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ORDINANCE NO. CS-296

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF CARLSBAD, CALIFORNIA,
AMENDING TITLE 7 OF THE CARLSBAD
MUNICIPAL CODE WITH THE ADDITION OF
CHAPTER 7.16**

WHEREAS, the City Council of Carlsbad, pursuant to its police powers delegated to it by the California Constitution has the authority to enact laws which promote the public health, safety , and general welfare of its citizens; and

WHEREAS, the Department of Animal Services for San Diego County presented reports to the Carlsbad City Council on July 16 and September 17, 2013, on Pet Adoption and Animal Advocacy that included a discussion of why California cities are passing ordinances regulating commercial pet sales in an attempt to thwart “puppy mills”;

WHEREAS, the Carlsbad City Council discussed and considered alternatives related to the sale of dogs and cats in retail stores on May 3, 2016; 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, and many of these animals are sold at retail pet shops.

SECTION 1. Now, therefore, the City Council of the City of Carlsbad, California does find as follows:

- a. Existing state and federal laws regulate dog and cat breeders, as well as pet stores that sell dogs and cats. These include the Lockyer-Polanco-Farr Pet Protection Act (California Health & Safety Code section 122125 *et seq.*); the Polanco-Lockyer Pet Breeder Warranty Act (California Health & Safety Code section 122045 *et seq.*); the Pet Store Animal Care Act (California Health & Safety

1 Code section 122350 *et seq.*); and the Animal Welfare Act (“AWA”) (7 U.S.C. §
2 2131 *et seq.*)

3 b. The Lockyer-Polanco-Farr Pet Protection Act requires pet dealers
4 (i.e. retailer sellers of more than fifty (50) dogs or cats in the previous year; not
5 including animal shelters and humane societies) to have a permit, maintain certain
6 health and safety standards for their animals, sell only healthy animals, and
7 provide written spay-neuter, health, animal history and other information and
8 disclosures to pet buyers. If after fifteen (15) days from purchase, a dog or cat
9 becomes ill due to an illness that existed at the time of the sale, or within one (1)
10 year after purchase, a dog or cat has a congenital or hereditary condition that
11 adversely affects the health of the dog or cat, an owner is offered a refund,
12 another puppy or kitten, or reimbursement of veterinary bills up to one hundred
13 and fifty percent (150%) of the purchase price of the puppy or kitten.

14 c. The Pet Store Animal Care Act requires every pet store that sells live
15 companion animals and fish to formulate a documented program consisting of
16 routine care, preventative care, emergency care, disease control and prevention,
17 veterinary treatment and euthanasia.

18 d. The Polanco-Lockyer Pet Breeder Warranty Act offers protection
19 similar to that of the Lockyer-Polanco-Farr Pet Protection Act, except that it applies
20 only to dog breeders who sold or gave away either three litters or 20 dogs in the
21 previous year.

22 e. The Animal Welfare Act requires, among other things, the licensing
23 of certain breeders of dogs and cats. These breeders are required to maintain
24 minimum health, safety and welfare standards for animals in their care. The AWA
25 is enforced by the United States Department of Agriculture (“USDA”).

26 f. According to The Humane Society of the United States, American
27 consumers purchase dogs and cats from pet stores that the consumers believe to
28 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.

g. 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 in
substandard breeding facilities known as “puppy mills” or “kitten factories” that
mass-produce animals for sale to the public; and many of these animals are sold
at retail pet stores. Because of the lack of proper animal husbandry practices at
these facilities, animals born and raised are more likely to have genetic disorders
and lack adequate socialization, while breeding animals utilized are subject to
inhumane housing conditions and are indiscriminately disposed of when they
reach the end of their profitable breeding cycle.

h. According to USDA inspection reports, some additional documented
problems found at puppy mills include – (a) sanitation problems leading to
infectious disease; (b) large numbers of animals overcrowded in cages; (c) lack of
property veterinary care for severe illnesses and injuries; (d) lack of protection
from harsh weather conditions; and (e) lack of adequate food and water.

1 i. While “puppy mill” puppies and “kitten factory” kittens were being
2 sold in pet stores in San Diego County during the past year, thousands of dogs
and cats were euthanized in city and county shelters in San Diego County .

3 j. The homeless pet problem notwithstanding, there are many
4 reputable dog and cat breeders who refuse to sell through pet stores and who
work carefully to screen families and ensure good, lifelong matches.

5 k. Responsible dog and cat breeders do not sell their animals to pet
6 stores. The United Kennel Club (“UKC”), the second oldest all-breed registry of
purebred dog pedigrees in the United States and the second largest in the world,
7 asks all of its member breeders to agree to a Code of Ethics which includes a
pledge not to sell their puppies to pet stores. Similar pledges are included in the
Code of Ethics for many breed clubs for individual breeds.

8 l. Within the past year, there has been significant community activity in
9 many cities in California to convince local pet store operators to convert from
puppy sales to a humane business model offering adoptable homeless dogs and
10 cats to their customers.

11 m. 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
12 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
13 and support for showcasing adoptable homeless pets on their premises.

14 n. While the City Council recognizes that not all dogs and cats retailed
in pet stores are products of inhumane breeding conditions and would not classify
15 every commercial breeder selling dogs or cats to pet stores as a “puppy mill” or
“kitten factory”, it is the City Council’s belief that puppy mills and kitten factories
16 continue to exist in part because of the public demand and the sale of dogs and
cats in pet stores.

