGS AND CATS PROHIBITED

§ 12-128 Retail sale of dogs and cats prohibited.

(a) Purpose and intent. The purpose and intent of this section is to discourage the retail sale of commercially bred dogs and cats from puppy mills and kitten factories. These facilities often house animals in overcrowded and unsanitary conditions without adequate veterinary care, food, water, and socialization, thereby causing or allowing heritable and congenital disorders and the spread of infectious diseases, any of which may be present immediately after a sale or not until several years later. It is further the intent of this section to require an adoption-based business model for the retail sale of dogs and cats at pet stores, whereby all dogs and cats shall be sourced from stray or unwanted pets that have been taken in by an animal care facility or animal rescue organization.

(b) Definitions. For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Animal care facility means an animal control center or animal shelter, maintained by or under contract with any state, county, or municipality; whose mission and practice is, in whole, or in significant part, the rescue, care, and placement of animals in permanent homes or with rescue organizations; and which does not breed animals.

Animal rescue organization means a humane society or other duly incorporated nonprofit organization, which has tax exempt status under Section 501(c)(3) of the United States Internal Revenue Code; whose mission and practice is, in whole, or in significant part, the rescue, care, and placement of animals in permanent homes; and which does not breed animals.

Cat means an animal of any age of the species of domestic cat, *Felis catus*.

Dog means an animal of any age of the species of domestic dog, *Canis familiaris*.

Pet store means a retail establishment in which dogs and cats are sold, exchanged, bartered, or offered for sale as pets to the general public. Such definition shall not include an animal care facility, animal rescue organization, or a non-retail establishment at which the only dogs and cats sold, exchanged, bartered, or offered for sale were bred or reared on the premises of such establishment.

Pet store operator means a person who owns or operates a pet store.

(c) Prohibition. No pet store shall sell, display, offer for sale, deliver, trade, barter, lease, auction, give away, or otherwise transfer or dispose of dogs or cats. Nothing in this section shall prohibit pet stores from collaborating with animal care facilities or animal rescue organizations

to offer space for such entities to showcase adoptable dogs and cats to the public and collecting such facilities' or organization's adoption fee.

- (d) Disclosures. A pet store that provides space for the adoption of dogs or cats shall post, in a conspicuous location on the cage or enclosure of each such animal, a sign stating the name of the animal care facility or animal rescue organization that owns the dog or cat offered for adoption.
- (e) Amortization. Notwithstanding any provision to the contrary in this section, any existing pet store that possesses an active City local business tax receipt on October 1, 2019, shall be permitted to continue its sales of dogs and cats until September 30, 2020.
- (f) Enforcement and penalties.
 - (1) Failure to comply with this Section 12-128 shall constitute a violation of Section 12-128 and shall subject the pet store operator to the code enforcement provisions and procedures provided in Sections 2-81 through 2-96, Cape Coral Code of Ordinances. Violations of this Section 12-128 shall be punishable by a fine in the amount \$250.00 for a first violation, and \$500.00 for any subsequent violation occurring within one (1) year after a finding of a violation of the previous offense.
 - (2) The City may also initiate a civil action in a court of competent jurisdiction to enjoin any violation of this section.
 - (3) Each dog or cat sold, displayed, offered for sale, delivered, traded, bartered, leased, auctioned, given away, or otherwise transferred in violation of this section shall constitute a separate and distinct offense. Each failure to post a sign for an individual dog or cat as required by this section shall constitute a separate and distinct offense.

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective on September 30, 2019.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2019.


JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:


 JOHN E. NACLERIO, III
 ASSISTANT CITY ATTORNEY
 Ord/Pet Stores
 06/12/19