

**Local Law to be amended by creating Article VIII, Section 14 with special standards for the operations of commercial dog/cat breeding facilities**

**Article VIII**

**Section 14: Dog/Cat Breeding Facilities**

**A. Intent and Purpose:**

The purpose of this law is to protect and preserve the general health, safety and welfare of dogs and cats found in breeding facilities in the Town of Romulus by establishing regulations regarding the location, use and operation of said facilities in order to avoid and prevent detrimental effects on companion animals and the increase of dogs and cats found in the animal shelters and rescue organizations due to their poor conditions to becoming companion animals.

**B. Definitions: Local law to be amended by adding the following definitions to Articles II.**

1. Commercial Dog/Cat Breeding Facility:

Any building or lot upon which a person (or persons) breeds two or more litters of dogs/puppies in a calendar year and the facility is licensed by the USDA (United States Department of Agriculture) **or** :

Sells or transfers any dog to a dealer or pet shop kennel; **or**

Sells or transfers more than 50 dogs per calendar year

2. Dealer:

A person who

(1.) Publicly or privately sells or offers for sale any dog belonging to another person for consideration, a fee or a commission or percentage of the sale price;

(2.) Transfers dogs at wholesale for resale to another; or

(3.) Offers or maintains dogs at wholesale for resale to another

3. Private Breeding Facility:

Any building or lot upon which a person does not meet the definition of “commercial dog/cat breeding facility” where dogs/cats are bred by the owner, for the purpose of hunting, tracking and exhibiting in dog/cat shows, performance events or field and obedience trials.

4. Rescue Organizations:

Any facility where homeless, stray, abandoned, rescued or unwanted animals are received, harbored, maintained or made available for adoption to the general public and which is owned, operated or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of the cruelty to animals or other nonprofit or tax-exempt organization devoted to the welfare, protection or humane treatment of animals.

5. Rescue Organizations networks (fostering):

Any person or persons who houses animals at the request of a duly incorporated humane society, animal welfare society, society for the prevention of the cruelty to animals or other nonprofit or tax-exempt organization devoted to the welfare,

protection or humane treatment of animals who accepts companion animals for the purpose of finding permanent adoptive homes for animals and does not maintain a central facility for keeping animals, but rather uses a system of fostering in private homes or boarding or keeping pets in animal shelters.

(1.) May foster or board up to 20 animals at a time per year.

6. Dog: A live *Canis lupus familiaris* or any dog hybrid
7. Cat: A live *Felis catus* or any cat hybrid

**C. Standards: Local Law to be amended by adding the following chart to Article IV. Regulations of Established Zones, Section 1.**

**1. Regulations for Dog and/or Cat Breeding Facilities and Dealers:**

	Conservation/ Recreation	Agriculture	Lakeshore Residential	Industrial Warehouse	Hamlet Residential	Institution/ Governmental	E/D
<u>Private Pet Breeding Facility</u>	NA	NPR	NPR	NA	NPR	NA	NA
<u>Commercial Dog Breeding Facility</u>	NA	NA	NA	SP	NA	NA	NA
<u>Rescue Organizations</u>	NA	NPR	NPR	NA	NPR	NA	NA
<u>Rescue Organization Networks</u>	NA	NPR	NPR	NA	NPR	NA	NA
<u>Dealers</u>	NA	NA	NA	NA	NA	NA	NA

- NA - Not Allowed/Prohibited
- NPR - No Permit Required
- ZPR - Zoning Permit Required
- SP - Special Permit Required
- A - Allowed

**D. Standards:**

1. A commercial dog/cat breeder and/or dealer will be permitted in the Town of Romulus in its designated district only under the following conditions:
  - a. All animals shall be kept in clean and sanitary premises, structures or enclosures.

