ORDINANCE NO. 1383

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES ENTITLED, "ANIMAL CONTROL", BY AMENDING SECTION 4-3 ENTITLED, "DEFINITIONS" AND BY CREATING SECTION 4-18 ENTITLED, "RESTRICTIONS ON RETAIL PET SALES AND PET MILLS" TO INCLUDE REGULATIONS RESTRICTING RETAIL PET SALES AND PET MILLS; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.

WHEREAS, the humane treatment of animals is an important public purpose; and

WHEREAS, "puppy mills" are inhumane and unsanitary breeding facilities for dogs in which parent dogs are kept in cages for majority of their lives, breeding litter after litter of puppies; and

WHEREAS, according to United States Department of Agriculture reports, documented problems found at puppy mills include: (1) sanitation problems leading to infectious disease; (2) large numbers of animals overcrowded in cages; (3) lack of proper veterinary care for severe illnesses and injuries; (4) lack of protection from harsh weather conditions; and (5) lack of adequate food and water; and

WHEREAS, the Humane Society of the United States estimates that, each year, two to four million puppies are born in the United States in puppy mills; and

WHEREAS, kittens are also inhumanely bred and housed in similarly cruel mills or "kitten factories"; and

WHEREAS, the most effective way to stop puppy and kitten mills is to discourage the purchase and sale of puppies and kittens produced at these inhumane facilities; and

WHEREAS, according to the Humane Society of the United States, most pet store dogs and cats come from puppy mills and kitten mills, and consumers are deceived as to the origination of these pets; and

WHEREAS, the animals that come from mills often face an array of health problems, including communicable diseases and genetic disorders that present immediately after sale or

surface until several years later, which lead to costly veterinary bills and financial and emotional distress to consumers; and

WHEREAS, numerous alternatives exist for people to find pets, including adoption of animals from animal shelters, adoption from humane societies or other animal rescue organizations; and

WHEREAS, restricting the retail sale of puppies and kittens to only those that are sourced from shelters or rescue organizations will likely reduce pet overpopulation, and thus the burden on city agencies and financial costs on city taxpayers;

WHEREAS, across the country, thousands of independent pet stores and large chain stores operate profitably with a business model focused on the sale of pet services and supplies and not on the sale of dogs and cats, often collaborating with local animal sheltering and rescue organizations to offer space and support for showcasing adoptable homeless pets on their premises; and

WHEREAS, the Mayor and Council believe that adopting this ordinance will promote animal welfare, foster a more humane environment, and encourage pet consumers to adopt dogs and cats from shelters, thereby saving animals' lives and reducing the cost to the public of sheltering animals.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. Chapter 4 of the City Code of Ordinances, entitled "Animal Control" is hereby amended by amending sections 4-3 and creating section 4-18 as follows:

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Section 4-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
Abandon means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care, support and sustenance of an animal by its owner for a period of twenty-four (24) hours or more.

Abandon in public means to leave an animal on the roadside, field, public park, or on any other property not owned or controlled by the owner of the animal.

Animal means any nonhuman creature.

Animal at large means any animal which is beyond the control, custody, charge or possession of the owner or other responsible person in attendance, by leash, chain, a tether, a secure fence or other means of confinement or restraint. At large shall also be held to include animals on public property or the property of another without the written consent from the owner of the property.

Animal control means the regulation of the possession, ownership, care and/or custody of animals.

Animal control officer means any person employed, contracted with, or appointed by the city authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations or civil violation tickets to enforce the provisions of this chapter. Animal control officer shall include, but not be limited to, code enforcement officers, county animal control officers, state officers, and employees of the police department.

Animal rescue organization means humane society or other duly incorporated or organized nonprofit organization registered with the Florida Department of State and operated as a bona fide charitable organization under Section 501(c)(3) of the Internal Revenue Code, which organization is devoted to the rescue, care and/or adoption of stray, abandoned, injured or surrendered animals and which does not breed animals.

Animal shelter means any public or private agency, animal shelter, or other facilities which are operated for the collection and care of stray, neglected, abandoned or unwanted animals and which does not breed animals.

