



CITY COUNCIL STAFF REPORT

DATE: September 16, 2015

LEGISLATION

SUBJECT: AN URGENCY ORDINANCE AND A NON-URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING SECTION 10.24.021 TO THE PALM SPRINGS MUNICIPAL CODE, PROHIBITING THE RETAIL SALE OF DOGS AND CATS WITHIN THE CITY OF PALM SPRINGS, SUBJECT TO CERTAIN EXCEPTIONS.

FROM: David H. Ready, City Manager

BY: Douglas Holland, City Attorney

SUMMARY

Councilmember Foat at the Council's meeting on September 2, 2015, requested the preparation of an urgency ordinance prohibiting the retail sales of dogs and cats in the City. The City Attorney's Office is recommending the Council adopt an urgency ordinance and introduce a non-urgency ordinance which adds provisions to the City's animal regulations to prohibit retail sales of dogs and cats in the City.

RECOMMENDATION:

1. Waive the reading of the ordinance text in its entirety and read by title only; and adopt Ordinance No. _____ "AN URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING SECTION 10.24.021 TO THE PALM SPRINGS MUNICIPAL CODE, PROHIBITING THE RETAIL SALE OF DOGS AND CATS WITHIN THE CITY OF PALM SPRINGS, SUBJECT TO CERTAIN EXCEPTIONS.
2. Introduce on first reading, and refer to the Planning Commission, Ordinance No. _____, AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING SECTION 10.24.021 TO THE PALM SPRINGS MUNICIPAL CODE, PROHIBITING THE RETAIL SALE OF DOGS AND CATS WITHIN THE CITY OF PALM SPRINGS, SUBJECT TO CERTAIN EXCEPTIONS.

BACKGROUND & SETTING:

At the City Council meeting of September 2, 2015, Councilmember Foat requested the preparation and submission to the City Council of an ordinance prohibiting the retail sales of dogs and cats in the City of Palm Springs. The City Attorney has prepared appropriate ordinances responsive to the request.

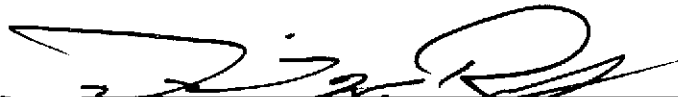
ITEM NO. 3A

These ordinance will prohibit pet stores from selling dogs and cats. Pet stores will still be able to offer rescued animals from shelters, the Humane Society, and licensed animal rescue organizations. They will not be able to sell animals from commercial breeders. The primary concern is that commercial breeders breed dogs and cats in relatively inhumane conditions in facilities commonly referred to as "puppy mills" or "kitten factories." Animals breed in these types of facilities are more likely to have behavior and/or health problems.

FISCAL IMPACT: Enforcement of the ordinance will be handled with current code enforcement resources.



Douglas Holland, City Attorney



David H. Ready, City Manager

c: Urgency Ordinance and Non-Urgency Ordinance

ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING SECTION 10.24.021 TO THE PALM SPRINGS MUNICIPAL CODE, PROHIBITING THE RETAIL SALE OF DOGS AND CATS WITHIN THE CITY OF PALM SPRINGS, SUBJECT TO CERTAIN EXCEPTIONS. (4/5ths Vote Required.)

City Attorney Summary

This Urgency Ordinance prohibits the sale of dogs and cats from retail establishments within the City of Palm Springs, subject to certain exceptions commencing on the date of its adoption. This Ordinance will go into effect upon adoption.

The City Council of the City of Palm Springs finds:

- 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 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.*).
- B. The Lockyer-Polanco-Farr Pet Protection Act requires pet dealers (i.e., retail sellers of more than fifty 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 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 one hundred and fifty percent 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 twenty 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 one hundred breeders who sold animals to the nation's largest retail pet store chain revealed that more than sixty 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: (1) sanitation problems leading to infectious disease; (2) large numbers of animals overcrowded in cages; (3) lack of proper veterinary care for severe illnesses and injuries; (4) lack of protection from harsh weather conditions; and (5) lack of adequate food and water.

K. While "puppy mill" puppies and "kitten factory" kittens were being sold in pet stores across the (Geographic Area to be defined; number of dogs and cats euthanized in such area).

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 City of Palm Springs and across the Coachella Valley 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 Palm Springs 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.

The City Council of the City of Palm Springs ordains:

Section 1. Section 10.24.021 is added to the Palm Springs Municipal Code to read:

10.24.021 Retail Sale of Dogs and Cats

(a) *Definitions.* For purposes of this Section, 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" means 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. "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.

6. "Pet store operator" means a person who owns or operates a pet store, or both.

7. "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 Palm Springs.

(c) *Exemptions.* This Section 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.

(d) *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 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. CEQA. The City Council finds that it can be seen with certainty that there

is no possibility the adoption of this Ordinance will have a significant effect on the environment because this Ordinance only regulates certain sales of animals within the City. This Ordinance is therefore exempt from environmental review requirements of the California Environmental Quality Act pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

Section 3. Findings. The adoption of this Urgency Ordinance is necessary for the immediate protection of the public peace, health, and safety by ensuring the timely and orderly consideration, adoption, and implementation of a prohibition on retail sales of dogs and cats in the City of Palm Springs. In accordance with Section 312 of the Palm Springs City Charter, the City Council of the City of Palm Springs finds and determines that the adoption of this Urgency Ordinance is necessary to ensure the immediate protection of the public peace, health, and safety.

Section 4. Effective Date. The City Council hereby declares, on the basis of the findings set forth in the Recitals and in Section 3 above, that an urgency ordinance is warranted and that this Ordinance is necessary to preserve the public peace, health and safety. Accordingly, this Ordinance is adopted as an urgency ordinance and shall take effect and be in force immediately upon its adoption.

PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY
COUNCIL THIS 16th DAY OF SEPTEMBER, 2015.

STEPHEN P. POUQUET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

ORDINANCE NO. _____

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Section 3. Upon the effective date of this Ordinance, Urgency Ordinance No. ____ is repealed and no longer in effect.

Section 4. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect (3) days after passage.

PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY
COUNCIL THIS 16th DAY OF SEPTEMBER, 2015.

STEPHEN P. POUQUET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK