

**BOARD OF COUNTY COMMISSIONERS  
DESOTO COUNTY, FLORIDA  
DATE: July 25, 2017**

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**DEPARTMENT:** Legal  
**SUBMITTED BY:** Donald Conn, County Attorney  
**PRESENTED BY:** Donald Conn, County Attorney  
**TITLE & DESCRIPTION:** Ordinance/Retail Sale of Animals  
**REQUESTED MOTION:** To approve an ordinance that bans the retail of sale of dogs, cats and rabbits as presented.  
**SUMMARY:** The proposed ordinance bans the retail sale of dogs, cats and rabbits from commercial establishments or from public roadways, common areas or flea markets. The ordinance is intended to prohibit stores from locating in DeSoto County which sell animals bred from puppy mills, kitten factories or rabbit mills. Exemptions are provided for sales by animal shelters, local breeders, animal welfare organizations and the adoption of animals.

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**BACKGROUND:** Cats, dogs and rabbits that are bred in puppy mills, kitten factories or rabbit mills often suffer from health, social, and/or temperament problems that frequently result in costly treatment or even death. According to the Humane Society of the United States, hundreds of thousands of dogs, cats and rabbits in the United States have been housed and bred at substandard breeding facilities, known as “puppy mills”, “kitten factories” or “rabbit mills”, that mass-produce animals for sale to the public, many of which are sold in pet stores.

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**FUNDS:** Budget Amount N/A  
 Actual Agenda Item N/A  
 Cost:  
 Account Number: N/A  
 Explanation: N/A

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**ATTACHMENTS:**

**REVIEW** Department Director

**APPROVAL:**

  
 Donald Conn, County Attorney 7/10/2017

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Finance Director

  
 Peter Dasso, Interim Finance Director 7/10/2017

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Budget Department

  
Linda Nipper, Budget Coordinator 7/10/2017

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Purchasing Department

  
Cindy Talamantez, Purchasing Director 7/13/2017

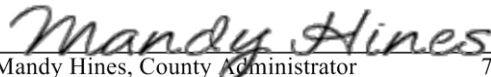
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County Attorney

  
Donald Conn, County Attorney 7/10/2017

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County Administrator

  
Mandy Hines, County Administrator 7/17/2017

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**DESOTO COUNTY, FLORIDA**

**BOARD OF COUNTY COMMISSIONERS**

**ORDINANCE 2017-\_\_**

**AN ORDINANCE OF THE DESOTO COUNTY BOARD OF COUNTY COMMISSIONERS BANNING THE RETAIL SALE OF DOGS, CATS OR RABBITS FROM A COMMERCIAL ESTABLISHMENT OR FROM A PUBLIC ROADWAY, COMMON AREA OR FLEA MARKET; PROVIDING FOR EXCEPTIONS FOR ANIMAL SHELTERS, ANIMAL WELFARE ORGANIZATIONS AND ADOPTION OF ANIMALS; REQUIRING A CERTIFICATE OF SOURCE; PROVIDING FOR PENALTIES; PROVIDING FOR REPUBLICATION IN THE CODE OF ORDINANCES, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Article VII, Section 2 of the Florida Constitution and Chapter 125 of the Florida Statutes, DeSoto County is authorized and required to protect the public health, safety and welfare of its citizens and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

**WHEREAS**, the public health, safety and welfare is a legitimate public purpose of DeSoto County; and

**WHEREAS**, other counties in Florida have seen an increase in the commercial sale of dogs, cats and rabbits which have been bred under conditions which are cruel and endanger the health of such animals; and

**WHEREAS**, DeSoto County finds that it is in the best interest of the residents of DeSoto County to prevent the location of commercial “puppy mills”, “kitten factories” and “rabbit mills” in DeSoto County because they exploit and endanger the welfare of animals solely for commercial gain; and

**WHEREAS**, the Board of County Commissioners deems it in the best interest of DeSoto County to enact this Ordinance banning the retail sale of dogs and cats in DeSoto County.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DESOTO COUNTY, FLORIDA:**

**Section 1. Findings of Fact** - The Board of County Commissioners of Desoto County, Florida, hereby makes the following findings of fact:

