

ORDINANCE NO. 2014-33 OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, AMENDING CHAPTER 6, "ANIMALS AND FOWL"; SECTION 6-2, "VIOLATION OF COUNTY ORDINANCE"; SECTION 6-6, "RUNNING AT LARGE PROHIBITED"; SECTION 6-8, "RETAIL SALES DOGS AND CATS"; AND, SECTION 6-9, "PENALTIES", TO CLARIFY THE VIOLATION AND PENALTY PROVISIONS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, pursuant to the home rule powers of the City of Lake Worth ("City") granted by Chapter 166, Florida Statutes, the City has the authority to exercise its police powers and regulatory powers to protect the health, safety and welfare of its citizens; and

WHEREAS, the City Commission previously adopted the Palm Beach County Animal Regulations Ordinance which sets forth regulations regarding animals including without limitation animals running at large and retail sales of dogs and cats; and

WHEREAS, there is a need to clarify that violations of the Palm Beach County Animal Regulations Ordinance are civil infractions which may be prosecuted as civil infractions or as municipal ordinance violations and the penalties associated therewith; and

WHEREAS, making such clarifications will increase the enforceability of the Palm Beach County Animal Regulations Ordinance; and

WHEREAS, the City has determined that the adoption of this Ordinance serves to protect the public health, safety and welfare and serves a valid public purpose.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, that:

SECTION 1. The foregoing "WHEREAS" clauses are true and correct and are hereby ratified and confirmed by the City Commission.

SECTION 2. Chapter 6, "Animals and Fowl", Section 6-2, "Violation of county ordinance", is hereby amended as follows:

Sec. 6-2. Violation of county ordinance.

Any person who shall be found in violation of any of the provisions of "Palm Beach County Animal Regulation Ordinance," and any amendments enacted thereto by the Board of County Commissioners of Palm Beach County, shall be deemed to have committed an offense against the city. Such violations ~~shall be deemed municipal ordinance violations and shall~~ may be punished as a municipal ordinance violation as such according to in accordance with the provisions of section 1-6 of this Code or a civil citation may be issued in accordance with section 6-9 of this Code.

SECTION 3. Chapter 6, "Animals and Fowl", Section 6-6, "Running at large prohibited", is hereby amended as follows:

Sec. 6-6. Running at large prohibited.

- (a) As used in this section:
 - (1) *At large* shall mean off the premises of the owner and not under the direct control of any person by leash, cord, chain, or other physical constraint.
 - (2) *Owner* shall mean any person having or exercising any rights of property in a dog, including the right of possession as a keeper or custodian without pay.
- (b) Any dog found running at large within the city limits is declared to be a public nuisance. The owner of any dog found running at large shall be guilty of a violation of this section and shall be subject to a penalty as provided in section 6-89. In any prosecution brought under this section, it shall not be necessary for the city to allege or prove knowledge or neglect on the part of any accused person. Proof that a dog is responsive to voice commands shall not be a defense in any prosecution brought under this section.
- (c) This section shall not apply to any police dog under the control of a law enforcement officer, or to a search and rescue dog under the control of fire department personnel.

SECTION 4. Chapter 6, "Animals and Fowl", Section 6-8, "Retail sales of dogs and cats", is hereby amended as follows:

Sec. 6-8. Retail sales of dogs and cats.

- (a) *Definitions.* For the purpose of this chapter:

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

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.

Cat means an animal of the Felidae family of the order Carnivora.

Certificate of source means a document declaring the source of origin of the dog or cat sold or transferred, or offered for sale or transfer, by the pet store. The certificate shall include the name and address of the original source of the dog or cat and license information if the original source breeder is licensed by the United States Department of Agriculture and shall be signed by both the pet store certifying the accuracy of the certificate, and by the purchase or transferee of the companion animal acknowledging receipt of the certificate.

Dog means an animal of the Canidae family of the [order] Carnivora.

