

BOARD of SUPERVISORS



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MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: Erica Major, Assistant Clerk, Public Safety and Neighborhood Services
Committee, Board of Supervisors

DATE: December 20, 2016

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Public Safety and Neighborhood Services Committee

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 161352

Ordinance amending the Health Code to prohibit pet stores from selling dogs or cats not obtained from animal rescue organizations or shelters, and prohibiting the sale of puppies or kittens under eight weeks old.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

____ **No Comment**
____ **Recommendation Attached**

Chairperson, Small Business Commission

c: Menaka Mahajan, Small Business Commission

1 [Health Code - Sale of Domestic Dogs and Cats]

2
3 **Ordinance amending the Health Code to prohibit pet stores from selling dogs or cats**
4 **not obtained from animal rescue organizations or shelters, and prohibiting the sale of**
5 **puppies or kittens under eight weeks old.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.
8 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
9 **Board amendment additions** are in double-underlined Arial font.
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.
11 **Asterisks (* * * *)** indicate the omission of unchanged Code
12 subsections or parts of tables.

13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. The Health Code is hereby amended by adding Article 1C, consisting of
15 Sections 1C.1, 1C.2, 1C.3, and 1C.4, to read as indicated below. Section 1C.2 is added as a
16 new section. Existing Section 49 is renumbered as Section 1C.1 and amended; existing
17 Section 48 is renumbered as Section 1C.3 and amended; existing Section 50.1 is renumbered
18 as Section 1C.4 and amended. In renumbering and amending existing Sections 49, 48, and
19 50.1, there is no intent to change their substantive meaning. The only intent is to reorganize
20 those sections, which relate to the sale of animals, under a new article entitled "Sale of
21 Animals."

22 **ARTICLE 1C: SALE OF ANIMALS**

23 **SEC. ~~49~~ 1C.1. SALE OF CERTAIN ANIMALS PROHIBITED.**

24 Those species of animals as the Board of Supervisors may designate by ordinance
25 may not be sold within the territorial limits of the City and County of San Francisco; provided,

1 however, that the sale of the following animals shall not be prohibited: psittacine birds,
2 canaries, finches, fish, turtles, hamsters, ~~domestic dogs, domestic cats,~~ domestic rats, domestic
3 mice, and guinea pigs. The sale of domestic dogs and domestic cats shall not be prohibited, subject
4 to the limitations of Section 1C.2 of this Article 1C and Section 44.3 of Article 1.

5 Nothing in this Section 1C.1 shall prohibit City Departments, recognized educational
6 institutions, licensed clinical laboratories, or medical research facilities which are in conformity
7 with State or Federal laws from taking title to or possessing animals the sale of which may be
8 prohibited by ordinance as specified above.

9
10 **SEC. 1C.2. SALE OF DOMESTIC DOGS AND CATS.**

11 (a) Findings and Purpose.

12 (1) In many parts of the country, a significant number of puppies and kittens sold at pet
13 stores come from large-scale, commercial breeding facilities that do not adequately provide for the
14 health and welfare of the dogs and cats living there. These facilities are sometimes referred to as
15 “puppy mills” or “kitten mills.” The Humane Society of the United States estimates that 10,000 puppy
16 mills produce more than 2,400,000 puppies a year in the United States and that most dogs and cats
17 sold in pet stores come from puppy mills and kitten mills.

18 (2) The documented abuses endemic to dogs and cats living in puppy mills and kitten
19 mills include: over-breeding, inbreeding, minimal to non-existent veterinary care, lack of adequate and
20 nutritious food, water, and shelter, lack of socialization, lack of adequate space, and lack of adequate
21 exercise.

22 (3) The inhumane conditions in puppy mills and kitten mills lead to health and
23 behavioral problems in the animals living in and bred in those facilities, which many consumers are
24 unaware of when purchasing animals from pet stores due to both a lack of education on the issue and
25 misleading tactics of pet stores in some cases. These health and behavioral issues, which may not

1 present themselves until after the purchase of the animals, can impose exorbitant financial and
2 emotional costs on consumers.

3 (4) Current Federal and State regulations do not sufficiently address the sale of puppy
4 mill dogs and kitten mill cats in pet stores.

5 (5) Restricting the retail sale of puppies and kittens to only those that come from
6 shelters or rescue organizations is likely to decrease the demand for puppies and kittens bred in puppy
7 mills and kitten mills, and is likely to increase demand for animals from animal shelters and rescue
8 organizations.