Cat means male and female members of the animal species, *Felis catus*.

Citation means a written notice issued to a person by an animal control officer that the officer has probable cause to believe that the person has committed a civil infraction in violation of this chapter.

Certificate of source means a copy of a notarized affidavit of verification from the source from which the pet was obtained.

Cruelty, torture, and torment shall be held to include every act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering of an animal is caused, permitted, or allowed to continue when there is a reasonable remedy or relief.

Dangerous dog means any dog that: (a) has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property; (b) has more than once severely injured or killed a domestic animal while off the owner's property; (c) has been used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting; or (d) has, when unprovoked, chased or approached a person upon the streets, sidewalks or any public grounds in a menacing fashion, provided that such actions are attested to in a sworn statement by one (1) or more persons and investigated by the animal control officer. A dog shall not be declared dangerous if the threat, injury or damage was sustained by a person who, at the time,

was unlawfully on the property or, while lawfully on the property, was tormenting, abusing, or assaulting the dog or its owner, or a family member.

Dog means both male and female members of the animal species, *Canis familaris*.

Domestic animal means any dog, bird, cat or other animal that has been converted or adopted to domestic use or life.

Farm animal means mules, donkeys, goats, bulls, steers, cows, swine, oxen, sheep, lambs, rabbits, horses, or any other animals not usually found in urban environments.

Feral cat means a free-ranging or strayed cat living in an untamed state.

Fowl means guineas, pea fowls, pheasants, and pigeons.

Leash means a chain, cord, strap, or other like apparatus of dependable strength that is attached to an animal so as to control its movement.

Hobby breeder means any person or entity that causes or allows the breeding or studding of a dog or cat resulting in no more than a total of one litter per adult animal per calendar year whether or not the animals in such litter are offered for sale or other transfer. This would not include a breeder that sells to a retail store.

Owner means any person, firm, organization, association or corporation keeping, harboring, possessing or having charge, control or custody of any animal, or group of animals, or if the animal is owned by a person under the age of eighteen (18), that person's parent or guardian, excluding licensed veterinarians or kennel operators temporarily maintaining animals owned by others on their premises.

Pet mill means a facility where pets are bred for the purpose of selling them and where any two of the following conditions are found to exist:

(1) More than twenty (20) dogs under the age of twelve (12) weeks or more than twenty (20) cats under the age of sixteen (16) weeks are kept at a single time;

(2) No genetic or heredity health testing appropriate for the breed is conducted;

(3) No long-term [over one (1) year] guarantees are honored;

(4) A single female is bred every cycle;

(5) A single female is bred more than five (5) times;

(6) There are no records of the dog or cat's parents;

(7) More than eight (8) dogs or cats are kept in a single cage or kennel area;

Pet store means a pet shop, pet groomer, pet beauty parlor, pet hospital or other retail establishment open to the public and engaging in the business of selling pet supplies and/or services and/or offering for sale and/or selling animals at retail.

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

Poultry means geese, turkeys, chickens, and ducks.

Public nuisance means the following:

(1) An animal that howls, barks, meows, caws, crows, shrieks, squawks, or makes other bothersome noises, for continued duration, or upon three (3) or more occasions cumulatively during any eight-hour period from 11:00 p.m. to 7:00 a.m., so as to disturb, across a residential or commercial property line, the reasonable peace and quietude of any person; or

(2) Any animal that causes a disturbance to the peace or causes injury or threat of injury to persons or property by its conduct or behavior, including but not limited to habitual or repeated destruction, desecration or soiling of any public or private property, habitual chasing of persons, cars or other vehicles, or being at large.

Rabies vaccination means the up-to-date vaccination of a dog, cat or other domestic animal with an anti-rabies vaccine approved by the U.S. Department of Agriculture and administered by a licensed veterinarian.

Retail sale includes display, offer for sale, offer for adoption, barter, auction, give away or other transfer of any cat or dog.

Stray means any animal unattended off the premises of its owner.

Veterinarian means any person licensed or permitted to practice veterinary medicine under the laws of the state.