- b. The ambient temperature shall be consistent with the requirements of the specific companion animals. Heating shall be deemed necessary when the inside ambient temperature of the facility falls below fifty (50) degrees Fahrenheit for a period of four (4) consecutive hours and cooling shall be required when the temperature of the facility rises above eighty-five (85) degrees Fahrenheit.
- c. All facilities shall be adequately ventilated with fresh or filtered air to minimize drafts, odors and moisture condensation and to provide for the health and comfort of the animals at all times. Ventilation shall be provided by either natural or mechanical means. The necessary equipment or comparable means shall be provided to exhaust the air from the animal area to the outside of the building.
- d. Uniformly distributed natural and/or artificial lighting shall be provided to permit routine inspection and facilitate routine cleaning and the proper care and maintenance of the animals. Lighting shall be so arranged as to protect each animal from excessive illumination.
- e. One inside pen shall be provided for each dog or cat boarded or kept.
- f. For dogs, any inside pen shall have a minimum measurement of three (3) feet wide by four (4) feet in length for all dogs except for giant breeds which will have a minimum of three (3) feet by five (5) feet in area size. Any pen shall be of sufficient height for the dog to stand fully erect on all four legs with at least (6) inches of headroom.
- g. For cats, any inside pen shall have a minimum measurement of two (2) feet wide by two (2) feet in length for all cats. Any pen shall be of sufficient height for the cat to stand fully erect on all four legs with at least (3) inches of headroom.
- h. For every three (3) dog pens there shall be a minimum of one (1) outside run.
- i. There shall be a minimum of one (1) outside run per three (3) dogs boarded or kept, and there shall be no more than one (1) dog per run at any one time.
- j. Each outside run shall:
  - Have a concrete base;
  - Be enclosed by a minimum six (6) foot high chain link fence with shelter and with secure gates;
  - The size of the run shall be (3) feet in width and ten (10) feet in length except for dogs of the size of 100 lbs or more. For dogs 100 lbs or more, the run shall be four (4) feet width and ten (10) feet length.

k. Sewage and waste shall be disposed of by connection of drains to a sanitary sewer or a state, county or locally approved sewage disposal system. Drainage systems shall be provided with back flow prevention devices on submersible inlets and hair traps, if required by law, on all plumbing lines in animal areas where hoses may be attached for cleaning of the facility.

l. A facility can only be established on at least five (5) acres of property located at least one hundred (100) yards from any adjoining property lines. A facility cannot be established within a one mile radius of the property boundary of any existing commercial breeding facility.

2. Inspection Requirement:

a. As heretofore provided, a person may operate a commercial breeding facility in the Town of Romulus only with a special use permit.

b. Prior to the commencement of any use or upon any transfer of ownership or control of a facility the premises must be inspected by the Zoning officer, together with the local dog control officer found to be in compliance with all laws, ordinances, rules and regulations applicable to the use and occupancy for a commercial dog/cat breeding facility an/or dealers and in compliance with the Romulus Town Code, the New York State Agriculture and Markets Law, the New York State General Business Law and the Uniform Fire Prevention and Building Code.

c. All zoning officers shall complete their certification that the premises are in compliance or not in compliance within twenty (20) days of the inspection of the premises by such officials.

d. Any owner and/or operator, employee of the owner and/or operator, or agent of the owner and/or operator, shall permit representatives of the Town Zoning Officer, the Town Dog Control Officer, the Seneca County Health Department, the Seneca County Sheriffs Department, the New York State Police, and the State Health Department, the Department, or any other Town, county or state department or agency that has permitting authority regarding the use of the premises to inspect the premises of the commercial dog/cat breeding facility and/or Dealer the purpose of ensuring compliance with this article at any time it is occupied or open for business.

3. The duration of any special use permit shall be for a maximum period of one year. Any special use permit for uses under this Article shall expire on December 31 of each year unless stated. The special use permit shall run for the calendar year if so renewed by the Planning Board for the Town of Romulus. An application for renewal of any permit must be made no more than ninety (90) and no less than (60) calendar days prior to expiration of such permit.

4. If, upon inspection as described above, it shall be found that the operator has violated any provisions of this chapter, the Planning Board shall have the power to revoke or suspend the permit and order the animals removed or Commercial dog/cat breeding facilities and/or dealers closed after notice and an opportunity for the owner/operator to be heard.

5. In addition to the other provisions of the Town Code, it shall be deemed a violation of Town Zoning Code if the owner and/or operator, an employee of the owner and/or operator or an agent of the owner and/or operator:

- a. Has violated or is not in compliance with any section of the Town Code, the New York State Agriculture and Markets Law, the New York State General Business Law and/or any section of the New York Penal Law relating to mistreatment of animals; or
- b. Has refused to allow any inspection of the Commercial Breeding Facility as authorized by this article; or
- c. Operates with an expired special use permit.

**E. Substantive Requirements: Pre-Existing Commercial Dog/Cat Breeding Facilities and/or Dealers**

1. Pre-Existing facilities shall be considered non-conforming structures and must follow the terms under Article XI of the Town's Zoning Laws and be required to obtain a special use permit. Refer to Article IX for the Special Use Review.
2. Non-conformities shall be allowed no modification and/or expansion without a Variance except for expanding the size of kennel runs to meet requirements in section D. of standards. The facility may not increase the number of dogs bred within the facility.
3. Non-conformities must meet the standards set for all commercial dog/cat breeders and dealers in the Town of Romulus (see Sec. D: Standards above).
4. Such pre-existing commercial dog/cat breeding facilities and dealers shall be subject to the same regulations as specified in this local law with an annual renewal required which will include an annual inspection by the Code Enforcement Officer and the Animal Control Officer.
5. Pre-Existing facilities shall have 90 days after the date that the law has been passed to apply for their special use permit.

