



AGENDA REPORT
March 26, 2019

Amendment to the Brevard County Code of Ordinances to ban the retail sale of dogs and cats at pet stores unless the pets are obtained from specified sources. District 2

SUBJECT:

Authorize an amendment to the Brevard County Code of Ordinances to ban the retail sale of dogs and cats at pet stores unless the animal is from an animal shelter, animal rescue organization or hobby breeder.

DEPT/OFFICE:

District 2

REQUESTED ACTION:

It is requested that the Board adopt an ordinance amending Chapter 14 of the Brevard County Code of Ordinances to ban the retail sale of dogs and cats at pet stores unless the animal is from an animal shelter, animal rescue organization or hobby breeder.

SUMMARY EXPLANATION and BACKGROUND:

The American Society for the Prevention of Cruelty to Animals defines a "puppy mill" as "a large-scale commercial dog breeding operation where profit is given priority over the well-being of the dogs." According to the Humane Society of the United States, two million three hundred thousand puppies who originated from puppy mills are sold annually from commercial breeding facilities. Meanwhile, an estimated three million dogs and cats are euthanized by shelters every year in the United States.

While not all dogs or cats sold in retail pet stores are the product of puppy mills or kitten factories, it is widely believed that these commercial breeding facilities where dogs and cats are mass-produced in overcrowded and unsanitary conditions continue to exist, at least in part, because of the sale of dogs and cats in pet stores. An effective tool to eliminate the retail market for mill-bred dogs and cats is to require pet stores to utilize an adoption-based business model, which ensures that animals sold by retail outlets are sourced from shelters, animal rescue organizations, and/or hobby breeders. Therefore, the Board finds that prohibiting the retail sale of dogs and cats in pet stores throughout the County will promote community awareness of the plight of animals in puppy mills and kitten factories and, in turn, will foster a more humane environment, as well as encourage consumers to adopt dogs and cats from shelters and rescue organizations, thereby saving the lives of animals while reducing the cost to the public of sheltering or euthanizing

animals.

Attached is an ordinance amending Chapter 14 of the Brevard County Code of Ordinances. With this amendment, the Board intends to establish and implement reasonable and necessary regulations to ban the retail sale of dogs and cats in pet stores throughout Brevard County in order to protect the health, safety, and welfare of both animals and pet owners in the County.

ATTACHMENTS:

- | | Description |
|---|--------------------|
| ▯ | Ordinance |



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001

Fax: (321) 264-6972

Tammy.Rowe@brevardclerk.us

March 27, 2019

M E M O R A N D U M

TO: Bryan Lober, Commissioner District 2

RE: Item H.4., Amendment to Code of Ordinances to Ban the Retail Sale of Dogs and Cats at Pet Stores Unless From an Animal Shelter, Animal Rescue Organization, or Hobby Breeder

The Board of County Commissioners, in regular session on March 26, 2019, granted permission to advertise for an ordinance to adopt and to amend the Brevard County Code of Ordinances, Chapter 14, Animals, banning the retail sale of dogs and cats at pet stores unless the animal is from an animal shelter, animal rescue organization, or hobby breeder.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

for: Donna Scott
for: Tammy Rowe, Deputy Clerk

/ds

cc: County Attorney

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA AMENDING CHAPTER 14 OF THE BREVARD COUNTY CODE OF ORDINANCES, “ANIMALS”; CREATING A NEW SECTION IN ARTICLE II OF CHAPTER 14, SECTION 14-64, “RETAIL SALE OF DOGS AND CATS AT PET STORES”; PROHIBITING THE RETAIL SALE OF DOGS AND CATS AT PET STORES UNLESS THE ANIMAL IS FROM AN ANIMAL SHELTER, ANIMAL RESCUE ORGANIZATION, OR HOBBY BREEDER; PROVIDING FOR DEFINITIONS; PROVIDING FOR PENALTIES; PROVIDING FOR EXEMPTIONS; PROVIDING FOR AN AREA ENCOMPASSED; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section (1)(g) of the Florida Constitution and Section 125.01, Florida Statutes (2018), the Board of County Commissioners of Brevard County, Florida (hereinafter the “Board”), has broad authority to enact ordinances not inconsistent with general law or with special laws approved by the vote of the electors; and

