



CITY OF BOSTON

IN THE YEAR TWO THOUSAND SIXTEEN

IN CITY COUNCIL

AN ORDINANCE REGARDING THE SALE OF ANIMALS IN THE CITY OF BOSTON

WHEREAS, a significant number of puppies, kittens, and rabbits sold at pet shops come from large-scale commercial breeding facilities, many of which have multiple violations of the federal Animal Welfare Act; and

WHEREAS, current federal and state regulations do not sufficiently address the sale of puppies, kittens, and rabbits from large-scale commercial breeders; and

WHEREAS, enforcement of USDA-licensed breeding facilities has been found inadequate in an Office of Inspector General report that documented severe problems such as minimal to non-existent veterinary care; lack of adequate and nutritious food, water and shelter; lack of socialization; lack of adequate space; and lack of adequate exercise; and

WHEREAS, the inhumane conditions in large-scale breeding facilities lead to health and behavioral issues in the animals bred in those facilities, which many consumers are unaware of when purchasing animals. These health and behavioral issues, which may not present themselves until sometime after the purchase of the animals, can impose exorbitant financial and emotional costs on consumers; 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 commercially-bred dogs, cats or rabbits. Many of these stores collaborate with local animal shelters and rescue organizations to offer space and support for showcasing adoptable homeless pets; and

WHEREAS, this ordinance will not affect a consumer's ability to obtain a dog, cat or rabbit of his or her choice directly from a shelter, breed-specific rescue organization, or a breeder where the consumer can see directly the conditions in which the dogs, cats or rabbits are bred or can confer directly with the breeder concerning those conditions; and

WHEREAS, some Boston-area shelters are experiencing an increased number of surrendered rabbits; and

WHEREAS, the transferring of animals in "roadside sales" are often breeders who are not responsibly breeding and who are looking to make a quick profit, providing no recourse for

residents who may find the animal sick or with other conditions due to poor breeding practices; and

WHEREAS, more than 120 other cities, including Los Angeles, San Diego, Austin, Chicago, Phoenix and East Providence have passed ordinances prohibiting the sale of dogs and cats and, in some places, also rabbits, at pet shops to ensure animal and consumer protection; and

WHEREAS, the City Council believes it is in the best interests of the City of Boston to adopt reasonable regulations to prevent costs to the City and its residents, protect the citizens of the City who may purchase dogs, cats or rabbits from a pet shop or other business establishment, promote community awareness of animal welfare, and foster a more humane environment in the City,
NOW THEREFORE

Be it ordained by the City Council of Boston, as follows:

City of Boston Code, Ordinances, Chapter XVI is hereby amended by inserting after Section 16-1.9F.7 the following new ordinance: --

16-1.9G Sale of Animals.

16-1.9G.1 Definitions.

For purposes of this section, unless the context clearly requires otherwise:

Animal Shelter means a public animal control facility or other facility which is operated by an organization or individual for the purpose of protecting animals from cruelty, neglect or abuse and, if required, is registered with the state's Department of Agricultural Resources and which does not obtain dogs or cats from a breeder or broker for payment or compensation.

Animal Rescue Organization means a not-for-profit organization registered with the state's Department of Agricultural Resources, if required, and that either on its own behalf or as facilitator for others engages or arranges for others to engage in the activities of transferring ownership of domestic animals, and which does not obtain dogs or cats from a breeder or broker for payment or compensation..

Breeder means a person who maintains dogs, cats, or rabbits for the purposes of breeding and selling their offspring.

Broker means a person who transfers dogs, cats, or rabbits at wholesale for resale by another.

Flea market means a building, structure or open area occupied by one or more vendors, other than retail stores, for sale to the public of new or used goods or products on a seasonal, limited or full schedule of operation.

Pet shop shall have the meaning provided in section 1 of chapter 129 of the Massachusetts General Laws. Such definition shall not include an animal shelter or an animal rescue organization.

16-1.9G.2 Prohibition.

a. No pet shop shall display, sell, deliver, offer for sale, barter, auction, give away, broker or otherwise transfer or dispose of a dog, cat or rabbit, except for a dog, cat or rabbit obtained from:

1. An animal shelter or animal rescue organization;
2. An animal shelter or animal rescue organization that operates out of or in connection with a pet shop.

b. Subsection (a) shall not apply to a pet shop that offers for sale dogs, cats or rabbits as of the effective date of this ordinance until December 31, 2017, unless such a pet shop:

1. Expands the species of animal offered, for sale beyond those offered for sale on the effective date of this ordinance, to include dogs, cats or rabbits; or

2. Changes ownership, location or the required business licenses are transferred.

c. A pet shop that violates the provisions outlined in subsections (b)(1) or (2) is thereafter immediately subject to the sales restriction in subsection (a).

d. Each pet shop shall maintain records sufficient to document the source of each dog, cat or rabbit the pet shop acquires for at least one year following the date of acquisition. Such records shall be made available, immediately upon request, to any officer of the Inspectional Services Department, its Animal Care and Control Unit, and/or the Boston Police Department.

e. No person shall sell, exchange, trade, barter, lease, or display for a commercial purpose any dog, cat or rabbit on or in any street, public grounds, commercial parking lot, flea market, or other market, except for a dog, cat or rabbit displayed:

1. By a shelter or animal rescue organization; or
2. As part of a 4-H program or similar exhibition or educational program.

16-1.9G.3 Penalties.

Any person or entity, except as provided by law, who sells a dog, cat or rabbit in violation of CBC 16-1.9G shall be fined three hundred (\$300.00) dollars per violation. Each animal sold or offered for sale in violation of CBC 16-1.9G shall constitute a separate offense. Any animal being offered for sale or transfer, or displayed in violation of these sections, may be seized or impounded.

16-1.9G.4 Enforcement.

The Inspectional Services Department, its Animal Care and Control Unit, and/or the Boston Police Department shall have the authority to enforce all violations of these sections. Any animal being offered for sale or transfer, or displayed in violation of these sections, may be seized or impounded unless the enforcing officer determines that failure to seize or impound will be detrimental to the safety and/or health of the animal. In such cases, the animal shall be seized.

Animals seized pursuant to this section will be held for a period of seven days. The person or entity in violation of these sections may file for an administrative hearing to appeal the seizure within seven days of the seizure of the animals. If after seven days, the person or entity fails to file an appeal, the animals shall be surrendered to the City of Boston Animal Care and Control.

16-1.9G.5 *Applicability.*

If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulations, rule, ordinance, order, or policy, then the provisions of these sections shall control.

16-1.9G.6 *Severability.*

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

16-1.9G.7 *Effective Date.*

The provisions of this ordinance shall be effective upon passage.

Filed in City Council: February 24, 2016