**F. Authority:**

1. Refer to Article XIV, Section 5.

2. The Code Enforcement Officer has the authority to examine the premises and locations of any buildings or structures in the Town of Romulus and shall determine whether or not they comply with the existing zoning laws. The Animal Control Officer has authority to inspect the premises and buildings and assess the conditions of the dogs/cats within the buildings and structures in the Town of Romulus. The Code Enforcement Officer shall keep a permanent record of all violations of this article, whether reported by private citizens or by any board agency; officer or employee of the Town and such record shall show the disposition of all such violations.

**G. Penalties:**

3. Courtesy Notice of Violation as seen in Article XII, Section 5 (Investigation and Report).
4. A violation shall be an offense, punishable by a fine not to exceed \$350 or imprisonment for a period not to exceed 15 days, or both, for a conviction for a first offense; a fine not to be less than \$350 nor more than \$700 or imprisonment for a period not to exceed 15 days, or both, for a conviction for a second offense within a period of five years from the date of the commission of the first offense; a fine not to be less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed 15 days, or both, for a conviction for a third or subsequent offense within a period of five years from the date of the commission of the first offense. Each day's continued violation shall constitute a separate additional violation.
5. In addition, any person who violates any provision of this code or who shall omit, neglect or refuse to do any act required thereby shall be subject to a civil penalty of not less than \$500.00 nor no more than \$3000.00 recoverable by the Town of Romulus in an action in the small claims court, part of the Town of Romulus justice court.
6. Whenever a suspected violation of the code occurs, any person may file a signed written complaint reporting such violation to the Code Enforcement Officer. The Code Enforcement Officer may also investigate any oral complaint made to his/her office. He /She may direct the Animal Control Officer to accompany or investigate alone in his/her place. All complaints, written or oral, shall be properly recorded, filed and immediately investigated by the Code Enforcement Officer and a local animal control officer.

# **Sherburne County Private and Commercial Kennel Licensing Ordinance**

## **ORD - 134**

### **Section I. Purpose**

This licensing ordinance is intended to help enforce public health, safety and welfare concerns for the general public and animals for the purpose of prohibiting nuisance, animal neglect, and containing the spread of diseases. Public safety concerns such as dangerous and/or nuisance dogs have been identified by law enforcement to be potential public safety concerns associated with private and commercial kennels.

### **Section II. Title**

This licensing ordinance shall be known and referred to as the Sherburne County Private and Commercial Kennel Ordinance, hereinafter “License.”

### **Section III. Jurisdiction, Scope, Interpretation, Severability**

#### **A. Jurisdiction**

The jurisdiction of this License shall apply to all the unincorporated areas of Sherburne County in which the County has zoning and land use authority. Private and Commercial Kennels are allowed as a Permitted Use in the Agricultural, General Rural, Urban Expansion, Commercial, and Industrial zoning districts as referenced in the Sherburne County Zoning Ordinance, Sections 8 through 11, subdivision 2.

#### **B. Scope**

From and after the effective date of this license, all commercial kennels shall be subject to the terms of this License.

#### **C. Interpretation**

The provisions of this License shall be controlling, unless the provisions provided under Minnesota State Statute, other ordinance, or regulation impose more stringent requirements in which those requirements shall be controlling. Words and phrases contained within this License are to be construed according to the rules of grammar and according to their common and approved usage. Singular words contained within this License include the plural and the singular. Words of in the past or present tense also include the future.

#### **D. Severability**

If any provision of this License or the application thereof to any person or circumstance is held invalid, said invalidity does not affect other provisions or applications of the License which can be given effect without the invalid provision or application, and for this purpose, the provision of this License are severable.

#### **Section IV. Definitions**

**Animal** - every non-human species of animal, both domestic and wild.

**Animal Control Authority** - a person employed by or under contract with the County and/or Township who is responsible for animal control enforcement.

**Dog** - any animal in whole or in part of the species canis familiarus.

**Environmental Health Officer** - an official employed by or under contract with the County and/or township who is responsible for investigating noise complaints.

**Kennel, Commercial** – Any place where four or more dogs over six months of age are owned, kept, boarded, bred and/or offered for sale.

**Kennel, Private** – Any place where four or more dogs over six months of age are owned or kept for private enjoyment.

**Kennel Run** – enclosed area, indoor or outdoor to allow animals to exercise.

**Person** - one (1) or more natural persons; a partnership, including a limited partnership; a corporation; a trust; or any other business organization or association.