9 (6) Dog and cat overpopulation is a problem in California. More than 250,000 dogs
10 and cats are euthanized in California animal shelters annually, due, in part, to overpopulation.
11 Overpopulation also increases burdens on animal shelters, which causes increased costs to taxpayers.
12 Prohibiting the retail sale of puppies and kittens to only those that are sourced from animal shelters
13 and rescue organizations will likely reduce these problems.

14 (7) Across the country, thousands of independent pet stores and large chains operate
15 profitably with a business model focused on the sale of pet services and supplies, and not on the sale of
16 commercially bred dogs or cats. Many of these stores collaborate with local animal shelters and
17 rescue organizations to offer space and support for showcasing adoptable homeless pets on their
18 premises.

19 (8) This Section 1C.2 will not affect a consumer's ability to obtain a dog or cat of his or
20 her choice directly from a breed-specific or other rescue organization or a shelter, or directly from a
21 breeder where the consumer can see the conditions in which the dogs or cats are bred or can confer
22 with the breeder concerning those conditions.

23 (9) It is medically unsound to separate a puppy or kitten from its mother before the
24 puppy or kitten has reached eight weeks of age.

1 (10) It is in the best interests of San Francisco to adopt reasonable restrictions on the
2 purchase of dogs or cats from a pet store or other business establishment. This Section 1C.2 is
3 designed to reduce costs and burdens to the City and those of its residents who may purchase dogs or
4 cats from a pet store or other business establishment, and to help prevent inhumane breeding
5 conditions, promote community awareness of animal welfare, and foster a more humane environment
6 in San Francisco.

7 (b) Definitions.

8 For purposes of this Section 1C.2, the following terms shall have the following meanings:

9 “Animal Care Facility” shall mean an animal control center or animal shelter, maintained by
10 or under contract with any governmental entity, whose mission or practice is, in whole or significant
11 part, protecting the welfare of animals and placing animals in permanent homes or with Animal Rescue
12 Organizations.

13 “Animal Rescue Organization” shall mean any not-for-profit organization which has tax-
14 exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and
15 practice is, in whole or significant part, the rescue of animals and the placement of those animals in
16 permanent homes, and which does not obtain Dogs or Cats from a Breeder or Broker for payment or
17 other compensation.

18 “Breeder” shall mean a Person who maintains Dogs or Cats for the purpose of breeding and
19 selling their offspring.

20 “Broker” shall mean a person who transfers Dogs or Cats at wholesale for resale by another.

21 “Cat” shall mean a member of the Felis catus family.

22 “Dog” shall mean a member of the Canis familiaris family, or resultant hybrid.

23 “Offer for Sale” shall mean to sell, offer for sale, offer for adoption, barter, offer for barter,
24 auction, give away, offer to give away, or otherwise transfer or offer to transfer.

1 "Person" shall mean corporations, estates, associations, partnerships, trusts, and other
2 business entities, as well as one or more individual.

3 "Pet Shop" shall mean a retail establishment where Dogs or Cats are Offered for Sale to the
4 public. Pet Shop shall not include an Animal Care Facility or Animal Rescue Organization.

5 (c) Sale of Dogs and Cats in Pet Shops.

6 (1) A Pet Shop shall not Offer for Sale a Dog or Cat unless the Pet Shop has obtained
7 the Dog or Cat from or displays the Dog or Cat in cooperation with:

8 (A) An Animal Care Facility; or

9 (B) An Animal Rescue Organization.

10 (2) A Pet Shop shall not Offer for Sale a Dog or Cat that is younger than eight weeks
11 old.

12 (d) Recordkeeping and Disclosures.

13 (1) A Pet Shop shall maintain records sufficient to document the source of each Dog or
14 Cat the Pet Shop acquires, for at least one year following the date of acquisition. Such records shall be
15 made available immediately upon request to the Chief of Police, the Director of the Animal Care and
16 Control Department, or any authorized designee of these City officials.

17 (2) A Pet Shop that Offers for Sale Dogs or Cats shall post, in a conspicuous location
18 on the cage or enclosure of each such animal, a sign listing the name of the Animal Care Facility or
19 Animal Rescue Organization from which the Pet Shop acquired each Dog or Cat.

20 (e) Penalties. Any Person who violates subsections (c) or (d) of this Section 1C.2 shall be
21 deemed guilty of an infraction and upon conviction thereof shall be punished by (1) a fine not
22 exceeding \$100 for a first violation; (2) a fine not exceeding \$200 for a second violation within one
23 year; or (3) a fine not exceeding \$500 for each additional violation within one year.