17 o. The City Council finds that the retail sale of dogs and cats in pet
18 stores that operate or choose in the future to operate in the City of Carlsbad must
be consistent with the City’s goal to be a community that cares about animal
19 welfare.

20 p. The City Council believes that eliminating the retail sale of dogs and
cats in pet stores in the City will promote community awareness of animal welfare
21 and, in turn, will foster a more humane environment in the City.

22 q. The City Council believes that elimination of the retail sale of dogs
and cats in pet stores in the City will also encourage pet consumers to adopt dogs
23 and cats from shelters, thereby saving animals’ lives and reducing the cost to the
public of sheltering animals.

24 SECTION 2: That Chapter 7.16 is added to Carlsbad Municipal Code
25 to read as follows:
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1 **7.16.010 – Retail Sale of Dogs and Cats Prohibited**

2 a. Definitions. For purposes of this Chapter, the following definitions shall
3 apply:

4 1. "Animal shelter" means a municipal or related public animal shelter
5 or duly incorporated nonprofit organization devoted to the rescue, care and
6 adoption of stray, abandoned or surrendered animals, and which does not breed
7 animals.

8 2. "Cat" means an animal of the Felidae family of the order Carnivora.

9 3. "Dog" means an animal of the Canidae family of the order Carnivora.

10 4. "Existing pet store" means any pet store or pet store operator that
11 displayed, sold, delivered, offered for sale, offered for adoption, bartered,
12 auctioned, gave away, or otherwise transferred cats or dogs in the City of
13 Carlsbad on the effective date of this Chapter, and complied with all applicable
14 provisions of the Carlsbad Municipal Code.

15 5. "Pet store" means a retail establishment open to the public and
16 engaging in the business of offering for sale and/or selling animals at retail.

17 6. "Pet store operator" means a person who owns or is designated by
18 an owner to operate a pet store, or both.

19 7. "Retail sale" includes display, offer for sale, offer for adoption, barter,
20 auction, give away, or other transfer of any cat or dog.

21 8. "Certificate of Source" means a document declaring the source of the
22 dog or cat sold or transferred by the pet store. The certificate shall include the
23 name and address of the source of the dog or cat.

24 9. "Non-commercial breeding establishment" means a person, firm,
25 partnership, corporation or other entity that has sold, transferred or given away all
26 or part of three or fewer litters, or less than twenty (20) dogs, or less than twenty
27 (20) cats during the preceding twelve (12) months that were bred and reared on
28 the premises of the person, firm, partnership, corporation, or other association.

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
City of Carlsbad.

c. Exemptions. This Chapter does not apply to:

1. a person or establishment that engages in the retail sale of dogs or
cats that are obtained from a Non-commercial breeding establishment.

2. 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;

3. a publicly operated animal control facility or animal shelter;

4. a private, charitable, nonprofit humane society or animal rescue
organization; or

1 5. a publicly operated animal control agency, nonprofit humane society
2 or nonprofit animal rescue organization that operates out of or in connection with a
3 pet store.

4 d. Adoption of Shelter and Rescue Animals. Nothing in this Chapter
5 shall prevent a pet store or its owner, operator or employees from providing space
6 and appropriate care for animals owned by a publicly operated animal control
7 agency, nonprofit humane society, or nonprofit animal rescue agency and
8 maintained at the pet store for the purpose of adopting those animals to the public.

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

15 f. Existing Pet Stores. An Existing pet store may continue to engage in
16 the retail sale of dogs and cats until November 10, 2016.

17 **7.16.020 – Notice of violations of chapter.**

18 This chapter shall be enforced by the San Diego County Department of
19 Animal Services. Any person who violates any of the provisions of this chapter
20 may be served with written notice of such violation by any law enforcement officer
21 of the county. Notice may be served upon such person personally, by mail or by
22 posting such notice for five days in a conspicuous place where the violation
23 occurs.

24 **7.16.030 – Violations after notice deemed misdemeanor.**

25 (a) Every pet store operator violating any provision of this chapter who
26 has been served with written notice of such violation as prescribed by section
27 7.16.020 and who refuses to comply with such notice is guilty of a misdemeanor.

28 (b) Each animal simultaneously displayed, offered for sale or sold in
violation of this section constitutes a separate violation of this section.
Furthermore, the display, offer for sale, offer for adoption, barter, auction, giving
away, or otherwise transferring of cats or dogs after the date a citation has been
issued shall also constitute a separate violation.

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EFFECTIVE DATE: This ordinance shall be effective thirty days after its adoption; and the city clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad City Council on the 3rd day of May, 2016, and thereafter

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Carlsbad on the 10th day of May, 2016, by the following vote, to wit:

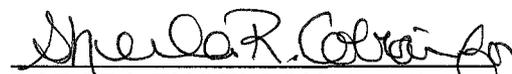
- AYES: Hall, Wood, Schumacher, Blackburn
- NOES: None.
- ABSENT: Packard.

APPROVED AS TO FORM AND LEGALITY:


CELIA A. BREWER, City Attorney


MATT HALL, Mayor

ATTEST:


BARARA ENGELSON, City Clerk
(Seal)