**Unreasonably disturb the peace and quiet** - includes, but is not limited to, the creation of any noise by any animal which can be heard by any person, including the Animal Control Authority, Environmental Health Officers or licensed peace officers, from a location outside of the building or premises where the animal is being kept and which animal noise occurs either: (1) repeatedly over at least a seven-minute period of time with one minute or less lapse of time between each animal noise during the seven-minute period, or (2) repeatedly over at least a fourteen-minute period of time, at an average of at least twelve animal noises per minute.

**Unsterilized Female Dog** – non-spayed female dog over six months of age.

#### **Section V. Requirements**

1. Private and Commercial Kennels may operate in the Agricultural, General Rural, Urban Expansion, Commercial, and Industrial zoning districts as provided in the Sherburne County Zoning Ordinance upon the issuance of the Sherburne County Private and/or Commercial Kennel License, and meeting any other requirements imposed by law.



2. The licensee shall at all times remain compliant with all applicable local, state and/or federal laws, rules and / or regulations. Any violation of any applicable local, state and / or federal laws, rules and or regulations, shall result in the immediate revocation of the license.
3. No more than forty (40) dogs over six months of age may be kept on the private and or commercial kennel property, including no more than ten (10) unsterilized female dogs over six months of age.

#### **A. Location and Kennel Structure**

1. Kennels must be located on a minimum of two and one half (2 ½) acres unless located within the Commercial or Industrial Zoning Districts.
2. Kennels or shelters and dog runs may not be located within 500' of a pre-existing residence except that of the kennel owner.
3. Kennels may require a building permit if over 120 sq ft in size, and must comply with building setbacks within the applicable zoning district.
4. Dogs must be confined or under direct control of the kennel operator or staff at all times. Outdoor commercial kennel areas shall be fenced. Fencing shall consist of durable materials, with a minimum height of six (6) feet, and shall deter dogs from escaping over, under, or through the fence.
5. All-weather kennels or shelters and dog runs or enclosed exercise areas shall be provided for all dogs and shall be adequately sized for the particular breed.
6. The owner and/or operator of the Private or Commercial Kennel shall operate the kennel so as to not unreasonably disturb the peace and quiet of any person.

#### **B. License, Inspection and Enforcement**

1. Complete applications shall be reviewed and approved or denied within 30 days of the date of submittal. Annual licenses are valid from the time they are issued until June 1<sup>st</sup> the next year after their issuance. The annual license fee will be set by the County Board.
2. Private and Commercial Kennel Licenses shall be issued by the Sherburne County Planning & Zoning Department.
3. The application and Operational Plan must be complete in order for the Planning & Zoning Department to accept and review the application. Prior to administrative approval, the Sheriff's Department may conduct a criminal background check of the applicant and property owner.
4. The Sheriff's Department and/or Public Health Department shall inspect Commercial Kennels on an annual basis unannounced.<sup>1</sup>
5. All complaints concerning dogs within the unincorporated areas of the County shall be addressed to the Sheriff's Department.
6. Complaints shall be investigated by the Sheriff's Department and/or the Public Health Department acting as the Animal Control Authority and/or Environmental Health Officer.
7. Any person who violates any provision of the Ordinance shall be deemed guilty of a misdemeanor and shall be punishable according to State of Minnesota Law. Each day that a violation continues shall constitute a separate offense. The County may also initiate any applicable civil action, such as the seizure of animals and/or revocation of a Private and/or Commercial Kennel license.

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<sup>1</sup> **Author's Note:** Time and costs associated with inspections shall be included within the annual license fee.

### **C. Operational Plan**

An Operational Plan shall be submitted to include the following:

1. Name of Kennel Operator(s), address, phone number, signature, and date of signature.
2. Name of property owner(s), address, phone number, signature, and date of signature.
3. Address of property to be used for kennel (if different than above).
4. Name of business.
5. Site Plan, to include:
  - a. Property acreage, location and approximate acreage or dimensions of kennel area and runs.
  - b. Distance between kennel, exercise area and property line.
  - c. Customer parking area, if applicable.
  - d. Waste Disposal area (i.e. waste bin, spreading area, etc).
  - e. Location of all structures on property and distance to kennel area.
  - f. Location of well and septic system
6. Total number and breed(s) of dogs over six months of age to be permanently housed on property.
7. Number of dogs over six months of age to be temporarily (boarded) on property.
8. Number of Unsterilized Female Dogs to be housed on property for the purposes of breeding.
9. Number of kennel employees, full and part time (including owner/operator), and the approximate months, days and time periods per week employees will be overseeing kennel operations.
10. Ratio of dogs to employees (full-time equivalent).
12. Waste disposal plan, to include a copy of a contact with the waste hauler who will be “specifically” removing animal waste.
13. Proposed signage and location (maximum of one (1) non-illuminated sign not to exceed 12 sq ft located on the premises).

