

ORDINANCE NO. 2014-07

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA AMENDING CHAPTER 4, "ANIMALS AND FOWL," OF THE VILLAGE CODE OF ORDINANCES TO PROHIBIT THE RETAIL SALE OF DOGS AND CATS AND REGULATE BREEDING ACTIVITIES WITHIN THE VILLAGE; AMENDING SECTION 4-1, "DEFINITIONS;" CREATING A NEW SECTION 4-13, "BREEDING AND RETAIL SALE OF DOGS AND CATS;" PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, according to the Human Society of the United States, hundreds of thousands of dogs and cats have been housed and bred at substandard breeding facilities, known as "puppy or kitten mills" that mass-produce animals for sale to the public, primarily at pet stores; and

WHEREAS, cats and dogs bred in puppy or kitten mills often suffer from health, social and/or temperament problems that sometimes result in costly treatment or death; and

WHEREAS, in addition to the congenital and hereditary conditions resulting from substandard breeding facilities, dogs and cats bred at these facilities may arrive in pet stores and their new homes with giardia, parvovirus and distemper, illnesses that can be transmitted to healthy animals; and

WHEREAS, while not all dogs and cats sold in retail pet stores are the product of inhumane breeding conditions and not every commercial breeder selling dogs or cats to pet stores operates a puppy or kitten mill, these facilities continue to exist in part because of public demand for the sale of dogs and cats in pet stores; and

WHEREAS, according to the Humane Society of the United States, Florida has the largest number of consumer complaints and the highest number of complaints about puppies purchased from pet stores; and

WHEREAS, the Village Council determines that prohibiting puppy and kitten mills and the retail sale of dogs and cats in the Village will promote community awareness of animal welfare and will encourage pet consumers to adopt dogs and cats from shelters, thereby saving the lives of animals and reducing the cost to the public of sheltering animals.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA as follows:

Section 1. The foregoing "whereas" clauses are hereby ratified as true and are incorporated herein.

Section 2. The Village Council hereby amends Chapter 4, “Animals and Fowl,” of the Village Code of Ordinances to read as follows (additional language underlined and deleted language ~~stricken through~~):

Sec. 4-1. Definitions.

As used in this chapter, unless the context otherwise indicates:

Animal rescue organization means a duly incorporated non-profit organization devoted to the rescue, care and adoption of stray, abandoned or surrendered animals and which does not breed animals.

Animal shelter means a public animal shelter or shelter operated by an animal rescue organization.

Bite includes an abrasion of the skin.

Cat includes any feline.

Dog includes any canine.

License year means the period between the first day of June in any calendar year and the last day of May in the following calendar year.

Owner includes any person, firm, partnership, trustee, association or corporation owning, keeping, harboring or otherwise maintaining a dog or cat. In any prosecution under this chapter where it shall be found that a cat or dog is in the custody or under control of a minor, it shall be presumed that the owner of such cat or dog is the parent or legal guardian of such minor.

Pet store means any retail establishment whether operated separately or in conjunction with another business enterprise open to the public that sells or transfers, or offers for sale or transfer, dogs or cats regardless of the age of the animal.

Pet store operator means a person or entity that owns or operates a pet store.

Puppy or kitten mill means a facility where dogs or cats are bred for the purpose of selling them and where any two (2) of the following conditions are found to exist:

- (1) More than twenty (20) puppies under the age of twelve (12) weeks or more than twenty kittens under the age of sixteen (16) weeks are kept at a single time;
- (2) No genetic (heredity) health testing appropriate for the breed is conducted;

- (3) No long-term (over one (1) year) guarantees are offered;
- (4) A single female is bred every cycle;
- (5) A single female is bred over five (5) times;
- (6) There is no record of the dogs' or cats' parents; or
- (7) More than eight (8) dogs or kittens are kept in a single cage or kennel area.

Running at large refers to a dog or cat off the premises of its owner and not under the immediate eye and control of the owner or person acting for the owner.

Sec. 4-2. Village designated bird sanctuary; hunting prohibited.

(a) The land lying within the municipal limits of the village is hereby declared to be a bird sanctuary.

(b) It shall be unlawful to intentionally kill, injure or otherwise destroy any bird found within the bird sanctuary.

Sec. 4-3. Killing; poisoning.

(a) No person shall willfully and maliciously kill, maim or disfigure any dog, cat or other animal of another person, or willfully and maliciously administer poison to any dog, cat or other animal of another person, or expose any poisonous substance with intent that the same shall be taken and swallowed by them.

(b) No person shall leave or deposit any poison or any substance containing poison, in any common street, alley, lane or thoroughfare, or in any yard or enclosure other than the yard or enclosure occupied or owned by such person; provided, however, that it shall not be unlawful to leave or deposit insecticides that are not prohibited by any village ordinance on a swale area in the village.

Sec. 4-4. Hindering enforcement.

It shall be unlawful to hinder or molest any police officer, or other authorized person engaged in the enforcement of this chapter.

Sec. 4-5. General enforcement.

The chief of police and such other persons as may be designated by the chief or the village manager are hereby authorized and directed to enforce this chapter.

Sec. 4-6. Keeping certain animals prohibited; exceptions.