WHEREAS, at the Federal level, the United States Department of Agriculture is responsible for enforcing the Animal Welfare Act, which establishes minimum standards of care for dogs bred for sale; and

WHEREAS, at the State level, Chapter 828, Florida Statutes (2018), deals with animal cruelty, animal sales, and animal protection regulations, but does not explicitly regulate all breeding facilities which may be referred to as “puppy mills” or “kitten factories,” where dogs and cats are mass-produced for sale to the public, including through sale at pet stores; and

WHEREAS, puppy mills disregard the health of dogs in order to maintain a low overhead and maximize profits;¹ and

WHEREAS, the documented abuses endemic to puppy mills and kitten factories include over-breeding; inbreeding; minimal to non-existent veterinary care; lack of adequate and nutritious food, water and shelter; lack of socialization; lack of adequate space; and lack of adequate exercise; and

WHEREAS, socialization is critically important for the emotional health of dogs;² and

¹See, *Avenson v. Zegart*, 577 F.Supp. 958, 960 (D. Minn. 1984).

²See, generally, 9 C.F.R. § 3.8(c)(2) (2018); see, generally, American Veterinary Medical Association (AVMA), *Model Bill and Regulations to Assure Appropriate Care for Dogs Intended for Use as Pets*, available at:

WHEREAS, dogs and cats, due to their sentience and capability of feeling, perception, and affection, ought to be afforded certain protections not necessarily afforded to non-sentient creatures; and

WHEREAS, according to the Humane Society of the United States, there are an estimated ten thousand puppy mills in the United States and, on an annual basis, around two million three hundred thousand puppies who originated from these puppy mills are sold throughout the country, while roughly three million cats and dogs are euthanized by shelters every year in the United States;³ and

WHEREAS, due to poor conditions at these mills, dogs and cats are often sick, subjected to inhumane conditions, and suffer from painful and/or life-limiting congenital disorders;⁴ and

WHEREAS, consumers unknowingly purchase mill-bred puppies or kittens from places like pet stores believing that the animal is healthy and genetically sound, only to find out that the dog or cat will often face an array of health problems, including communicable diseases and/or genetic disorders, that present themselves immediately or soon after sale, or that do not surface for years, costing the owner hundreds or thousands of dollars in expensive veterinary treatment;⁵ and

WHEREAS, the DeSoto County Board of County Commissioners recently recognized that Florida has the highest number of consumer complaints submitted to the Humane Society regarding sick puppies purchased from puppy mills;⁶ and

WHEREAS, Lyndsay Cole, a spokeswoman for the United States Department of Agriculture Animal and Plant Health Inspection Service (hereinafter the “Animal Inspection Service”), explained that a substantial recent drop in citations to research facilities, breeders,

<https://www.avma.org/KB/Policies/Pages/Model-Bill-and-Regulations-to-Assure-Appropriate-Care-for-Dogs-Intended-for-Use-as-Pets.aspx> (last visited Feb. 28, 2019).

³The Humane Society of the United States, *Puppy Mills: Facts and Figures – August 2018*, available at: <https://www.humanesociety.org/sites/default/files/docs/Puppy%20Mill%20Facts%20and%20Figures%20August%202018.pdf> (last visited: Feb. 28, 2019).

⁴The Humane Society of the United States, *Puppy Mills and the Animal Welfare Act*, p. 1, available at: <https://www.humanesociety.org/sites/default/files/docs/puppy-mills-awa-booklet-lores.pdf> (last visited: Feb. 28, 2018).

⁵The Humane Society of the United States, *Puppy Buyer Complaints – A Ten Year Summary 2007-2017*, available at: <https://www.humanesociety.org/sites/default/files/docs/2018-puppy-buyers-complaint.pdf> (last visited Dec. 28, 2018).