- (1) Section 828.27, Florida Statutes, authorizes the Board of County Commissioners to enact an Ordinance relating to Animal Control and Cruelty.
- (2) Animal control regulations are necessary to protect the public from unvaccinated, diseased, stray, roaming, dangerous, wild, or exotic animals.
- (3) Animal control regulations establish uniformity in the control and eradication of rabies.
- (4) Animal control regulations help abate nuisance created by animals that interfere with the enjoyment of property or the peace and safety of the community.
- (5) Animal control regulations help regulate animal population.
- (6) Animal control regulations protect animals from abuse or conditions harmful to their well-being.
- (7) According to the Humane Society of the United States, hundreds of thousands of dogs, cats and rabbits in the United States have been housed and bred at substandard breeding facilities, known as “puppy mills”, “kitten factories” or “rabbit mills”, that mass-produce animals for sale to the public, many of which are sold in pet stores.
- (8) Undercover pet store investigations performed by The Humane Society of the United States have repeatedly proven that most pet stores get their puppies from puppy mills, despite claims to the contrary.
- (9) National animal welfare organizations, including The Humane Society of the United States (HSUS), The Humane Society Veterinary Medical Association (HSVMA) and the American Society for the Prevention of Cruelty to Animals (ASPCA) all concur that the Animal Welfare Act Standards are insufficient to protect dogs in puppy mills, and that even those breeders who repeatedly violate those weak standards seldom face a significant penalty.
- (10) Cats, dogs and rabbits that are bred in puppy mills, kitten factories or rabbit mills often suffer from health, social, and/or temperament problems that frequently result in costly treatment or even death.

(11) In addition to the congenital and hereditary conditions resulting from substandard breeding facilities, dogs, cats and rabbits bred at these facilities may arrive in pet stores and their new homes with giardia, parvovirus, and distemper, illnesses that can be transmitted to healthy family animals.

(12) According to the Humane Society of the United States, Florida has the highest number of consumer complaints submitted to the Humane Society regarding sick puppies purchased from puppy mills.

(13) In addition to the above-mentioned abuses, rabbit mills are particularly prone to problems of overcrowding; rabbits can multiply every 28 days, breeders easily get overwhelmed, which leads to crowding, filthy living situations, and toxic amounts of ammonia in the air from urine in uncleaned cages.

(14) Rabbits are often treated inhumanely in the breeding mills and these animals are often viewed as disposable, with the largest influx of abandoned animals being collected annually just after the Easter holiday; the Humane Society of the U.S. estimates that 80% of rabbits sold as Easter or springtime pets are eventually abandoned and cannot fend for themselves.

(15) The Desoto Board of County Commissioners deems the prohibition of the retail sale of dogs, cats and rabbits in Desoto County to be in the best interest of the health, safety, and welfare of its residents and citizens and the public at large, that such prohibition constitutes a municipal purpose and will encourage pet consumers to adopt dogs, cats or rabbits from shelters or home based breeders, thereby promoting consumer protection, saving animals' lives, and reducing the cost to the public of sheltering and euthanizing animals.

**Section 2. Definitions** - As used in this Ordinance the following words and phrases shall have the following meanings, unless the context clearly indicates otherwise:

*Adoption Fee* means remuneration to recover the costs of feeding, sheltering, and providing care for an animal, not including transportation of animal, without profit.

*Animal Shelter* means a Desoto County animal shelter or animal control facility devoted to the rescue, care and adoption of stray, abandoned or surrendered Animals and which does not breed Animals.

*Animal Welfare Organization* means a Desoto County duly incorporated non-profit organization that has tax exempt status under Section 501(c) (3) of the United States Internal Revenue Code, whose mission is devoted to the welfare, care, and adoption of stray, abandoned, or surrendered Animals, and which does not breed Animals. An Animal Welfare Organization does not auction, barter, display for sale, offer for sale, give away, or sell Animals, but rather only accepts an Adoption Fee which does not exceed the cost of boarding, feeding and care of the Animal being adopted.

*Cat* means an Animal of the Felidae family of the order Carnivora.

*Certificate of Source* means a document declaring the source of the origin of the Dog, Cat or Rabbit sold, transferred or offered for sale or transfer. This certificate shall include the breed, color, age, and approximate weight of the Animal, the name, address and telephone number of the original source of the Dog, Cat or Rabbit and shall be signed by the purchaser or transferee of the Animal acknowledging receipt of the certificate.

*Commercial Establishment* shall mean a business which is open to the public and that engages in a Retail Sale.

*Dog* means, but expressly is not limited to, domestic dog, *Canis familiaris*, and any genetic hybridization thereof, including, but expressly not limited to, wolf hybrids and coyote hybrids, that is not under the jurisdiction of the Florida Fish and Wildlife Conservation Commission.