(a) No person shall keep, possess or maintain any live animal, including fowl, within the village, except as follows: Dogs, cats, parrots, parakeets, canaries, rabbits, guinea pigs, hamsters, gerbils and turtles may be kept, possessed and maintained as household pets within the village so long as they are kept, possessed and maintained in compliance with the provisions of this chapter; and provided, further, that these household pets do not constitute a nuisance to neighbors because of excessive noise or odors. Proper sanitary measures shall be observed and followed at all times in connection with the keeping, maintaining or possessing of such pets.

(b) Any person desiring to keep, possess or maintain any live animal, including fowl, which is not enumerated in paragraph (a) of this section may do so only after written request therefor to the village manager, who shall at his discretion either grant or deny such request based upon considerations of protecting public health, safety and welfare.

Sec. 4-7. Cruelty to animals.

No person shall overdrive, overload, drive when overloaded, overwork, torture, cruelly beat, mutilate or needlessly kill, or carry or transport in any vehicle or other conveyance in a cruel or inhumane manner, any animal, or fail to provide any animal in his charge or custody with necessary sustenance, drink, and protection from the elements, or cause any of these acts to be done.

Sec. 4-8. Causing animals to fight.

It shall be unlawful for any person to keep or use, or in any way be connected with, or be interested in the management of, or receive money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any animal, or to engage in, aid, abet, encourage or assist in any animal fight.

Sec. 4-9. Molesting songbirds or domestic pets.

No person shall frighten, shoot at, wound, kill, take, capture, ensnare, net, trap or in any other manner molest or injure any robin, lark, whipporwill, finch, sparrow, thrush, wren, martin, swallow, snowbird, bobolink, red-winged blackbird, crow, raven, oriole, kingbird, mockingbird, song-sparrow, or other songbird or insectivorous bird, or in any manner molest or injure the nest eggs or young of any such bird; or have in his possession the nest eggs, young or body of such bird, or wound or kill any domestic pets found within the village.

Sec. 4-10. Abandoning.

No person shall desert or abandon any dog or other animal within the village.

Sec. 4-11. Animals with contagious diseases.

(a) No person owning any dog or cat, knowing it to be afflicted with any contagious disease or in an unhealthy condition, shall permit such dog or cat to be out in public within the village limits.

(b) If a police officer, for any reason, suspects that a dog or cat while running at large is not in a healthy condition or that it is suffering from any contagious disease, such officer shall impound such dog or cat and deliver it to a licensed veterinarian in the village or the vicinity thereof, and if it be determined by such veterinarian that the disease is incurable, such dog or cat shall be humanely destroyed or otherwise humanely disposed of in the discretion of the police officer.

Sec. 4-12. Animals creating nuisances.

(a) The owner of any animal which habitually barks, whines, howls, or causes other objectionable noise, or which destroys or damages any property of another person or which causes serious annoyance to a neighboring residence and interferes with the reasonable use and enjoyment of his property, or which is otherwise offensive so as to create a nuisance shall be deemed to be committing an act in violation of this section.

(b) Upon receipt of an "affidavit of complaint," signed by two (2) or more residents of the village, each complainant residing in separate dwellings in the vicinity in which the violation and issue occurred, made under oath before an individual authorized by law to take acknowledgments, setting forth the nature and the date of the act, the owner of the animal, the address of the owner and a description of the animal doing such act, the law enforcement officer, animal control officer or his or her agent shall investigate the complaint to determine whether the act complained of violates this section.

Sec. 4-13. Breeding and retail sale of dogs and cats.

(a) Puppy or Kitten Mills. It shall be unlawful for any person or entity to establish, operate or maintain a puppy or kitten mill within the corporate limits of the village.

(b) Sale or transfer of dogs or cats. It shall be unlawful for a pet store to display, sell, deliver, barter, lease, rent, auction, give away, transfer, offer for sale or transfer, or otherwise dispose of dogs or cats within the corporate limits of the village.

(c) Exemptions. This section shall not apply to:

(1) A person who sells, delivers, offers for sale, trades, barter, leases, rents, auctions, gives away or otherwise transfers or disposes of a dog or cat that was bred and reared on property owned by the person provided that the person is not operating a puppy or kitten mill, the person is not a pet dealer as defined in chapter 828 F.S., and the property is not a pet store;

- (2) An animal shelter;
- (3) An animal rescue organization; or
- (4) An animal shelter or animal rescue organization that operates out of or in conjunction 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 or in the custody of an animal shelter or animal rescue organization and maintained at the pet store for the purpose of offering the animals for adoption by members of the public.

(e) Violations, enforcement. The provisions of this section shall be enforced in accordance with section 1-8 of this code.

Section 3. The provisions of this Ordinance shall become and be made a part of the Code of the Village of North Palm Beach, Florida.

Section 4. If any section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance.

Section 5. All ordinances or parts of ordinances and resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. This Ordinance shall take effect immediately upon adoption.

PLACED ON FIRST READING THIS 24th DAY OF JULY, 2014.

PLACED ON SECOND, FINAL READING AND PASSED THIS 14th DAY OF AUGUST, 2014.

(Village Seal)


MAYOR

ATTEST:


VILLAGE CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:


VILLAGE ATTORNEY