Vicious or *fierce animal* means an animal, domestic or wild, that is known to have previously attacked an animal or person where the person may lawfully be without provocation, or any animal that has a known propensity to bite or injure a person or an animal.

Violation ticket means a written notice of violation with a corresponding fine issued by an animal control officer as an alternative to issuing a citation, pursuant to the provisions of chapter 21, ~~division 5.3~~ of this Code.

Wild animal means any non-domesticated bird or unlicensed animal, including but not limited to, raccoons, squirrels, possums, and feral cats.

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Section 4-18. Restrictions on retail pet sales and pet mills.

(a) *Prohibition.*

(1) Retail Pet Sales Restricted. Pet dealers and pet stores shall not display, sell, deliver, offer for sale, barter, auction, give away or otherwise transfer or dispose of dogs or cats in the City on or after the effective date of this Section unless the pet dealer or pet shop certifies that the dog or cat comes from one of the following sources:

a. An animal control agency which for purposes of this subsection, means a facility that is used for housing or containing dogs or cats or other animals and that is operated by or on behalf of a state, county, municipality or other governmental entity; or

b. An animal rescue organization.

(2) Pet Mills Prohibited – No pet mills shall be permitted to operate in the City of North Miami.

(3) Pet dealers and pet stores shall not display, sell, deliver, offer for sale, barter, auction, give away or otherwise transfer or dispose of dogs or cats in the City on or after the effective date of this Section that have been placed from any pet mill facility.

(b) *Exemptions.* This section shall not apply to:

(1) An Animal Shelter;

(2) An Animal Rescue Organization;

(3) An Animal Shelter or Animal Rescue Organization which operates out of or in connection with a pet or other retail store;

(4) An Animal Hospital or Veterinarian's Office;

(5) A pet store engaged in the display, sale, delivery, offer for sale, barter, auction, gifting or transfer of pets other than cats, dogs, ferrets, gerbils, hamsters or rabbits;

(6) A pet store that certifies that the dog or cats comes from one of the following:

a. An animal rescue organization; or

b. A public animal shelter.

(7) Hobby Breeders.

(c) *Certificate of Source.* A pet store that obtains dogs or cats from a permitted source shall post conspicuously on the cage of each dog and cat:

a. A copy of the certificate of source which shall also be provided to the purchaser or transferee of any pet;

b. The name and address of the source from which the dog or cat was obtained and the date thereof;

c. A description of the dog or cat including species breed, sex, color, distinctive markings, physical condition, health and age (if known); and

d. For each dog or cat receiving medical care while in the custody or control of the pet dealer or pet shop, the type of service rendered, date and veterinarian's name.

(d) *Penalties.* Any person who violates this section shall be subject to a fine of $250.00 per day per pet for the first violation within a twelve (12) month period. Any subsequent violation within a twelve (12) month period shall, upon conviction, be punished by a fine not to exceed $500.00 per day per animal or imprisonment for a term not the exceed sixty (60) days, or by

both such fine and imprisonment. Each day any violation of any provision of this section shall continue shall constitute a separate offense.

(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 and maintained at the pet store for the purpose of adopting those animals to the public.

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Section 2. **Repeal.** All ordinances or parts of ordinances in conflict or inconsistent are repealed.

Section 3. **Conflict.** All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Codification.** It is the intention of the City Council of the City of North Miami and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by 5 - 0 vote of the Mayor and City Council on first reading this 24th day of March, 2015.

PASSED AND ADOPTED by 5 - 0 vote of the Mayor and City Council on second reading this 14th day of April, 2015.

DR. SMITH JOSEPH
MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: COUNCILMAN PHILIPPE BIEN-AIME

Moved by: Bien-Aime

Seconded by: Steril

Vote:

Mayor Smith Joseph, D.O., Pharm.D.	X (Yes)	____ (No)
Vice Mayor Carol Keys, Esq.	X (Yes)	____ (No)
Councilman Scott Galvin	X (Yes)	____ (No)
Councilman Philippe Bien-Aime	X (Yes)	____ (No)
Councilwoman Marie Erlande Steril, MSW	X (Yes)	____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.