

SUBJECT: PROPOSED ORDINANCE PROHIBITING THE SALE OF
DOGS AND CATS IN COMPANION ANIMAL STORES

INITIATED BY: COUNCILMEMBER JEFFREY PRANG
(Michael Haibach, Council Deputy)



STATEMENT ON THE SUBJECT:

The City Council will consider adopting an ordinance that would restrict or prohibit the sale or transfer of dogs and cats by a retailer.

RECOMMENDATIONS:

1. Introduce for first reading Ordinance No. 10 - AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD ADDING NEW CHAPTER 9.50 TO TITLE 9 OF THE MUNICIPAL CODE REGARDING THE RETAIL SALE OF DOGS AND CATS.
2. Council to provide, at first reading, appropriate amortization or grandfathering period for existing companion animal stores, in which to comply and therefore recoup any existing expenses.

BACKGROUND ANALYSIS.

According to the several animal rights organizations, including Companion Animal Protection Society (CAPS), Animal Legal Defense Fund, and Humane Society of the United States, inspection records show that many USDA-licensed breeders breed dogs and cats in relatively inhumane conditions. These breeders are commonly referred to as "puppy mills" or "kitten factories." Documented problems of puppy mills include over breeding, inbreeding, veterinary care that *doesn't meet the same standards as other breeders, relatively poor quality of food and shelter, lack of human socialization, and overcrowded cages.* Dogs bred in puppy mills are more likely to have behavior and/or health problems. While kitten factories are not as common as puppy mills, similar problems are reported regarding kitten factories.

The only way to protect the welfare and safety of companion animals and to free them from the misery of horrid mass bred producers is to eliminate the demand. The Animal Legal Defense Fund, for one, is hard at work pushing the boundaries of the law to help ensure the lives and interests of animals everywhere are protected. Several local municipalities are investigating the adoption of

ordinances banning the sale of dogs and cats from these types of breeders; most recently the City of South Lake Tahoe.

The City of West Hollywood has been on the forefront of the animal rights movement for decades – being the first city in the United States to outlaw cat declawing, and has consistently worked to enact cutting edge animal welfare legislation, both locally and across California. West Hollywood can take the lead on this issue and help set the standard for Southern California city governments.

With input from the Companion Animal Protection Society (CAPS), Animal Legal Defense Fund, and Humane Society of the United States, West Hollywood's City Attorney has drafted the ordinance attached for Council consideration.

1. This ordinance prohibits the sale of ALL dogs and cats at companion animal stores; providing exemptions for humanely bred, reared or sheltered animals.
2. For existing Pet Stores it provides a grandfathering or amortization period for non-conformance to allow them to recover their investment made in that portion of their business that involves the sale of dogs and/or cats.

ALTERNATIVES:

None.

CONFORMANCE WITH VISION 2020:

This item is consistent with West Hollywood's ongoing strategic goals of active participation in regional issues and community education.

EVALUATION:

Evaluation will be done by monitoring the support and/or opposition to this issue.

ENVIRONMENTAL SUSTAINABILITY & HEALTH ANALYSIS:

N/A

OFFICE OF PRIMARY RESPONSIBILITY:

City Attorney and the Office of the City Manager.

FISCAL IMPACT:

None at this time.

ATTACHMENTS:

Draft Ordinance No. 10 -

ORDINANCE NO. 10-___

AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD ADDING NEW CHAPTER 9.50 TO TITLE 9 OF THE MUNICIPAL CODE REGARDING THE RETAIL SALE OF DOGS AND CATS.

The City Council of the City of West Hollywood hereby ordains as follows:

SECTION 1. Chapter 9.50 is hereby added to Title 9 of the West Hollywood Municipal Code to read as follows:

Chapter 9.50

RETAIL SALE OF DOGS AND CATS

Sections:

- 9.50.010 Findings.
- 9.50.020 Retail Sale of Dogs and Cats.

9.50.010 Findings.

- 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 Code section 122350 *et seq.*); and the Animal Welfare Act ("AWA") (7 U.S.C. § 2131 *et seq.*).
- b. The Lockyer-Polanco-Farr Pet Protection Act requires pet dealers (i.e. retail sellers of more than fifty (50) dogs or cats in the previous year; not including animal shelters and humane societies) to have a permit, maintain certain health and safety standards for their animals, sell only healthy animals, and provide written spay-neuter, health, animal history and other information and disclosures to pet buyers. If after fifteen (15) days from purchase a dog or cat becomes ill due to an illness that existed at the time of sale, or if within one (1) year after purchase a dog or cat has a congenital or hereditary condition that adversely affects the health of the dog or cat, an owner is offered a refund, another puppy or kitten, or reimbursement of veterinary bills up to one hundred and fifty percent (150%) of the purchase price of the puppy or kitten.
- c. The Pet Store Animal Care Act requires every pet store that sells live companion animals and fish to formulate a documented program consisting of routine care,

preventative care, emergency care, disease control and prevention, veterinary treatment, and euthanasia.