Pet store means any retail establishment open to the public that sells or transfers, or offers for sale or transfer, dogs and/or cats, including puppies and kittens, regardless of the age of the dog or cat.

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

- (b) *Sale or transfer of dog and/or cats.* No pet store shall display, sell, trade, deliver, barter, lease, rent, auction, give away, transfer, offer for sale or transfer, or otherwise dispose of dogs or cats in the city on or after the effective date of this chapter.
- (c) *Exemptions.* This chapter does not apply to:
- (1) A person or establishment that sells, delivers, offers for sale, trades, barter, leases, rents, 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) *Certificate of source.*
- (1) A pet store shall post and maintain in a conspicuous place, on or within three (3) feet of each animals' kennel, cage or enclosure, a certificate of source of each dog or cat offered for sale or transfer, and shall provide a copy of such certificate to the purchaser or transferee of any dog or cat sold or transferred.
 - (2) Any law enforcement officer or employee of a municipal or county animal shelter may, at any time, request to review copies of such certificates and, upon such request, the pet store must present such certificates at that time and without delay.
- (e) *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 that is registered with the county, and maintained at the pet store for the purpose of adopting those animals to the public.
- (f) *Violations—Enforcement.*
- (1) Any person who commits an act in violation of this section is may be prosecuted for such violation pursuant to section 1-6 of this Code of Ordinances. Alternatively, a violation of this section may be charged as a civil infraction pursuant to section 6-9 of this Code of Ordinances, in which case, upon conviction, the person shall be punishable as provided in section 6-9 of this chapter.
 - (2) The city may initiate a civil action in any court of competent jurisdiction to enjoin any violation of this chapter.
 - (3) A pet store found to have falsified a certificate of source shall pay two thousand five hundred dollars (\$2,500.00) in damages to each recipient of such falsified certificate.

SECTION 5. Chapter 6, "Animals and Fowl", Section 6-9, "Penalties", is hereby amended as follows:

Sec. 6-9. Penalties.

A violation of any provision of this chapter shall be a civil infraction, the penalty for which shall be as follows:

- (1) If the person alleged to have committed the infraction does not contest the citation, the person shall pay to the City clerk a fine amount as set forth in Code section 2-87 for a Class III infraction of the county court a fine of a hundred dollars (\$100.00) plus court costs.
- (2) If the person contests the citation and requests a hearing with the special magistrate in the county court, and if a violation is found, the court special magistrate shall order the amount of the fine, not to exceed five hundred dollars (\$500.00) plus administrative costs.

Alternatively, a violation of any provision of this chapter may be prosecuted pursuant to Section 1-6 of the Code.

SECTION 6. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

SECTION 7. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 8. Codification. The sections of the ordinance may be made a part of the City Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "division", or any other appropriate word.

SECTION 9. This Ordinance shall become effective ten (10) days after passage.

The passage of this Ordinance on first reading was moved by Vice Mayor Maxwell, seconded by Commissioner Szerdi, and upon being put to a vote, the vote was as follows:

Mayor Pam Triolo	AYE
Vice Mayor Scott Maxwell	AYE
Commissioner Christopher McVoy	AYE
Commissioner Andy Amoroso	AYE
Commissioner John Szerdi	AYE

The Mayor, thereupon declared this Ordinance duly passed on first reading on the 21st day of October, 2014.

The passage of this Ordinance on second reading was moved by Vice Mayor Maxwell, seconded by Commissioner Amoroso, and upon being put to vote, the vote was as follows:

Mayor Pam Triolo	AYE
Vice Mayor Scott Maxwell	AYE
Commissioner Christopher McVoy	ABSENT
Commissioner Andy Amoroso	AYE
Commissioner John Szerdi	AYE

The Mayor thereupon declared this Ordinance duly passed and enacted on the 4th day of November, 2014.

LAKE WORTH CITY COMMISSION

By: _____
Pam Triolo, Mayor

ATTEST:

Pamela J. Lopez, City Clerk