A copy of the complete application shall be proved to the applicable township by the Planning and Zoning office for their records.

### **Section VI. Public Nuisance**

No person owning, operating, having charge of, or occupying any building or premises shall keep or allow to be kept any dog which shall, by any noise, unreasonably disturb the peace and quiet as defined herein.

### **Section VII. Date of Effect**

All pre-existing Private and/or Commercial Kennels as defined in this ordinance shall comply with this ordinance within six months of the Date of Effect or shall be deemed guilty of a misdemeanor and shall be punishable according to State of Minnesota Law.

This provision was passed by the Sherburne County Board of Commissioners on the 1st day of August, 2006 and duly filed with the Sherburne County Auditor.

Effective date: September 5, 2006

Signed: Terry Nagorski, County Board Chair

The foregoing instrument was acknowledged before me this 2nd day of August, 2006.

Linda Colleen Bronson  
Signature of person taking acknowledgement

*Drafted by the Sherburne County Zoning Office  
Sherburne County Government*

## ARIZONA REVISED STATUTES

### 44-1799.71. Unlawful public sale of animals; civil penalty; definitions

A. In a county with a population of eight hundred thousand persons or more, a person commits the unlawful public sale of animals by knowingly selling an animal on:

1. Any public highway, street or park or any public property adjacent to a public highway, street or park.
2. Any commercial private property without the express consent of the owner or lessee of the property.

B. Subsection A does not apply to:

1. Retail sales on the premises of a pet store.
2. Sales by a publicly operated or private, charitable nonprofit pound, humane society, animal rescue organization or educational or agricultural organization.
3. Any rodeo, auction market, county fair, stock show or other sanctioned livestock exhibit event.

C. A person who is found responsible for a violation of this section is subject to a civil penalty of not more than fifty dollars.

D. For the purposes of this section:

1. "Animal" means any living species of mammal, bird, amphibian or reptile.
2. "Pet store" has the same meaning prescribed in section 44-1799.

## PIMA COUNTY, AZ ORDINANCE

### 6.04.170 Sale of animals at swap meets and public property prohibited--Exceptions--Penalty.

A. No animal including birds or reptiles shall be offered for sale, gift or other transfer of ownership, and no animals including birds or reptiles shall be sold, given away or otherwise transferred, on or from any public street, roadway, right-of-way, sidewalk, park or swap meet. A "swap meet" is defined for the purpose of this section as a place of commercial activity popularly known as a swap meet, flea market or park-and-swap, which is open to the general public and composed of enclosed, semi-enclosed or outdoor stalls, stands or spaces rented or leased to persons on a temporary basis for the purpose of display and sale, barter or exchange of new or used merchandise.

B. Exceptions. Subsection A of this section shall not prohibit the sale, gift, or other transfer of ownership of animals at county fairs, animal exhibitions or shows, 4-H activities, and other activities or events that are regulated by other state or county agencies. Subsection A of this section shall not prohibit the use of off-site signs or advertising.

C. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

D. Penalties. A violation of any provision of this section is punishable by a fine of not more than three hundred dollars for any person. Each day such violation continues shall constitute a separate offense. (Ord. 1993-168 § 1, 1993)

## HOUSTON, TX ORDINANCE

### Sec. 6-118. Roadside and flea market sales.

(a) It shall be unlawful for any person to sell, trade, barter, lease, rent, give away, or display for a commercial purpose a live animal on a roadside, public right-of-way, commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event.

(b) This section does not apply to:

(1) An agent of a business that has a certificate of occupancy from the building inspection division authorizing the occupancy of the premises for purposes of operating a business selling pets;

(2) Reserved.

(3) An event primarily for the sale of agricultural livestock such as hooved animals or animals or fowl commonly raised for food, dairy, or fiber products; or

(4) A tax-exempt non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals.

(Ord. No. 07-148, § 11, 1-31-07)

## MEMPHIS, TN ORDINANCE

Sec. 5-15 Roadside sale of animals prohibited.

(a) It shall be unlawful for any person, firm or corporation, to attempt to sell, exchange, trade, barter, lease, rent, donate or display for a commercial purpose any animal on any roadside, public right-of-way, parkway, median, park, playground, swimming pool, other recreation area, or commercial or retail parking lot that is generally accessible by the public, regardless of whether such access is authorized.

(b) This section shall not apply to any city animal shelter or non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals or any dealer licensed to sell at a flea market pursuant to Tenn. Code Ann. Section 44-17-101 *et seq.*

(c) This section shall not be construed to prohibit the sale of certain animals by those engaged in the business of selling the same for consumption and who have obtained the appropriate licenses or permits to conduct such activity.

