Health Committee Staff

Sara Sucher, *Legislative Counsel*

Mahnoor Butt, *Legislative Policy Analyst*

**THE COUNCIL OF THE CITY OF NEW YORK**

##### COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION

Andrea Vazquez, *Legislative Director*

Smita Deshmukh*, Deputy Director, Human Services*

**COMMITTEE ON HEALTH**

Hon. Lynn C. Schulman, *Chair*

**December 14, 2022**

**Int. No. 4-2022:** By Council Members Ayala, Menin, Powers, Holden, Schulman, Louis, Farías, Ossé, Hanif, Krishnan, Brannan, Marte, Abreu, Joseph, Bottcher, Riley, Brewer, Dinowitz, Gennaro, De La Rosa, Gutiérrez, Moya, Ung, Cabán, Nurse, Rivera, Sanchez, Lee, Salamanca, Narcisse, Avilés, Hudson, Velázquez, Richardson Jordan, and Williams

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the sale of guinea pigs as pets, and clarifying the definition of the term "pet shop" to address inconsistent use of such term in the code

1. **Introduction**

On December 14, 2022, the Committee on Health, chaired by Council Member Lynn Schulman, will hear Introduction Number 4-2022 (Int. 4), a local law to amend the administrative code of the city of New York, in relation to prohibiting the sale of guinea pigs as pets. Those invited to testify include representatives from the New York City Department of Health and Mental Hygiene (DOHMH), the Mayor’s Office of Animal Welfare (OAW), Animal Care Center of New York City (ACC), humane societies and animal rescue groups, and other interested stakeholders and members of the public.

1. **Post-Covid-19 Trends in Guinea Pig Abandonment and Surrender**

City animal shelters experienced a surge in abandoned and surrendered guinea pigs after the onset of the COVID-19 pandemic.[[1]](#footnote-2) In 2022 alone, the City’s contracted animal shelter, ACC, had sheltered over 600 guinea pigs by October; and in 2021, it had sheltered nearly 500 within the same timeframe—numbers more than double those recorded in prior years.[[2]](#footnote-3) Additional reports of abandonment—in private buildings and in City parks—suggest that the total numbers of guinea pigs abandoned citywide are higher.[[3]](#footnote-4)

ACC and other animal rescue organizations attribute the recent “explosion” in abandoned and surrendered guinea pigs to their initial appeal as pet companions for people experiencing pandemic-related isolation.[[4]](#footnote-5) Animal experts and welfare advocates cite a mix of biological and marketplace factors contributing to this appeal. Being small, quiet, and adorable creatures, guinea pigs are also relatively easy and cheap to house and keep, giving them special appeal to New York City (NYC) residents strapped for funds and space.[[5]](#footnote-6) Pet shops sell single guinea pigs for $50 or less, making them relatively affordable when dogs and cats can easily cost hundreds or thousands of dollars to obtain and keep.[[6]](#footnote-7) But ease of acquisition and care, together with their universal appeal, make guinea pigs susceptible to impulse purchases and low commitment from pet owners, who quickly bore or experience disappointment when the animals do not live up to expectations for affection.[[7]](#footnote-8)

 Additional factors may exacerbate the recent proliferation of guinea pigs. Reaching sexual maturity at 2 months of age or earlier, and averaging gestational periods of 2 months, guinea pigs can reproduce at a swift rate.[[8]](#footnote-9) And while local law may require sterilization of dogs and cats prior to their release to purchasers or adoptees, the same requirement does not apply to guinea pigs.[[9]](#footnote-10) Thus, while ACC only releases spayed or neutered guinea pigs to adoptees as a matter of policy,[[10]](#footnote-11) pet shops need not incur the related expense and delay, permitting and promoting the quicker turnover of animals at a cheaper price. Pet owners face obstacles if they wish to safeguard against unintended reproduction. Guinea pigs are notoriously difficult to sex, and even more difficult to spay or neuter.[[11]](#footnote-12) Only two NYC veterinarians are reported to have the expertise to spay and neuter guinea pigs, and “surgery can cost between $400 and $515.”[[12]](#footnote-13) Unwitting guinea pig owners who purchase multiple as companions may find themselves with an unexpected litter of pups to feed and house.[[13]](#footnote-14)

