

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE ADDING SECTION 4.6.5 TO CHAPTER 4, ARTICLE 1 OF THE OCEANSIDE CITY CODE TO REGULATE THE RETAIL SALE OF DOGS AND CATS

WHEREAS, the City Council of the City of Oceanside makes the following findings:

1. The City of Oceanside ("City") is a charter city under Article XI, section 5 of the California Constitution and is authorized to make and enforce all ordinances with respect to its municipal affairs; and

2. The City is subject to several statutory obligations for animal control and animal sheltering services; and

3. California Health & Safety Code sections 121690(e)-(f) require cities and counties to "maintain or provide for the maintenance of a pound system and a rabies control program" as well as "to provide dog vaccination clinics, or to arrange for dog vaccination at clinics operated by veterinary groups or associations, held at strategic locations throughout each city..."; and

4. California Health and Safety Code section 121695 provides that "[n]othing in this chapter and [s]ection 120495 is intended or shall be construed to limit the power of any city, city and county, or county in its authority in the exercise of its police power or in the exercise of its power under any other provisions of law to enact more stringent requirements, to regulate and control dogs within the boundaries of its jurisdiction."; and

5. California Food & Agricultural Code section 31105 requires cities and counties to provide for: "(a) The taking up and impounding of all dogs which are found running at large in violation of any provision of this division and (b) The killing in some humane manner or other disposition of any dog which is impounded"; and

6. California Health and Safety Code section 31106 allows a city to enter into a contract with a humane society or other organization to fulfill its obligations under California Food and Agricultural Code section 31105; and

1           7.       The Oceanside City Code, Chapter 4, establishes a system to satisfy the state  
2 requirements and the City has contracted with the San Diego Humane Society and S.P.C.A.  
3 (“SDHS”) to administer its state mandated duties under Chapter 4 as well as to provide  
4 additional animal control and sheltering services; and

5           8.       The Professional Services Agreement (“PSA”) between the City and the  
6 SDHS became effective June 26, 2013 (Document No. 13-D0460-1). That agreement requires  
7 the City to pay SDHS \$823,632 annually, plus an annual increase based upon the consumer  
8 price index, for the animal control and sheltering services provided to the City; and

9           9.       Statistics maintained by SDHS confirm that there is a significant dog and cat  
10 overpopulation issue in Oceanside. Stray dogs taken in by SDHS under the PSA are housed at  
11 2905 San Luis Rey Road in Oceanside. Stray cats are brought to 572 Airport Road. In fiscal  
12 year (“FY”) 2010-2011, (July 1 to June 30 of the following calendar year), 3,188 stray dogs and  
13 cats from Oceanside were received by the SDHS at the two Oceanside locations. In FY 2011-  
14 12, 3,296 stray dogs and cats from Oceanside were received by the SD Humane Society at the  
15 two Oceanside locations. In FY 2012-2013, 3,243 stray dogs and cats from Oceanside were  
16 received by the SD Humane Society at the two Oceanside locations. In FY 2013-2014, 3018  
17 stray dogs and cats from Oceanside were received by the SDHS at the two Oceanside locations.  
18 SDHS euthanizes approximately 7 percent of the stray dogs and cats it takes in under the PSA;  
19 and

20           10.       Stray dogs and cats from the City of Vista are also received by the San Diego  
21 Humane Society at the Oceanside campus and SDHS accepts owner surrenders at its Oceanside  
22 campus. Therefore, the Oceanside campus receives roughly 5,000 dogs and cats each year  
23 including owner surrenders and strays.

24           11.       The City Council of the City of Oceanside received public testimony on  
25 September 25, 2013 and December 3, 2014 prior to debating whether to give direction to staff  
26 to draft a proposed ordinance to regulate the commercial sale of dogs and cats; and

27           12.       Based upon the public testimony and evidence presented, the City Council finds  
28 that the allowing the sale of dogs and cats from commercial breeding operations contributes to

1 the pet overpopulation problem in Oceanside; and

2 13. Existing federal and state laws, including the federal Animal Welfare Act,  
3 the California Lockyer-Polanco-Farr Pet Protection Act, the California Polanco-Lockyer Pet  
4 Breeder Warranty Act, and the California Pet Store Animal Care Act, illustrate society's trend  
5 towards promoting the humane treatment of animals by regulating dog and cat breeders, as well  
6 as pet shops and stores; and