(d) This section shall not be construed to prohibit a properly licensed for-profit store from selling or donating any animals on the walkway or parking lot immediately adjacent to such store's physical address.

(e) The sale, exchange, trade, barter, lease, rent, donation or display for a commercial purpose of each animal in violation of Section 5-15 shall constitute a separate violation and be punishable by fine up to fifty dollars (\$50.00) in accordance with Section 5-73.

(f) Once a citation has been issued for a violation of this section, the violator must immediately discontinue the activity.

SECTION 2. BE IT FURTHER ORDAINED, That the provisions of this

Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect. (Ord. No. 5300, 2009)

## South Lake Tahoe, CA

### **32-31.1 Retail sale of dogs and cats in pet stores prohibited.**

A. Findings and Intent. The city council, after several public meetings, finds as follows:

1. State and federal laws that regulate dog and cat breeders and pet stores that sell dogs and cats include: the Lockyer-Polanco-Farr Pet Protection Act (California Health and Safety Code, Section 122125 et seq.); the Polanco-Lockyer Pet Breeder Warranty Act (California Health and Safety Code, Section 122045 et seq.); the Pet Store Animal Care Act (California Health and Safety Code, Section 122350 et seq.); and the Animal Welfare Act (“AWA”) (7 U.S.C. Section 2131 et seq.).
2. The Lockyer-Polanco-Farr Pet Protection Act requires pet dealers (i.e., retail sellers of more than 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 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 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 150 percent of the purchase price of the puppy or kitten.
3. The Pet Store Animal Care Act, effective in 2009, 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.
4. 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.
5. 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”).
6. According to the Humane Society of the United States (“HSUS”), inspection records show that many USDA-licensed breeders breed dogs or 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.

7. According to the American Society for the Prevention of Cruelty to Animals (“ASPCA”), fearful behavior and lack of socialization with humans and other animals are common characteristics of dogs from puppy mills and kittens from kitten factories.

8. According to the Coalition Against Misery, hundreds of thousands of puppies are raised each year in commercial kennels. These puppies generally do not receive the same standard of care as provided by other breeders.

9. According to HSUS, most pet store puppies come from puppy mills and many pet store kittens come from kitten factories.

10. According to the city of Los Angeles animal services department, there are hundreds of thousands of puppy mills around the world that produce untold millions of puppies annually, while at the same time more than 4,000,000 pets die in U.S. shelters each year. With rare exceptions, when consumers buy puppies or kittens from pet stores there is a strong likelihood that consumers are supporting the puppy mill or kitten factory industry.

11. The city council finds that, in addition to state and federal laws, the city of South Lake Tahoe has a local responsibility to promote animal welfare and encourage best practices in the breeding and purchasing of dogs and cats. The city council believes that a community that promotes animal welfare will be a healthier community.

12. While the city council recognizes that not all dogs and cats retained 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.

13. The city council finds that the retail sale of dogs and cats in pet stores in the city of South Lake Tahoe is inconsistent with the city’s goal to be a community that cares about animal welfare.

14. The city council believes that a ban on the retail sale of dogs and cats in pet stores will promote community awareness of animal welfare and, in turn, will foster a more humane environment in the city.

15. The city council believes that a ban on 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.

B. Definitions. For purposes of this section, the following definitions have been assigned to the terms used:

“Cat” means an animal of the Felidae family of the order Carnivora.

“Dog” means an animal of the Canidae family of the order Carnivora.

“Legally existing nonconforming use” means any pet store or pet store operator that displayed, sold, delivered, offered for sale or adoption, bartered, auctioned, gave away, or otherwise disposed of cats or dogs in the city of South Lake Tahoe prior to January 27, 2009.

“Pet store” means a retail establishment open to the public and engaging in the business of selling animals at retail. Any person who sells, exchanges, or otherwise transfers only animals that were bred or raised, or both, by the person, or sells or otherwise transfers only animals kept primarily for reproduction, shall be considered a breeder and not a pet store.

“Pet store operator” means a person who owns or operates a pet store, or both.

C. Prohibition. No pet store operator or pet store shall display, sell, deliver, offer for sale or adoption, barter, auction, give away, or otherwise dispose of cats or dogs in the city of South Lake Tahoe.

D. Nonconforming Uses. Notwithstanding Article V of this chapter or any other provision in this code regarding nonconforming uses, a legally existing nonconforming use may continue in existence for a period of two years from the date the ordinance codified in this section becomes effective.

E. Penalties. In addition to the administration and enforcement provisions enumerated in this chapter, if any pet store operator or pet store is found to be operating their business in violation of this section, said pet store operator and/or pet store is subject to having their business certificate revoked, their business closed, and/or a fine in the amount of \$5,000 imposed.