1. **Local Laws and Regulations**

In general, selling live guinea pigs is lawful in NYC,[[14]](#footnote-15) although any person doing so must obtain a pet shop permit from DOHMH[[15]](#footnote-16) and follow related small animal handling regulations.[[16]](#footnote-17) People and businesses need not obtain a license to possess guinea pigs in NYC,[[17]](#footnote-18) but they are subject to State laws governing animal cruelty[[18]](#footnote-19) and abandonment,[[19]](#footnote-20) as well as local regulations that include prohibition of animal nuisances.[[20]](#footnote-21) Guinea pigs may not be sold or kept for sale in a residence.[[21]](#footnote-22) Abandoning any animal in the street or another public place is a crime.[[22]](#footnote-23)

State law prohibits local laws and regulations that would “result in essentially banning all sales of dogs or cats raised and maintained in a healthy and safe manner,” but does not prohibit authorized local laws, rules, and regulations “of general application to businesses governing public health, safety or the rights of consumers.”[[23]](#footnote-24) To curb overpopulation of dogs and cats; protect consumers from purchasing sick and diseased dogs and cats; and promote the health and welfare of dogs and cats offered for sale in pet shops, the Council adopted a package of legislation in 2015, collectively referred to as the Pet Shop Laws, now codified in title 17 of the administrative code.[[24]](#footnote-25) A fundamental component of the Pet Shop Laws regulates the sources of dogs and cats sold in pet shops.[[25]](#footnote-26) In addition, the Pet Shop Laws prohibit the sale of rabbits as pets;[[26]](#footnote-27) however, rabbits may be acquired through adoption from a shelter or animal rescue group, or kept live, sold, and killed in slaughterhouses.[[27]](#footnote-28) Notably, the Pet Shop Laws do not regulate the sources of guinea pigs sold in pet shops, although conditions in commercial guinea pig breeder facilities that may supply NYC pet shops have been found to be inhumane.[[28]](#footnote-29)

The City’s companion animal laws and regulations, including code provisions governing pet shops, animal shelters, and private possession, are intended to promote public health and animal welfare.[[29]](#footnote-30) Curbing and controlling domestic animal populations has long informed City legislation and policy, as has the interest in promoting humane treatment of animals. [[30]](#footnote-31) To implement these laws and policies, DOHMH is charged with the bulk of administrative responsibility regarding businesses and activities that relate to animals, including the issuance of required licenses and permits,[[31]](#footnote-32) the operation of shelters,[[32]](#footnote-33) and the enforcement of related laws and regulations.[[33]](#footnote-34)

Under local law,[[34]](#footnote-35) DOHMH contracts with ACC to operate animal shelters in each borough for the purpose of housing and caring for lost, stray, and homeless animals.[[35]](#footnote-36) “ACC is required to accept all animals, without regard to their condition, age, temperament, or adoptability, and is the only open admissions shelter in the city.”[[36]](#footnote-37) To accommodate the recent influx of guinea pigs, ACC purchased a “$20,000 guinea pig tower, where the animals live stacked in sliding trays.”[[37]](#footnote-38) In September 2022, the most recent month for which shelter animal data is published, ACC took in 45 stray guinea pigs.[[38]](#footnote-39) In that month, “a box containing 22 guinea pigs of all ages was found abandoned in the lobby of a Staten Island apartment building.”[[39]](#footnote-40) Speaking in the fall of 2022, Katy Hansen, ACC’s Director of Communications and Marketing, described the situation as “untenable.”[[40]](#footnote-41)

1. **Analysis of Introduction No. 4-2022**

Int. 4 would amend the Pet Shop Laws to clarify that the term “pet shop” means a legal person capable of being sued. Int. 4 would further amend the Pet Shop Laws to prohibit any pet shop from displaying, offering for sale, delivering, bartering, auctioning, giving away, transferring, or selling any guinea pig. However, Int. 4 would preserve authorization in the Pet Shop Laws for any person to allow an animal shelter or animal rescue group to use such person’s premises for the purpose of making guinea pigs available for adoption so long as such person does not have an ownership interest in any such guinea pig and does not derive a fee for providing such adoption services. Violations of the conduct prohibited in Int. 4 would be punishable as violations of the Pet Shop Laws, including by a civil penalty in the amount of $500 for each violation, forfeiture and seizure of any guinea pig offered for sale, and suspension or revocation of a pet shop permit. Int. 4 would take effect immediately.

1. **Conclusion**

New Yorkers have a long tradition of advocating for the welfare and rights of animals, as well as making a place for companion animals in their homes and families. The success of local laws and regulation governing the market of pet dogs, cats, and rabbits in reducing maltreatment and surrenders of animals has motivated public health and animal welfare advocates to call on the expansion of regulations to address guinea pigs. At the hearing, the Committee looks forward to hearing from DOHMH and OAW, as well as ACC and other animal rescue groups, to learn about the effect that Int. 4 could have on reducing abandonment and surrenders of guinea pigs, and for promoting the welfare of guinea pigs and public health.

