

ORDINANCE NO. 01-17

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 91, "ANIMALS", BY REPEALING SECTION 91.18, "RETAIL SALE OF DOGS AND CATS" AND READOPTING SAME, AS REVISED IN ORDER TO REQUIRE PERMITS FOR ADOPTION EVENTS, PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 91. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City Commission of Delray Beach amended section 91.18 of the Delray Beach Code of Ordinance, Retail Sale of Dogs and Cats, on March 15, 2016, by prohibiting substandard breeding facilities that mass produced animals sold to the public; and

WHEREAS, the City of Delray Beach desires to ensure that all dogs and cats are treated humanely and remains committed to furthering its prohibitions on "puppy mills" or "kitten mills," in addition to creating additional restrictions related to the adoption of dogs and cats in order to insure that the intent of the ordinance is being carried out; and

WHEREAS, the City of Delray Beach believes that placing reasonable requirements on adoption events sponsored by pet stores on behalf of bona fide Animal Rescue Organizations and Animal Shelters will promote and further the City's goals to encourage consumers to adopt dogs and cats from legitimate shelters and rescue organizations and reduce the costs to the public of sheltering animals; and

WHEREAS, the City Commission believes that these revisions will promote compliance with the City's ordinances and will promote the adoption of legitimately rescued, abandoned or surrendered animals; and

WHEREAS, the City Commission finds that this ordinance serves a municipal purpose and deems the restrictions contained herein to be in the best interest of the health, safety and welfare of the residents and citizens of Delray Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That Chapter 91, "Animals", Section 91.18, "Retail Sale of Dogs and Cats", of the Code of Ordinances of the City of Delray Beach is hereby amended to read as follows:

**Sec. 91.18 – RETAIL SALE OF DOGS AND CATS.**

A. *Definitions.* For the purpose of this chapter:

(1) *Animal Rescue Organization* means a humane society or other duly incorporated or organized nonprofit organization operated as a bona fide charitable organization under Section 501(c) 3

of the Internal Revenue code, which organization is devoted to the rescue, care, and/or adoption of stray, abandoned, or surrendered animals and which does not breed animals.

(2) *Animal Shelter* means a county, municipal, or public animal shelter or a duly incorporated or organized nonprofit organization operated as a bona fide charitable organization under Section 501(c) 3 of the Internal Revenue Code devoted to the rescue, care, and/or adoption of stray, abandoned, or surrendered animals, and which does not breed animals.

(3) *Cat* means an animal of the Felidae family of the order Carnivora.

(4) *Certificate of Source* means a document from an Animal Shelter or Animal Rescue Organization which provides (a) brief description of the dog or cat, the name, address, telephone number and e-mail address of the source (Animal Shelter or Animal Rescue Organization) of the dog or cat; ~~(b) shall be signed by the Pet Store certifying that it received the dog or cat from an Animal Shelter or Animal Rescue Organization;~~ and (e) (b) shall be signed by the purchaser or transferee adopter of the dog or cat acknowledging receipt of the Certificate of Source.

(5) *Dog* means an animal of the Canidae family of the [order] Carnivora.

(6) *Offer(s) for Sale* means to display, sell, deliver, offer for sale or adoption, advertise for the sale of barter, auction, give away or otherwise dispose of a dog or cat.

(7) ~~*Pet Store* means any retail establishment located within the City of Delray Beach and that is open to the public and sells, transfers, or offers for sale or transfer, dogs and/or cats, including puppies and kittens, regardless of the age of the dog or cat~~ means any retail establishment open to the public, whether a sole proprietorship, partnership (limited or general), limited liability company, or corporation that sells or transfers, or offers for sale or transfer, dogs and/or cats, including puppies and kittens, regardless of the age of the dog or cat. Additionally, such establishments may also be identified by the sale of animals other than those from the Canidae or Felidae families that are traditionally considered to be domestic pets and/or the sale of grooming services and/or domestic pet supplies and accessories (including but not limited to food, bedding, toys, grooming products, collars, leashes and the like).

(8) *Pet Store Operator* means a person who owns or operates a pet store, or both.

B. *Sale or Transfer of Dogs and/or Cats.* No Pet Store located within the City of Delray Beach shall display, sell, trade, deliver, barter, lease, rent, auction, give away, transfer, offer for sale, or otherwise dispose of dogs or cats in the City of Delray Beach on or after the effective date of this section.