7 14. According to the Humane Society of the United States ("HSUS"), hundreds of  
8 thousands of dogs and cats in the United States have been housed and bred at substandard  
9 breeding facilities known as "puppy mills" or "kitten factories" that mass-produce animals for  
10 sale to the public, and many of these animals are sold at retail in pet shops. The HSUS research  
11 is available at: [http://www.humanesociety.org/news/publications/whitepapers/puppy-mill-](http://www.humanesociety.org/news/publications/whitepapers/puppy-mill-research.html)  
12 [research.html](http://www.humanesociety.org/news/publications/whitepapers/puppy-mill-research.html). Investigative reports on puppy mills compiled by the Companion Animal  
13 Protection Society are found at: ([http://www.caps-](http://www.caps-web.org/component/k2/item/456?Itemid=269)  
14 [web.org/component/k2/item/456?Itemid=269](http://www.caps-web.org/component/k2/item/456?Itemid=269)); and

15 15. Because of the lack of proper animal husbandry practices at these facilities,  
16 animals born and raised at these "puppy mills" and "kitten factories" are more likely to have  
17 genetic disorders and lack adequate socialization, while breeding animals utilized there are  
18 subject to inhumane housing conditions and are indiscriminately disposed of when they reach  
19 the end of their profitable breeding cycle; and

20 16. Prohibiting the unregulated sale of dogs and cats in pet shops may lower the sale  
21 of dogs and cats from inhumane "puppy mills" and "kitten factories," may lower the shelter  
22 animal euthanasia rate, and lead to a greater adoption rate of shelter and rescued animals; and

23 17. There are many reputable, responsible dog and cat breeders who refuse to  
24 sell through pet shops and who work carefully to screen families and ensure good, lifelong  
25 matches; and

26 18. The City seeks to prohibit the sale of dogs and cats in pet shops, unless the  
27 animals are obtained from a city or county or other governmental animal shelter or animal  
28 control agency, humane society, animal rescue organization, or non-commercial breeding

1 establishment; and

2 19. The City Council, after hearing the testimony and evidence presented on  
3 December 3, 2014, directed the City Attorney to draft an ordinance to regulate the sale of dogs  
4 and cats from pet stores in Oceanside; and

5 WHEREAS, the City Council heard additional testimony and evidence on January 7,  
6 2014.

7 NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows:

8 SECTION 1. Sections 4.6.5(a) through 4.6.5(f) are added to Chapter 4 of the Oceanside  
9 City Code as follows:

10 a. *Definitions.* For purposes of this chapter, the following definitions shall apply:

11 1. "Animal Shelter" means a public animal shelter operated by any city or any  
12 county or other public agency or an entity operating under contract with any city or county or  
13 other public agency. Animal Shelter shall also include a humane society or duly incorporated  
14 organization devoted to the rescue, care and adoption of stray, abandoned or surrendered  
15 animals.

16 2. "Cat" means an animal of the Felidae family of the order Carnivora.

17 3. "Certificate of Source" means a document declaring the source of the dog  
18 or cat sold or transferred by the Pet Store. The certificate shall include the name and address of  
19 the source of the dog or cat.

20 4. "Non-Commercial Breeding Establishment" means a person, firm,  
21 partnership, corporation or other entity that has sold, transferred or given away all or part of  
22 three or fewer litters, or less than twenty (20) dogs, or less than (20) cats during the preceding  
23 twelve (12) months that were bred and reared on the premises of the person, firm, partnership,  
24 corporation, or other association.

25 5. "Dog" means an animal of the Canidae family of the order Carnivora.

26 6. "Existing Pet Store" means any Pet Store or Pet Store operator that  
27 displays, sells, delivers, offers for sale, barter, auctions, gives away, leases, or transfers dogs or  
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1 cats in the City of Oceanside on the effective date of this section, and is in compliance with all  
2 applicable provisions of the Oceanside City Code on the effective date of this section.

3 7. "Pet Store" means a retail establishment open to the public and engaging in  
4 the business of offering dogs or cats for retail sale.

