



Agenda Item Summary

File ID: 22-0912

PH-3

Meeting Date: 6/7/2022

PLACEMENT: Public Hearings

TITLE:

PUBLIC HEARING TO CONSIDER ADOPTION OF AN ORDINANCE AMENDING CHAPTER 9, ANIMALS, GENERAL ORDINANCES, MARTIN COUNTY CODE INCLUDING BUT NOT LIMITED TO A PROHIBITION OF THE SALE OF RABBITS, DOGS AND CATS AT PET STORES

EXECUTIVE SUMMARY:

Earlier this year the Board directed staff to develop an ordinance prohibiting the sale of dogs and cats at pet stores. On April 12, 2022 the Animal Care and Control Oversight Board (ACCOB) reviewed the draft ordinance and unanimously recommended adoption of the proposed ordinance with a one-year effective date for any existing pet stores.

DEPARTMENT: County Attorney

PREPARED BY: **Name:** Sarah W. Woods
Title: County Attorney

REQUESTED BY: Board of County Commissioners

PRESET:

PROCEDURES: None

BACKGROUND/RELATED STRATEGIC GOAL:

Beginning in late 2021 County Commissioners received requests to consider an ordinance prohibiting the sale of dogs and cats at pet stores. Early in 2022 the Board directed staff to develop an ordinance prohibiting the sale of dogs and cats by pet stores. Staff contacted the Humane Society of the Treasure Coast who arranged for a meeting with representatives of the Humane Society of the United States (HSUS). Florida staff from HSUS provided recommended changes to the County's existing ordinance as well as similar ordinances adopted in other Florida counties.

The revisions to the proposed ordinance include the following:

- I. Amendments to Section 9.1
 - Changing the name of the Animal Services Division to the Animal Services Unit.
 - Adding a definition for animal shelter or private non-profit organization.
 - Adding definitions of cat, dog and rabbit.
- Amending the definition of Pet Store to exclude the purchase of rabbits, dogs and cats.
- II. Amendment to Section 9.87.A.

- Addition of Section 9.87.A.19. which provides as follows:

- 19.a. Pet stores shall not sell or offer for sale rabbits, dogs or cats. This subsection shall not prohibit pet stores from collaborating with animal shelters or private nonprofit organizations as defined in Section 9.1 of this chapter to offer space for such entities to showcase adoptable rabbits, dogs and cats provided the pet store shall not have any ownership interest in the animals offered for adoption and shall not receive a fee for providing space for the adoption of these animals.
- b. *Amortization period.* Any existing pet store that is lawfully operating on or before June 30, 2022, shall be permitted to continue the retail sale of rabbits, dogs and/or cats until June 30, 2023.
 1. As a condition of continued operation during the amortization period, a pet store shall not increase or enlarge its floor space.
 2. An existing pet store shall provide proof of its retail sales existing as of June 30, 2022 to the Animal Services Unit through sales receipts, franchise agreements, leases or other documentation readily authenticated as true and accurate documents. Proof of its retail sales existing as June 30, 2022 shall be provided to the Animal Services Unit within thirty (30) days after June 30, 2022. Failure to provide required documentation will result in the loss of nonconforming status.
 3. Any existing pet store that voluntarily abandons the retail sale for a period of more than thirty (30) days, or ceases retail sale as a result of destruction by fire or other peril shall lose its nonconforming status.

Palm Beach, St. Lucie and Indian River Counties have similar ordinances prohibiting the sale of dogs and cats by pet stores. A draft ordinance was reviewed by the ACCOB on April 21, 2022. The ACCOB suggested adding rabbits to the prohibition and also recommended that pet stores currently selling rabbits, dogs and cats be given 1 year to comply with the ordinance. The ACCOB unanimously recommended approval of the proposed ordinance including its additional recommendations. The amortization period will provide a reasonable time for any pet store engaging in the retail sale of dogs, cats and rabbits ample time to adjust its business model to comply with the ordinance. This approach has been utilized by several jurisdictions throughout Florida.

ISSUES:

Whether to prohibit the sale of rabbits, dogs and/or cats throughout incorporated and unincorporated Martin County.

LEGAL SUFFICIENCY REVIEW:

This is a legislative matter. Legislative decisions are those in which the local government formulates policy rather than applying specific rules to a particular situation. A local government's approval or denial of an issue in its legislative capacity is typically subject to a fairly debatable standard of review. Fairly debatable means that the government's action must be upheld if reasonable minds could differ as to the propriety of the decision reached. Decisions subject to the fairly debatable standard of review need only be rationally related to a legitimate public purpose, such as the health, safety, and welfare of the public, to be valid. Given this broad discretion, only decisions that are arbitrary and capricious or illegal are subject to serious legal challenge.

RECOMMENDED ACTION:

RECOMMENDATION

Move that the Board adopt the proposed ordinance.

ALTERNATIVE RECOMMENDATIONS

Provide Board direction regarding the proposed ordinance.

FISCAL IMPACT:

RECOMMENDATION

None

ALTERNATIVE RECOMMENDATIONS

None

DOCUMENT(S) REQUIRING ACTION:

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|--|---------------------------------------|---|
| <input type="checkbox"/> Budget Transfer / Amendment | <input type="checkbox"/> Chair Letter | <input type="checkbox"/> Contract / Agreement |
| <input type="checkbox"/> Grant / Application | <input type="checkbox"/> Notice | <input checked="" type="checkbox"/> Ordinance |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Resolution | |

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