~~C. Exemptions. This section does not apply to:~~

~~(1) An Animal Shelter.~~

~~(2) An Animal Rescue Organization.~~

~~(3) — An Animal Shelter or Animal Rescue Organization that operates out of or in connection with a pet store.~~

~~EC.~~ *Adoption of Shelter and Rescue Animals.* Nothing in this section shall prevent a Pet Store, or its owner, operator, or employees, from providing space and appropriate care for animals owned by an Animal Shelter or Animal Rescue Organization ~~and maintained at the Pet Store~~ for the purpose of adopting those animals to the public. However, no such Animal Rescue Organization or Animal Shelter may have any legal or financial affiliation with the subject Pet Store. Any and all adoptions conducted or held in a Pet Store shall be subject to the limitations and conditions set forth herein.

~~F1.~~ *Amortization.* ~~Pet stores that possess an active City local business tax receipt on the adoption date of this ordinance shall be permitted to continue its sale of dogs and cats even if it is not in compliance with this section for a period of time not to exceed six (6) months from the date of adoption of the ordinance creating this section.~~ *Adoption Special Events.* A Pet Store having a gross floor area less than 5,000 square feet may host “adoption events” no more than four (4) times per calendar year in conjunction with an Animal Rescue Organization or Animal Shelter after obtaining a permit approved by the City Attorney’s Office. Each adoption event shall be limited to twelve (12) consecutive hours in duration. The cost of the permit shall be established by resolution of the City Commission. In no case shall the total amount charged and/or collected by any Animal Rescue Organization or Animal Shelter from the adopter exceed \$300.00 for any single adoption. Any adoption related fees or charges, the total of which is greater than \$300.00 shall be considered a retail sale in violation of this section.

~~G2.~~ *Routine, Recurring, or Continuous Adoption Events.* A Pet Store having a gross floor area greater than 5,000 square feet may host adoption events on a daily basis at its discretion so long as each Animal Rescue Organization or Animal Shelter to which the animals belong, obtains a permit approved by the City Attorney’s Office. The cost of the permit for routine, recurring, or continuous adoption events shall be established by resolution of the City Commission. In no case shall the total amount charged and/or collected by any Animal Rescue Organization or Animal Shelter from the adopter exceed \$300.00 for any single adoption. Any adoption related fees or charges, the total of which is greater than \$300.00 shall be considered a retail sale in violation of this section.

~~D3.~~ *Certificate of Source.*

(a) ~~A Pet Store operating under the exemption described in Section (C)(3), hosting an “adoption event” in conjunction with a publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue organization that is registered with the county and has no affiliation with the Pet Store,~~ shall post and maintain in a conspicuous place, on or within three (3) feet of each animal’s kennel, cage or enclosure, a Certificate of Source of each dog or cat offered for ~~sale or transfer~~ adoption, and shall provide a copy of such certificate to the ~~purchaser or transferee~~ adopter of any dog or cat ~~sold or transferred~~.

(b) Any law enforcement officer or employee of an Animal Shelter or Animal Rescue Organization may, at any time, request to review copies of such certificates ~~and, as well~~

as any additional supporting information related to the cat or dog including, but not limited to, Certificates of Veterinary Inspection and/or Health Certificates. #Upon such requests, the Pet Store must present such certificates at that time and without delay.

(c) Falsification of a Certificate of Source by a Pet Store, Pet Store Operator, or any other person shall be deemed a violation of this section.

D.     *Violations—Enforcement.*

(1) Any person who violates this section shall be subject to the penalties set forth at Section 10.99 of the Code of Ordinances, Chapter 37 of the Code of Ordinances, Chapter 162, Florida Statutes, and/or any other means of enforcement available under state or federal law, inclusive.

(2) Additionally, the City may initiate a civil action in a court of competent jurisdiction to enjoin any violation of this section.

Section 2.     All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

Section 3.     Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 4.     Specific authority is hereby given to codify this Ordinance.

Section 5.     This Ordinance shall become effective immediately upon adoption.

PASSED AND ADOPTED in regular session on second and final reading on this the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Cary Glickstein, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_