F. Severability. The city council declares that should any provision, section, paragraph, sentence, or word of this section be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this section shall remain in full force and effect.

G. Certification and Publication. The city clerk shall certify the passage and adoption of the ordinance codified in this section and shall cause the same or a summary thereof to be published and posted in the manner required by law. (Ord. 1001 § 1 (Exh. A))



**ORDINANCE NO. 20080228-057**

**AN ORDINANCE AMENDING SECTIONS 3-1-1 AND 3-2-3 OF THE CITY CODE RELATING TO COMMERCE IN LIVE ANIMALS; AND AMENDING THE 2007-08 FEE SCHEDULE IN ORDINANCE 20070910-008 TO ADD AN ANIMAL PROCESSING FEE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Section 3-1-1 (*Definitions*) of the City Code is amended to add the following definition and renumber the remaining definitions accordingly:

- (9) PET TRADER means a person who exchanges for consideration more than fifteen dogs or cats, or both, in a year. The term excludes the animal shelter or a person who makes an exchange that is not for profit.

**PART 2.** Section 3-2-3 (*Commerce in Live Animals*) of the City Code is amended to add Subsections (C), (D), and (E) to read:

- (C) A pet trader who exchanges a dog or cat shall pay an animal processing fee prescribed by ordinance, except that the fee is not required for a spayed female or neutered male dog or cat, or a dog or cat certified by a licensed veterinarian to be incapable of breeding or being bred.
- (D) A pet trader shall implant an identification microchip in the dog or cat before an exchange.
- (E) This subsection prescribes requirements for disclosure of information by a pet trader to a recipient of the dog or cat.
  - (1) A pet trader shall deliver to a recipient of a dog or cat at the time of exchange the following information on a form prescribed by the city manager:
    - (a) the breeder's name and address, if known, and if the person from whom the dog or cat is obtained is a dealer licensed by the United States Department of Agriculture, the dealer's name, address, and federal dealer identification number;
    - (b) the date of the dog or cat's birth, if known, and the date the trader received the dog or cat;

- (c) the breed, sex, color, and identifying marks at the time of exchange, if any;
  - (d) a record of each inoculation and worming treatment administered, if any, to the dog or cat, including the date of administration and the type of vaccine or worming treatment;
  - (e) a record of veterinarian treatment or medication received by the dog or cat while in the possession of the pet trader; and
  - (f) a document signed by a veterinarian licensed in the State of Texas:
    - (i) stating that the dog or cat has no known disease or illness, and that the dog or cat has no known congenital or hereditary condition that adversely affects the health of the dog or cat at the time of the exchange or that is likely to adversely affect the health of the dog or cat in the future; or
    - (ii) describing any known disease, illness, or congenital or hereditary condition that adversely affects the health of the dog or cat, or that is likely to adversely affect the health of the dog or cat in the future.
- (2) A pet trader shall sign the completed form to certify the accuracy of the information, and the recipient of the dog or cat shall sign the completed form to acknowledge receipt of the information.
- (3) In addition to providing the completed and signed form to the recipient, the pet trader shall verbally disclose the information on the form to the recipient.
- (4) A pet trader shall:
- (a) retain a copy of each completed and signed form for a period of not less than two years after the exchange of the dog or cat; and
  - (b) make each completed and signed form available for inspection or copying by a humane officer, animal control officer, or law enforcement officer during business hours.

**PART 3.** The Fiscal Year 2007-2008 Fee Schedule of Ordinance No. 20070910-008 is amended to add to the Health and Human Services Department an “animal processing fee” category of \$50:

	<b>Approved</b>	<b>Approved</b>	
	<b><u>2006-2007</u></b>	<b><u>2007-2008</u></b>	<b><u>Change</u></b>
<b><i>Health and Human Services Department – General Fund</i></b>			
<b><u>Animal Processing Fee</u></b>	<u>None</u>	<u>\$50</u>	

**PART 4.** This ordinance takes effect on March 10, 2008.

**PASSED AND APPROVED**

\_\_\_\_\_ February 28 \_\_\_\_\_, 2008

§  
§  
§

\_\_\_\_\_  
Will Wynn  
Mayor

**APPROVED:** \_\_\_\_\_  
David Allan Smith  
City Attorney

**ATTEST:** \_\_\_\_\_  
Shirley A. Gentry  
City Clerk

**New Jersey Permanent Statutes Database**

**(UPDATED THROUGH P.L. 2009, ch. 136 and JR 10)**

**TITLE 4 AGRICULTURE AND DOMESTIC ANIMALS**

**4:19-15.8 Licensing of kennel, pet shop, shelter, pound.**

8. a. Any person who keeps or operates or proposes to establish a kennel, a petshop, a shelter or a pound shall apply to the clerk or other official designated to license dogs in the municipality where such establishment is located, for a license entitling him to keep or operate such establishment.

