

(O-[Ord Code])

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE 2, DIVISION 7 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING A NEW SECTION 42.0706 RELATING TO THE PROHIBITION OF THE SALE OF DOGS, CATS, AND RABBITS IN PET SHOPS, RETAIL BUSINESSES, OR OTHER COMMERCIAL ESTABLISHMENTS IN THE CITY OF SAN DIEGO.

WHEREAS, the Companion Animal Protection Society presented a report to the Committee on Public Safety and Neighborhood Services (PS&NS) on March 13, 2013; and

WHEREAS, the sale of dogs, cats, and rabbits (companion animals) contributes to the proliferation of homeless or unwanted animals that end up in the public animal shelters and humane societies; and

WHEREAS, the need exists to regulate pet shops, retail businesses, and other commercial establishments that sell companion animals; and

WHEREAS, existing federal and state laws, including the federal Animal Welfare Act, the California Lockyer-Polanco-Farr Pet Protection Act, the California Polanco-Lockyer Pet Breeder Warranty Act, and the California Pet Store Animal Care Act, illustrate society's trend towards promoting the humane treatment of animals by regulating dog and cat breeders, as well as pet shops and stores; 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 in pet shops; and

WHEREAS, because of the lack of proper animal husbandry practices at these facilities, animals born and raised at these “puppy mills” and “kitten factories” are more likely to have genetic disorders and lack adequate socialization, while breeding animals utilized there are subject to inhumane housing conditions and are indiscriminately disposed of when they reach the end of their profitable breeding cycle; and

WHEREAS, prohibiting the sale of companion animals in pet shops, retail businesses, or other commercial establishments may lower the sale of dogs and cats from inhumane “puppy mills” and “kitten factories,” may lower the shelter animal euthanasia rate, and lead to a greater adoption rate of shelter animals; and

WHEREAS, there are many reputable, responsible dog and cat breeders who refuse to sell through pet shops and who work carefully to screen families and ensure good, lifelong matches; and

WHEREAS, the City seeks to prohibit the sale of companion animals in pet shops, retail businesses, and commercial establishments unless the animals are obtained from a city or county animal shelter or animal control agency, humane society, or non-profit rescue organization; and

WHEREAS, the PS&NS Committee, after hearing the testimony and evidence presented, directed a working group of animal organizations, City staff, and the City Attorney’s Office to draft an ordinance regulating the sale of companion animals in pet shops, retail businesses, and commercial establishments; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego as follows:

Section 1. That Chapter 4, Article 2, Division 7 of the San Diego Municipal Code is amended by adding a new section 42.0706, to read as follows:

§42.0706 Pet Shops – Prohibition of the Sale of Dogs, Cats, and Rabbits

(a) It is unlawful for any person to display, offer for sale, deliver, barter, auction, give away, transfer, or sell any live dog, cat, or rabbit in any pet shop, retail business, or other *commercial establishment* located in the City of San Diego, unless the dog, cat, or rabbit was obtained from a city or county animal shelter or animal control agency, a humane society, or a *non-profit rescue organization*. All pet shops, retail businesses, or other *commercial establishments* selling dogs, cats, or rabbits shall maintain a *certificate of source* for each of the animals and make it available upon request to animal control officers, law enforcement, code compliance officials, or any other City employee charged with enforcing the provisions of this section.

(1) For purposes of this section, a *commercial establishment* is defined as any for-profit business enterprise, including a sole proprietorship engaged in retail or wholesale commerce related to dogs, cats, and rabbits, including grooming parlors, canine day care, and boarding facilities.

(2) For purposes of this section, a *non-profit rescue organization* is defined as any California non-profit corporation that is exempt from taxation under Internal Revenue Code section 501(c)(3), whose mission and practice is, in whole or in significant part, the rescue and placement of dogs, cats, or rabbits; or any non-profit organization that is not exempt from taxation under Internal

Revenue Code section 501(c)(3) but is currently an active rescue partner with a city or county shelter or humane society, whose mission is, in whole or in significant part, the rescue and placement of dogs, cats, or rabbits.

(3) For purposes of this section, a *certificate of source* is defined as any document from the source city or county animal shelter or animal control agency, humane society, or *non-profit rescue organization* declaring the source of the dog, cat, or rabbit on the premises of the pet shop, retail business, or other *commercial establishment*.

(4) A breeder as defined by California Health & Safety Code section 122045(b) as “a person, firm, partnership, corporation, or other association that has sold, transferred, or given away all or part of three or more litters or 20 or more dogs during the preceding 12 months that were bred and reared on the premises of the person, firm, partnership, corporation, or other association,” is exempt from this section.

(b) Nothing in this section shall prevent the owner, operator, or employees of a pet shop, retail business, or other *commercial establishment* located in the City of San Diego from providing space and appropriate care for animals owned by a city or county animal shelter or animal control agency, humane society, or *non-profit rescue organization* and

maintaining those animals at the pet shop, retail business, or other
commercial establishment for the purpose of public adoption.

Section 2. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

Karen S. Li
Deputy City Attorney

KSL:hm
3/27/2013
Or.Dept: CD6
Doc. No.: 537639_4

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I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

BOB FILNER, Mayor

Vetoed: _____
(date)

BOB FILNER, Mayor

DRAFT