Int. No. 4

By Council Members Ayala, Menin, Powers, Holden, Schulman, Louis, Farías, Ossé, Hanif, Krishnan, Brannan, Marte, Abreu, Joseph, Bottcher, Riley, Brewer, Dinowitz, Gennaro, De La Rosa, Gutiérrez, Moya, Ung, Cabán, Nurse, Rivera, Sanchez, Lee, Salamanca, Narcisse, Avilés, Hudson, Velázquez, Richardson Jordan and Williams

..Title

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the sale of guinea pigs as pets, and clarifying the definition of the term “pet shop” to address inconsistent use of such term in the code

..Body

Be it enacted by the Council as follows:

 Section 1. Subdivision c of section 17-1702 of the administrative code of the city of New York, as amended by local law number 53 for the year 2015, is amended to read as follows:

 c. It shall be unlawful for any pet shop to display, offer for sale, deliver, barter, auction, give away, transfer or sell any rabbit or guinea pig.

 § 2. Section 17-371 of the administrative code of the city of New York, as amended by local law number 53 for the year 2015, is amended to read as follows:

 § 17-371 Definitions. For the purposes of this subchapter, the following terms have the following meanings:

 [a. "Arm's] Arm’s length transaction. The term “arm’s length transaction" means a sale of a business for consideration that reflects the fair market value of such business or its assets, between two informed and willing parties, that is not made, wholly or in part, for the purpose of enabling the seller to avoid liability for violations issued by the department. A sale shall be presumed not to be an arm's length transaction if it is:

 1. A sale to an individual, or to a corporation or other business that is owned by the spouse, domestic partner, parent, grandparent, child or stepchild of any of any of the sellers, or is the direct descendent of a grandparent, the spouse or domestic partner of any of the sellers;

 2. A sale to an individual or entity that has a business or financial interest in the seller; or

 3. A sale to an entity in which any of the sellers has a business or financial relationship.

 [b. "Permit"] Permit. The term “permit” means a written license and authorization to carry on specified activities as regulated by this subchapter or other applicable law enforced by the department.

 [c. "Permittee"] Permittee. The term “permittee” means a natural person or other entity who holds a valid permit issued by the commissioner pursuant to this subchapter or other applicable law enforced by the department.

 [d. “Person”] Person. The term “person” means any individual, corporation, partnership, association, municipality, or other legal entity.

 [e. “Pet] Pet shop. The term “pet shop" means [a facility other than an animal shelter where] any person who sells, exchanges, barters, or offers for sale live animals [are sold, exchanged, bartered, or offered for sale] as pet animals to the general public at retail for profit. Such definition shall not include breeders who sell or offer to sell directly to consumers fewer than twenty-five dogs or cats per year that are born and raised on the breeder's residential premises. Such definition shall not include duly incorporated humane societies dedicated to the care of unwanted animals that make such animals available for adoption, whether or not a fee for such adoption is charged. A person who allows an animal shelter or animal rescue group, as such terms are defined in section 17-802 of chapter eight of this title, to use such person's commercial or residential premises for the purpose of making animals available for adoption shall not be deemed a pet shop as a result of such activity so long as such person does not have an ownership interest in any of the animals being made available for adoption, and does not derive a fee for providing such adoption services.

Pet shop permit. The term “pet shop permit” means a permit to carry on any of the activities of a pet shop.

 § 3. Subdivision a of section 17-372 of the administrative code of the city of New York, as added by local law number 5 for the year 2015, is amended to read as follows:

 a. No person shall [operate a pet shop] sell, exchange, barter, or offer for sale live animals as pet animals to the general public at retail for profit without a pet shop permit issued by the commissioner pursuant to this subchapter.

 § 4. Subdivision c of section 17-374 of the administrative code of the city of New York, as added by local law number 5 for the year 2015, is amended to read as follows:

 c. The fees provided for [herein] in this section shall be reduced by the amount of any fee paid for a [permit to operate a] pet shop permit pursuant to the New York city health code within the same fee period.

 § 5. Subdivision b of section 17-378 of the administrative code of the city of New York, as added by local law number 5 for the year 2015, is amended to read as follows:

 b. Notwithstanding subdivision a of this section, if the commissioner determines that exigent circumstances exist such that the continued operation of [a permittee's pet shop] any activity authorized pursuant to a pet shop permit would pose a danger to the public or the health and welfare of the animals in the permittee's custody, the commissioner may suspend such permittee's pet shop permit subject to a prompt post-suspension hearing before the environmental control board or any tribunal established within the office of administrative trials and hearings as designated by the commissioner.