5 8. "Pet Store Operator" means a person who owns or operates or a pet store,  
6 or both, and/ or who hires employees at a pet store to engage in the Retail Sale of dogs or cats.

7 9. "Retail Sale" includes to display, offer for sale, barter, auction, give away,  
8 lease, or transfer any dog or cat.

9 b. *Prohibition.* No Pet store or Pet Store Operator shall engage in the Retail Sale of  
10 dogs or cats on or after the effective date of the ordinance codified in this chapter unless: 1. the  
11 dog or cat was obtained by the Pet Store or Pet Store Operator from an Animal Shelter; 2. the  
12 Retail Sale is authorized by subsection c of this section; or 3. one of the exemptions in  
13 subsection d of this section applies.

14 c. *Existing Pet Stores.* An Existing Pet Store may continue to engage in the Retail  
15 Sale of dogs or cats until September 1, 2015.

16 d. *Exemptions.* This chapter does not apply to:

17 1. A person or establishment that sells, delivers, offers for sale, barter,  
18 auctions, gives away, leases or otherwise transfers or disposes of dogs or cats that were born  
19 and reared on the premises of the person or establishment;

20 2. A person or establishment that engages in the Retail Sale of dogs or cats  
21 that are obtained from a Non-Commercial Breeding Establishment.

22 3. A publicly operated Animal Shelter;

23 4. A private humane society or duly incorporated organization devoted to the  
24 rescue, care and adoption of stray, abandoned or surrendered dogs or cats;

25 5. A publicly operated Animal Shelter, humane society, or duly incorporated  
26 organization devoted to the rescue, care and adoption of stray, abandoned or surrendered dogs  
27 or cats that operates out of or in connection with a Pet Store.

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1 e. *Retail Sale of Shelter and Rescue Animals.* Nothing in this chapter shall prevent a  
2 Pet Store or Pet Store Operator from providing space and appropriate care for dogs or cats  
3 owned by an animal shelter, or duly incorporated organization devoted to the rescue, care and  
4 adoption of stray, abandoned or surrendered dogs or cats and maintained at the pet store for the  
5 purpose of engaging in the retail sale of those animals.

6 f. *Certificate of Source.* A Pet Store Operator shall post and maintain in a  
7 conspicuous place, on or within three (3) feet of each dog's or cat's kennel, cage or enclosure, a  
8 Certificate of Source for each dog or cat offered for Retail Sale ensuring the dog or cat was  
9 obtained in full compliance with this chapter, and the Pet Store Operator shall provide a copy of  
10 such Certificate of Source to the purchaser or transferee of any dog or cat.

11 SECTION 2. The City Clerk of the City of Oceanside is hereby directed to publish this  
12 ordinance, or the title hereof, as a summary, pursuant to state statute, once within fifteen (15)  
13 days after its passage in the San Diego Union Tribune-North County, a newspaper of general  
14 circulation published in the City of Oceanside.

15 SECTION 3. This ordinance shall take effect and be in force on the thirtieth (30<sup>th</sup>) day  
16 from and after its final passage.

17 SECTION 4. Severability.

18 If any section, sentence, clause or phrase of this Ordinance is for any reason held to be  
19 invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision  
20 shall not affect the validity of the remaining portions of this Ordinance. The City Council  
21 hereby declares that it would have passed this Ordinance and adopted this Ordinance and each  
22 section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section,  
23 subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

24 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,  
25 California, held on the \_\_\_\_ day of \_\_\_\_\_, 2015, and, thereafter,

26 PASSED AND ADOPTED at a regular meeting of the City Council of the City of  
27 Oceanside California, held on the \_\_\_\_ day of \_\_\_\_\_, 2015, by the following vote:

28 AYES:

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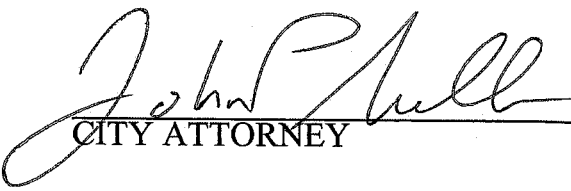
NAYS:  
ABSENT:  
ABSTAIN:

MAYOR OF THE CITY OF OCEANSIDE

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY CLERK

  
\_\_\_\_\_  
CITY ATTORNEY