



Legislation Text

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**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Consider two options for an amendment to the City's municipal code pertaining to the local sale of dogs and cats and conduct the first reading of the corresponding ordinance amending the Naperville Municipal Code.

**DEPARTMENT:** Legal Department

**SUBMITTED BY:** Kristen Foley, Senior Assistant City Attorney

**BOARD/COMMISSION REVIEW:**

N/A

**BACKGROUND:**

At the December 17, 2019 City Council meeting, under New Business, several Council members discussed the sale of dogs and cats in local pet stores and directed staff to provide Council with three items for its consideration: (1) a summary of any likely state legislation regulating dog and cats sold in pet stores; (2) an ordinance prohibiting the sale of dogs and cats sourced from commercial breeders in local pet stores; and (3) an ordinance incorporating into the City's code standards proposed by the Humane Society of the United States to the USDA for commercial breeders of dogs and cats.

**DISCUSSION:**

**Summary of State Legislation Regulating Animals Sold in Pet Stores**

Several local legislators have introduced legislation attempting to ban the sale of dogs and cats in pet stores from commercially sourced breeders without success. In 2018, Senator Connelly filed SB 2280 prohibiting all pet stores in both DuPage and Will County from selling animals from commercial breeders. The bill was referred to committee and no further action was taken. In February 2019, Representative Karina Villa filed HB3620 creating a statewide ban on the sale of commercially sourced dogs and cats. The bill was also assigned to committee and no further action was taken.

Staff sent two separate emails to the six state senators and seven state representatives representing Naperville asking if (1) they were aware of any pending state legislation pertaining to the sale of dogs and cats in pet stores, (2) if they had any plans to introduce or sponsor such legislation and (3) if not, why. The following is a summary of the responses:

Representative Wehrli advised that there is an expectation that legislation on the topic will be filed in 2020, but the specifics and language are not known yet.

Representative Grant asked if there was legislation the City would like her to consider.

Representative Kifowit advised that she is against legislation restricting dogs from breeders because not everyone wants a shelter dog. She advised that she wants to see better regulations for breeders, such as open space requirements.

Representative Stava Murray advised that she was Chief Co-sponsor on the bill filed by Representative Villa last year and she supports the banning the sale of commercially sourced dogs and cats. She further advised that the issue is likely to re-introduced sometime in January. Representative Stava Murray also shared pending legislation in Ohio that will increase the standard of care for breeders.

Representative Villa advised she has proposed legislation in the past which was not successful and will continue to advocate for this issue.

Senator Oberweiss advised that he does not have plans to introduce any legislation pertaining to the sale of dogs and cats.

Senator Ellman advised that there is no currently pending state legislation on the retail sale of dogs and cats and that this is being addressed by individual communities and the state will not get in the way of any community wishing to craft rules for the local sale of dogs and cats.

Representative Connor	No response
Representative Batinick	No response
Senator Bertino-Tarrant	No response
Senator McGuire	No response
Senator Holmes	No response
Senator Curran	No response

### **Option “A” Ordinance - Prohibits the Sale of Commercially Sourced Dogs and Cats in Local Pet Stores**

Option “A” is an ordinance that amends the Naperville Municipal Code to prohibit local pet stores from selling dogs and cats sourced from commercial breeders and allows the sale of dogs and cats sourced from humane and rescue groups.

The adoption of an ordinance prohibiting the sale of dogs and cats sourced from commercial breeders has been a topic of discussion at City Council since September of 2014. When first discussed in September of 2014, there were several pending legal challenges to similar ordinances in Illinois. At that time, with the legal challenges and proposed legislation creating similar restrictions on pet stores, staff recommended that City Council not act until the pending litigation resolved or a statewide ban was adopted.

After the litigation over similar ordinances was resolved and no statewide ban had been enacted, staff presented City Council with an ordinance prohibiting the sale of commercially sourced dogs and cats in pet stores at the December 5, 2017 City Council meeting. Senator Mike Connelly spoke in Public Forum and advised Council that he would be filing new legislation banning the sale of dogs and cats sourced from commercial breeders in pet stores in DuPage and Will County. Based upon

this information, Council did not vote on the proposed ordinance and tabled the issue.

Currently, ten (10) cities and counties in Illinois have adopted ordinances prohibiting the sale of dogs and cats in pet stores sourced from commercial breeders. Some ordinances include rabbits as well. Staff is aware of two local pet stores that currently sell commercially sourced dogs and cats, Petland and Happiness is Pets. If the Option "A" ordinance is adopted it will prohibit those stores from continuing to sell dogs and cats sourced from commercial breeders. The pet stores can sell animals obtained from rescue organizations, humane societies and other non-profit animal organizations.

The ordinance as proposed provides an effective date of January 1, 2021. To facilitate Council's consideration of an effective date for Option "A", both pet stores were contacted about the term of their current lease. Happiness is Pets' lease expires July 31, 2024 and Petland's lease expires September 22, 2025.

### **Option "B" Ordinance - Requires Local Pet Stores to Sell Dogs and Cats Sourced from Breeders Compliant with Increased Standards of Care**

The Option "B" Ordinance incorporates ten standards of the care that the Humane Society of the United States (HSUS) has proposed to the United States Department of Agriculture (USDA) for all commercially licensed breeders. The HSUS, along with the Humane Society Veterinary Medical Association (HSVMA) and the American Society for the Prevention of Cruelty to Animals (ASPCA) jointly submitted a petition to the USDA and its Animal and Plant Health Inspection Service (APHIS), requesting "necessary enhancement to existing regulatory restrictions on the inhumane treatment of dogs living in dealer housing facilities." Ten deficiencies in current federal regulations were identified and proposed solutions were recommended.

The USDA has minimal standards of care and treatment for dogs and cats bred for commercial sale. The humane groups are advocating for changes regarding (1) physical conditions at commercial breeding facilities, including the size, stacking, flooring of cages and temperatures inside the cages and (2) canine health and welfare in commercial breeding facilities, including access to exercise areas, socialization, breeding practices, preventive care, grooming, access to potable water and treatment of retired dogs. For example, no wire flooring in cages, no stacking of cages, and mandatory yearly veterinary care. A summary of the problems raised by the HSUS is attached.

The HSUS petition stated that the changes were the result of discussions with pet industry representatives and pet stores coming to the table to negotiate with HSUS and ASPCA due to the "wave of ordinances at the local level banning or greatly restricting the retail sale of puppies." There is no information on when or if the USDA will consider or possibly adopt these standards.

Option "B" Ordinance incorporates the ten standards proposed by the HSUS and would require pet stores in Naperville to only source from commercial breeders who are compliant with the standards.

There has been some discussion about a voluntary program for commercial breeders called Canine Care where commercial breeders can be certified by an independent auditor after they agree to maintain certain standards of care for their animals. This program is currently being offered by Purdue University and Dr. Candace Croney, the Director of the Center for Animal Welfare Science at Purdue. Dr. Croney has not shared the details of the program, including what standards the breeders must maintain, due to copyright / trademark concerns. Without signing a non-disclosure agreement,

the City is unable to view the standards. Staff has submitted a FOIA request to the University to find out additional information but has not yet received a response.

### **Next Steps**

Council may consider the information and proposed ordinance included as part of this agenda item and direct staff accordingly. The January 21, 2020 Council meeting will serve as first reading of both ordinances and Council may elect to have one or both ordinances brought back at a future meeting for final action.

### **FISCAL IMPACT:**

N/A