 § 6. Section 17-380 of the administrative code of the city of New York, as amended by local law number 53 for the year 2015, is amended to read as follows:

 § 17-380 Forfeiture and seizure. a. The commissioner or [his or her] the commissioner’s designee may seize any animal [in a] on the premises of a pet shop operating without a permit required pursuant to section 17-372 of this subchapter.

 b. Any animal [in a] on the premises of a pet shop operating without a permit required pursuant to section 17-372 of this subchapter or seized pursuant to subdivision a of this section shall be subject to forfeiture upon notice and hearing.

 c. The commissioner shall provide for the appropriate disposition of each animal seized pursuant to this section. Such disposition may include impoundment at an animal shelter or animal rescue group as such terms are defined in section 17-802 of chapter eight of this title.

 d. The commissioner may impose upon [the owner of] a pet shop from which an animal is seized pursuant to this section a fee representing expenses incurred in connection with impounding such animal.

 § 7. Section 17-1708 of the administrative code of the city of New York, as amended by local law number 53 for the year 2015, is amended to read as follows:

 § 17-1708 Forfeiture and seizure. a. The commissioner or [his or her] the commissioner’s designee may seize any animal offered for sale [in] by a pet shop where the sale of such animal is prohibited by section 17-1702 of this chapter.

 b. Any animal offered for sale in violation of section 17-1702 of this chapter or seized pursuant to subdivision a of this section shall be subject to forfeiture upon notice and hearing.

 c. The commissioner shall provide for the appropriate disposition of each animal seized pursuant to this section. Such disposition may include impoundment at an animal shelter or animal rescue group.

 d. The commissioner may impose upon [the owner of] a pet shop from which an animal is seized pursuant to this section a fee representing expenses incurred in connection with the cost of impounding such animal.

 § 8. Section 17-1709 of the administrative code of the city of New York, as added by local law number 5 for the year 2015, is amended to read as follows:

 § 17-1709 Rules. The commissioner may promulgate such rules as are necessary to carry out the provisions of this chapter and to ensure the health and safety of any animal [in a] on pet shop premises.

 § 9. This local law takes effect immediately.