*Local Breeder* means a person that barter, offers for sale, displays for sale or sells dogs, cats or rabbits from the premises in DeSoto County on which they were bred and reared, and is in compliance with all zoning and animal control laws, ordinances and regulations.

*Public Thoroughfare, Public Common Area, and Flea Market Sales* means the sale or transfer, offer for sale or transfer, auction, barter, display, advertisement for sale, giving away or otherwise disposing of any live Dog, Cat or Rabbit on any public thoroughfare, public common area, roadside area, in any parking lot, or in any flea market, to any member of the public.

*Rabbit* means all members of the classification, *Oryctolagus cuniculus*.

*Retail Sale* means the auction, barter, display for sale, offer for sale, or selling of any live Dog, Cat or Rabbit for commercial purposes.

### **Section 3. Animal Sale Prohibitions and Requirements.**

(a) *Prohibitions.* The following acts shall be a violation of this Ordinance:

- (1) Any Retail Sale of any Dog, Cat or Rabbit from a Commercial Establishment.
- (2) Any Retail Sale of any Dog, Cat or Rabbit from any and all Public Thoroughfares, Public Common Areas or Flea Market Sale.

(b) *Exemptions.* The following shall be exempt from the prohibitions in subsection (a) of this section:

- (1) Animal Shelters.
- (2) Local Breeders.
- (3) Animal Welfare Organizations.

(4) Adoption of Animals - Nothing in this article shall prevent a commercial establishment from showcasing adoptable dogs, cats and rabbits owned by any Animal Welfare Organization or Animal Shelter located in DeSoto County, and collecting an adoption fee to be turned over to the Animal Welfare Organization or Animal Shelter. Such dogs, cats and rabbits shall not be kept overnight on the or Animal Shelter. Such dogs, cats and rabbits shall not be kept overnight on the premises and shall not be younger than 8 weeks

**Section 4. Certificate of Source.**

(a) Commercial Establishments within Desoto County shall post and maintain on each enclosure for each animal, a Certificate of Source of each Dog, Cat or Rabbit offered for sale or transfer, and shall provide a copy of such certificate to the purchaser or transferee of any Dog, Cat or Rabbit sold or transferred.

(b) A Commercial Establishment shall post and maintain on each cage or enclosure, a Certificate of Source for each dog, cat or rabbit offered for sale or transfer, and the pet store shall provide a copy of such Certificate of Source to the purchaser or transferee of any dog, cat or rabbit sold or transferred.

(c) Any law enforcement officer or employee of a county animal shelter may, at any time, request to review copies of such certificates and, upon such request, the pet store operator must present such certificates at that time and without delay.

(d) Falsification of a Certificate of Source by a pet store, pet store operator, or any other person shall be deemed a violation of this section.

**Section 5. Enforcement.**

(a) Violations of this Ordinance may be prosecuted in the same manner misdemeanors are prosecuted pursuant to Section 125.69, Florida Statutes, punishable by a fine not to exceed \$500.00, per day per animal or by imprisonment in the County jail not to exceed 60 days, or by both fine and imprisonment. Each Animal produced, reared, bred, kept, sold or released in violation of this ordinance shall be deemed a separate offense.

(b) The County or Sheriff may also enforce this article by action in equity, including injunctive or declaratory relief, in the appropriate court of competent jurisdiction.

(c) Any person who knowingly violates any provision of this Article, including refusal to allow a law enforcement officer, animal services officer, or code enforcement officer to make an inspection under this Article, shall also be punished in the same manner as a misdemeanor as provided by general law.

**Section 6. Republication and Codification** - The County Administrator is directed to ensure that this Ordinance shall be codified into, and published as part of, the DeSoto County the Code of Ordinances.

**Section 7. 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 8. Effective Date** - A certified copy of this Ordinance shall be filed with the Florida Department of State by the Clerk to the Board within ten (10) days after adoption of this Ordinance. This Ordinance shall take effect in accordance with law.

**PASSED AND DULY ADOPTED this 25<sup>th</sup> day of July 2017.**

**BOARD OF COUNTY COMMISSIONERS  
OF DESOTO COUNTY, FLORIDA**

ATTEST: By:

By: \_\_\_\_\_  
Elton A. Langford, Chairman

\_\_\_\_\_  
Mandy J. Hines, County Administrator

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By: \_\_\_\_\_  
Donald D. Conn, County Attorney