The application shall describe the premises where the establishment is located or is proposed to be located, the purpose or purposes for which it is to be maintained, and shall be accompanied by the written approval of the local municipal and health authorities showing compliance with the local and State rules and regulations governing location of and sanitation at such establishments.

b. All licenses issued for a kennel, pet shop, shelter or pound shall state the purpose for which the establishment is maintained, and all such licenses shall expire on the last day of June of each year, and be subject to revocation by the municipality on recommendation of the State Department of Health and Senior Services or the local board of health for failure to comply with the rules and regulations of the State department or local board governing the same, after the owner has been afforded a hearing by either the State department or local board, except as provided in subsection c. of this section.

Any person holding such license shall not be required to secure individual licenses for dogs owned by such licensee and kept at such establishments; such licenses shall not be transferable to another owner or different premises.

c. The license for a petshop shall be subject to review by the municipality, upon recommendation by the State Department of Health and Senior Services or the local health authority for failure by the pet shop to comply with the rules and regulations of the State department or local health authority governing pet shops or if the pet shop meets the criteria for recommended suspension or revocation provided under subsection c. or d. of section 5 of P.L.1999, c.336 (C.56:8-96), after the owner of the pet shop has been afforded a hearing pursuant to subsection e. of section 5 of P.L.1999, c.336 (C.56:8-96).

The municipality, based on the criteria for the recommendation of the local health authority provided under subsections c. and d. of section 5 of P.L.1999, c.336 (C.56:8-96), may suspend the license for 90 days or may revoke the license if it is determined at the hearing that the pet shop: (1) failed to maintain proper hygiene and exercise reasonable care in safeguarding the health of animals in its custody or (2) sold a substantial number of animals that the pet shop knew, or reasonably should have known, to be unfit for purchase.

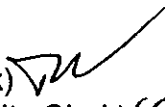

d. The municipality may issue a license for a pet shop that permits the pet shop to sell pet supplies for all types of animals, including cats and dogs, and sell animals other than cats and dogs but restricts the pet shop from selling cats or dogs, or both.

e. Every pet shop licensed in the State shall submit annually and no later than May 1 of each year records of the total number of cats and dogs, respectively, sold by the pet shop each year to the municipality in which it is located, and the municipality shall provide this information to the local health authority.

CITY COUNCIL  
CONSENT CALENDAR

FEBRUARY 16, 2010

SUBJECT: ORDINANCE NO. 10-836 (2<sup>ND</sup> READING), REGARDING THE  
RETAIL SALE OF DOGS AND CATS

INITIATED BY: CITY CLERK'S DIVISION  
(Thomas R. West, City Clerk)   
(Corey Schaffer, Assistant City Clerk) 

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STATEMENT ON THE SUBJECT:

The City Council will waive further reading and adopt Ordinance No 10-836, a proposed ordinance adding new Chapter 9.50 to Title 9 of the Municipal Code regarding the retail sale of dogs and cats

RECOMMENDATION:

Waive further reading and adopt Ordinance No 10-836, "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."

BACKGROUND

On February 1, 2010, the City Council introduced on first reading Ordinance No 10-836

Ayes: Councilmember Duran, Councilmember Horvath, Councilmember Prang, Mayor Pro Tempore Heilman, and Mayor Land  
Noes None.  
Absent. None.

CONFORMANCE WITH VISION 2020

This item is consistent with the Primary Strategic Goal of **Institutional Integrity**.

OFFICE OF PRIMARY RESPONSIBILITY

Office of the City Clerk

EVALUATION.

N/A

ENVIRONMENTAL SUSTAINABILITY AND HEALTH

N/A

FISCAL IMPACT.

None

ORDINANCE NO. 10-836

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 DOES HEREBY ORDAIN 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 this 16<sup>th</sup> day of February, 2010 by the following vote:

AYES:	Councilmember	Duran, Horvath, Prang, Mayor Pro Tempore Heilman, and Mayor Land.
NOES:	Councilmember	None
ABSENT:	Councilmember:	None.
ABSTAIN:	Councilmember:	None.

\_\_\_\_\_  
ABBE LAND, 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 10-836 was duly passed, approved and adopted by the City Council of the City of West Hollywood at a regular meeting held on the 16<sup>th</sup> day of February, 2010, after having its first reading at the regular meeting of said City Council on the 1<sup>st</sup> day of February, 2010.

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

WITNESS MY HAND AND OFFICIAL SEAL THIS 17<sup>th</sup> DAY OF FEBRUARY, 2010

\_\_\_\_\_  
Thomas R West, City Clerk