Session 12

NC

LS #6276

1/11/2022

Session 11

NC

LS #18111

Int. #2441-2021

1. E.g., Katie Honan, *The Trouble With Guinea Pigs: Council Sitting on Bill to Ban Sales of Fluffy Rodent as Pets*, The City (Sep. 13, 2022, 5AM), https://www.thecity.nyc/2022/9/13/23349941/giving-back-pet-guinea-pigs-city-council-bill-ban-sale (Honan); Sarah Maslin Nir, *The Great Guinea Pig Giveaway Has Begun*, N.Y. Times (Oct. 1, 2022), *available at* https://www.nytimes.cf/2022/10/01/nyregion/the-great-guinea-pig-giveaway-has-begun.html (Nir); Jyoti Mann, *New York City may ban pet shops from selling guinea pigs because so many have been abandoned at animal shelters*, Insider (Oct. 2, 2022, 6:48AM), https://www.businessinsider.com/new-york-city-may-ban-pet-shops-selling-guinea-pigs-2022-10 (Mann). [↑](#footnote-ref-2)
2. *Id*. [↑](#footnote-ref-3)
3. Honan; Nir; Clio Chang, *New Yorkers No Longer Want Their Pet Guinea Pigs*, Curbed (Sept. 13, 2022), https://www.curbed.com/2022/09/guinea-pigs-craigslist-shelters-howard-stern.html#:~:text=Just%20last%20week%2C%20nine%20guinea%20pigs%20were%20found,already%20had%2062%20guinea%20pigs%20in%20their%20care. (Chang). [↑](#footnote-ref-4)
4. *Id*.; Mann. [↑](#footnote-ref-5)
5. Id.; Charles Passy, *New York City considers banning sale of guinea pigs as the popular pandemic pets overwhelm shelters*, MarketWatch (Sept. 17, 2022, 11:02AM), https://www.marketwatch.com/story/new-york-city-considers-banning-sale-of-guinea-pigs-as-the-popular-pandemic-pets-overwhelm-shelters-11663101206 (Passy). [↑](#footnote-ref-6)
6. Honan; Passy. [↑](#footnote-ref-7)
7. Honan; Mann; Nir. [↑](#footnote-ref-8)
8. Katherine E. Quesenberry, DVM, et al., *Breeding and Reproduction of Guinea Pigs*, Merck Manual (Oct. 2022), *available at* https://www.merckvetmanual.com/all-other-pets/guinea-pigs/breeding-and-reproduction-of-guinea-pigs (Quesenberry). [↑](#footnote-ref-9)
9. Admin. Code § 17-804. [↑](#footnote-ref-10)
10. Honan. [↑](#footnote-ref-11)
11. *Id*.; Passy; Quesenberry. [↑](#footnote-ref-12)
12. Honan. [↑](#footnote-ref-13)
13. Honan; Passy; Chang. [↑](#footnote-ref-14)
14. *See* Health Code § 161.09 (e) (prohibiting the sale of animals whose possession is prohibited under the health code). [↑](#footnote-ref-15)
15. Admin. Code § 17-372. [↑](#footnote-ref-16)
16. E.g., Health Code § 161.09 (a)(1), (f). [↑](#footnote-ref-17)
17. Health Code § 161.01 (c) (authorizing the possession of guinea pigs). Licenses are required to possess dogs. Chapter 115 of the Laws of 1894; *see also* Admin. Code § 17-814; Health Code § 161.04. Permits are required to possess animals generally prohibited from possession. Health Code § 161.01 (a)(2), [↑](#footnote-ref-18)
18. E.g., Agriculture & Markets Law §§ 353, 353-a. [↑](#footnote-ref-19)
19. Ag. & Markets Law § 355. [↑](#footnote-ref-20)
20. Health Code §§ 161.03, 161.17. [↑](#footnote-ref-21)
21. Health Code § 161.15 (a). [↑](#footnote-ref-22)
22. Ag. & Markets Law § 355. [↑](#footnote-ref-23)
23. Ag. & Markets Law § 407; General Business Law § 753-d. [↑](#footnote-ref-24)
24. Admin. Code §§ 17-371 et seq., 17-801 et seq., and 17-1701 et seq.; NYWPA I at 58-59. [↑](#footnote-ref-25)
25. Admin. Code § 17-1702 (a), (b). [↑](#footnote-ref-26)
26. Admin. Code § 17-1702 (c). [↑](#footnote-ref-27)
27. Health Code §§ 161.01 (c), 161.19. [↑](#footnote-ref-28)
28. E.g., Nicole Meyer, *Feds Find Neglect at Guinea Pig Mill—PETA Urges Police to Act*, PETA (Nov. 10, 2020), available at https://www.peta.org/media/news-releases/feds-find-neglect-at-guinea-pig-mill-peta-urges-police-to-act/. [↑](#footnote-ref-29)
29. *See*, *e.g.*, *New York Pet Welfare Association, Inc., v. City of New York*, 143 F.Supp.3d 50, 58-59 (E.D.N.Y. 2015) (“NYPWA I”). [↑](#footnote-ref-30)
30. E.g., *New York Pet Welfare Association, Inc., v. City of New York*, 850 F.3d.79, 83 (2d Cir. 2017); Chapter 115 of the Laws of 1894; Admin. Code §§ 17-811-812. [↑](#footnote-ref-31)
31. *See*, *e.g*., Admin. Code §§ 17-301 et seq., 17-371 et seq., [↑](#footnote-ref-32)
32. *Id*. at § 17-801 et seq. [↑](#footnote-ref-33)
33. *See generally* Charter § 556. [↑](#footnote-ref-34)
34. Admin. Code § 17-803; *see also* Local Law no. 123 for the year 2018, enacted June 26, 2018, which amends section 17-803 of the administrative code to require the City to operate a full-service animal shelter in each borough no later than July 1, 2024. [↑](#footnote-ref-35)
35. *See* Hearing on Int. 870-2018 et al. Before the Health Committee, New York City Council, 2018-2021 Legislative Session (June 18, 2019) (testimony of Corinne Schiff, Deputy Commissioner, Environmental Health, DOHMH). [↑](#footnote-ref-36)
36. *Id*. [↑](#footnote-ref-37)
37. Nir. [↑](#footnote-ref-38)
38. *Shelter Animals Count Data*, ACC (Sept. 2022), *available at* https://www.nycacc.org/sites/default/files/pdfs/stats/2022/ACC\_2022\_SEPT\_SAC.pdf. [↑](#footnote-ref-39)
39. Nir. [↑](#footnote-ref-40)
40. *Id*. [↑](#footnote-ref-41)