- d. The Polanco-Lockyer Pet Breeder Warranty Act offers protection similar to that of the Lockyer-Polanco-Farr Pet Protection Act, except that it applies only to dog breeders who sold or gave away either three litters or 20 dogs in the previous year.
- e. The Animal Welfare Act requires, among other things, the licensing of certain breeders of dogs and cats. These breeders are required to maintain minimum health, safety and welfare standards for animals in their care. The AWA is enforced by the United States Department of Agriculture ("USDA").
- f. According to The Humane Society of the United States, American consumers purchase dogs and cats from pet stores that the consumers believe to 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. A review of state and USDA inspection reports from more than 100 breeders who sold animals to the nation's largest retail pet store chain revealed that more than 60 percent of the inspections found serious violations of basic animal care standards, including sick or dead animals in their cages, lack of proper veterinary care, inadequate shelter from weather conditions, and dirty, unkempt cages that were too small.
- h. A 2005 undercover investigation of California pet stores revealed that nearly half of the pet shops visited displayed animals that showed visible signs of illness, injury, or neglect, and nearly half of the stores also sold animals showing clear symptoms of psychological distress.
- i. 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 stores. Because of the lack of proper animal husbandry practices at these facilities, animals born and raised there 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.
- j. 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.

- k. While “puppy mill” puppies and “kitten factory” kittens were being sold in pet stores across the Los Angeles area during the past year, more than 35,000 dogs and 67,000 cats were euthanized in Los Angeles city and county shelters.
- l. The homeless pet problem notwithstanding, there are many reputable dog and cat breeders who refuse to sell through pet stores and who work carefully to screen families and ensure good, lifelong matches.
- m. Responsible dog and cat breeders do not sell their animals to pet 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, 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 Codes of Ethics for many breed clubs for individual breeds.
- n. Within the past year, there has been significant community activity within the City of West Hollywood and across the Los Angeles metropolitan area to convince local pet store operators to convert from puppy sales to a humane business model offering adoptable homeless dogs and cats to their customers.
- o. 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 stores collaborate with local animal sheltering and rescue organizations to offer space and support for showcasing adoptable homeless pets on their premises.
- p. 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 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 continue to exist in part because of public demand and the sale of dogs and cats in pet stores.
- q. The City Council finds that the current state of retail sale of dogs and cats in pet stores in the City of West Hollywood is inconsistent with the City's goal to be a community that cares about animal welfare.
- r. 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 and, in turn, will foster a more humane environment in the City.

- s. 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 and cats from shelters, thereby saving animals' lives and reducing the cost to the public of sheltering animals.

9.50.020 Retail Sale of Dogs and Cats.

- a. *Definitions.* For purposes of this Chapter, the following definitions shall apply:
 - 1. "Animal shelter" means a municipal or related public animal shelter or duly incorporated nonprofit organization devoted to the rescue, care and adoption of stray, abandoned or surrendered animals, and which does not breed animals.
 - 2. "Cat" means an animal of the Felidae family of the order Carnivora.
 - 3. "Certificate of source" shall mean 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.
 - 4. "Dog" means an animal of the Canidae family of the order Carnivora.
 - 5. "Existing pet store" means any pet store or pet store operator that displayed, sold, delivered, offered for sale, offered for adoption, bartered, auctioned, gave away, or otherwise transferred cats or dogs in the City of West Hollywood on the effective date of this Chapter, and complied with all applicable provisions of the West Hollywood Municipal Code.
 - 6. "Pet store" means a retail establishment open to the public and engaging in the business of offering for sale and/or selling animals at retail.
 - 7. "Pet store operator" means a person who owns or operates a pet store, or both.
 - 8. "Retail sale" includes display, offer for sale, offer for adoption, barter, auction, give away, or other transfer any cat or dog.
- 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 West Hollywood on or after the effective date of this Chapter.

- c. *Existing Pet Stores.* An existing pet store may continue to display, offer for sale, offer for adoption, barter, auction, give away, or otherwise transfer cats and dogs until September 17, 2010.
- d. *Exemptions.* This Chapter does not apply to:
 1. 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;
 2. a publicly operated animal control facility or animal shelter;
 3. a private, charitable, nonprofit humane society or animal rescue organization; or
 4. a publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue organization that operates out of or in connection with a pet store.
- e. *Adoption of Shelter and Rescue Animals.* Nothing in this Chapter shall prevent a pet store or its owner, operator or employees from providing space and appropriate care for animals owned by a publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue agency and maintained at the pet store for the purpose of adopting those animals to the public.

SECTION 2. Subsection 1.08.010.e. of the West Hollywood Municipal Code is hereby amended to include the following in numerical order with the existing references therein:

"Chapter 9.50, Retail Sale of Dogs and Cats;"

PASSED, APPROVED AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting held the ___st day of February, 2010, by the following vote:

AYES: Councilmember -
 NOES: Councilmember -
 ABSENT: Councilmember -
 ABSTAIN: Councilmember -

 , MAYOR

ATTEST:

THOMAS R. WEST, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF WEST HOLLYWOOD)

I, THOMAS R. WEST, City Clerk of the City of West Hollywood, do hereby certify that the foregoing Ordinance No. 10-____ was duly passed, approved and adopted by the City Council of the City of West Hollywood at a regular meeting held on the ____ day of _____, 2010, after having its first reading at the regular meeting of said City Council on the ____ day of _____, 2010.

I further certify that this ordinance was posted in three public places as provided for in Resolution No. 5, adopted the 29th day of November, 1984.

WITNESS MY HAND AND OFFICIAL SEAL THIS __ DAY OF _____, 2010.

THOMAS R. WEST, CITY CLERK