24 (1) Each Dog or Cat Offered for Sale in violation of subsection (c) of this Section 1C.2
25 shall constitute a separate offense.

1 (2) Each recordkeeping violation under subsection (d)(1) regarding a particular Dog or
2 Cat shall constitute a separate offense.

3 (3) Each failure to post a sign as required by subsection (d)(2) regarding a particular
4 Dog or Cat shall constitute a separate offense.

5 (f) Enforcement. This Section 1C.2 shall be implemented and enforced by the Animal Care and
6 Control Department with the support of the Police Department in the exercise of its ordinary law
7 enforcement functions, and the support of other City agencies as appropriate. The Director of the
8 Animal Care and Control Department, or his or her designee, may issue rules, regulations, or guidance
9 consistent with this Section 1C.2 to further the purpose of this Section.

10
11 **SEC. 48-1C.3. UNLAWFUL TO SELL FOWL OR RABBITS AS PETS OR NOVELTIES.**

12 (a) It shall be unlawful for any person, firm, or corporation to display, sell, offer for
13 sale, barter, or give away any baby chicks, rabbits, ducklings, or other fowl as pets or
14 novelties, whether or not dyed, colored, or otherwise artificially treated.

15 (b) This Section 1C.3 shall not be construed to prohibit the display or sale of natural
16 chicks, rabbits, ducklings, or other fowl in proper facilities by dealers, hatcheries, or stores
17 engaged in the business of selling the same to be raised for food purposes.

18 (c) Any person, firm, or corporation violating the provisions of this Section 1C.3 shall
19 be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than
20 \$5 nor more than \$50 for each and every offense.

1 **SEC. 50.1-1C.4. SALE OF WILD AND POTENTIALLY DANGEROUS ANIMALS**
2 **PROHIBITED.**

3 It shall be unlawful for any person, firm or corporation to sell or offer for sale any wild
4 and potentially dangerous animal as defined in Section 51 *of Article 1* within the limits of the
5 City and County of San Francisco.

6 Any person who violates this Section 1C.4 shall be guilty of a misdemeanor and shall be subject
7 to imprisonment in the County Jail for not more than six months or a fine not to exceed \$500, or both.

8
9 Section 2. Undertaking for the General Welfare. In enacting and implementing this
10 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
11 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
12 is liable in money damages to any person who claims that such breach proximately caused
13 injury.

14
15 Section 3. Severability. If any section, subsection, sentence, clause, phrase, or word of
16 this ordinance, or any application thereof to any person or circumstance, is held to be invalid
17 or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
18 affect the validity of the remaining portions or applications of this ordinance. The Board of
19 Supervisors hereby declares that it would have passed this ordinance and each and every
20 section, subsection, sentence, clause, phrase, and word not declared invalid or
21 unconstitutional without regard to whether any other portion of this ordinance or application
22 thereof would be subsequently declared invalid or unconstitutional.

1 Section 4. Effective and Operative Dates.

2 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
3 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
4 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
5 Mayor's veto of the ordinance.

6 (b) This ordinance shall become operative 90 days after enactment.

7
8 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
9 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
10 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
11 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
12 additions, and Board amendment deletions in accordance with the "Note" that appears under
13 the official title of the ordinance.

14
15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17 By:



18 _____
BRADLEY A. RUSSI
Deputy City Attorney

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LEGISLATIVE DIGEST

[Health Code – Sale of Domestic Dogs and Cats]

Ordinance amending the Health Code to prohibit pet stores from selling dogs or cats not obtained from animal rescue organizations or shelters, and prohibiting the sale of puppies or kittens under eight weeks old.

Existing Law

City law does not regulate the sale of dogs or cats at pet shops.

Amendments to Current Law

The proposed ordinance would amend the Health Code to prohibit pet shops from selling or otherwise transferring dogs or cats obtained from sources other than animal rescue organizations or animal shelters. It would also prohibit pet shops from selling or otherwise transferring puppies or kittens younger than eight weeks old. Pet shops must maintain records documenting the source of each dog or cat acquired. Pet shops must also post a sign on the cage or enclosure of each dog or cat that identifies the rescue organization or shelter from which the pet shop acquired the animal.

Violating the ordinance is an infraction. The Animal Care and Control Department with the support of the Police Department is authorized to enforce the ordinance.

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