⁶DeSoto County Code of County Ordinances, Chapter 4, Article III, Section 4-71, adopted on July 25, 2017, via Ordinance 2017-11, available at: https://librarystage.municode.com/fl/desoto_county/codes/code_of_ordinances?nodeId=COOR_CH4ANCO_ARTIIIRESADOCARA_S4-71FI (last visited Feb. 28, 2019).

exhibitors, and dealers could be attributed, in part, to a shortage of Animal Inspection Service inspectors;⁷ and

WHEREAS, inspection by the Animal Inspection Service does not ensure compliance with any applicable State statute(s) governing the humane treatment of animals, including, but not limited to, Section 828.12, Florida Statutes, “Cruelty to animals”; Section 828.126, Florida Statutes, “Sexual activities involving animals”; Section 828.13, Florida Statutes, “Confinement of animals without sufficient food, water, or exercise; abandonment of animals”; and, Section 828.16, Florida Statutes, “Contagious diseases”; and

WHEREAS, due to a publicly acknowledged shortage of inspectors and due to being tasked with enforcing only certain federal regulations, relying solely upon Animal Inspection Service inspections to ensure the ethical and humane treatment of animals is inadequate; and

WHEREAS, neither Brevard County nor the Brevard County Sheriff’s Office has any legal authority upon which to inspect or directly regulate out-of-county commercial breeders or brokers; and

WHEREAS, it is routine practice for pet stores operating within Brevard County to source puppies and kittens from out-of-county commercial breeders or brokers; and

WHEREAS, while the Board recognizes that not all dogs and cats sold in pet stores are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to pet stores as the operator of a puppy mill or kitten factory, it is the belief of the Board that puppy mills and kitten factories continue to exist, at least in part, because of public demand for dogs and cats offered for sale at pet stores, and that the most effective way to stop puppy mills and kitten factories is to discourage the purchase and sale of animals produced at those inhumane facilities; and

WHEREAS, even the most ethical and humane treatment of puppies and kittens following procurement from out-of-county commercial breeders and brokers does nothing to disincentive sub-standard unethical and inhumane conditions at out-of-county breeding locations; and

WHEREAS, the procurement of puppies and kittens by local pet stores from out-of-county sources subject to nonexistent or ineffective local regulation may actively encourage an abusive industry and incentivize that industry’s inhumane practices; and

WHEREAS, the Board has determined that an effective tool to reduce and, ultimately, eliminate the retail market for dogs and cats bred through puppy mills and kitten factories is to

⁷Karin Brulliard, *The USDA is issuing far fewer citations to zoos, labs and breeders for animal welfare violations*, WASH. POST (Feb. 26, 2019), <https://www.washingtonpost.com/science/2019/02/26/usda-is-issuing-far-fewer-citations-zoos-labs-breeders-animal-welfare-violations/> (last visited Feb. 28, 2019).

require that pet stores utilize an adoption-based business model, which ensures that the animals sold by retail outlets are sourced from shelters or animal rescue organizations, or hobby breeders, encouraging the adoption of homeless pets and reducing the financial and emotional toll on consumers who purchase mill-bred pets with latent physical and behavioral problems; and

WHEREAS, this Ordinance does not affect a consumer's ability to obtain a dog or cat of his or her choice directly from an animal rescue organization (including, but not limited to, breed-specific animal rescue organizations) or animal shelter, or reputable hobby breeder where the consumer can directly see the conditions in which the dogs or cats are bred, or can confer directly with the breeder concerning said conditions; and

WHEREAS, due to inadequate regulations governing the retail sale of dogs and cats in Brevard County, the Board finds that prohibiting the retail sale of dogs and cats in pet stores in the County will promote community awareness of the plight of animals in puppy mills and kitten factories and, in turn, will foster a more humane environment, as well as encourage consumers to adopt dogs and cats from shelters and rescue organizations, thereby saving the lives of animals while reducing the cost to the public of sheltering or euthanizing animals.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Brevard County, Florida, as follows:

Section 1. Amendments to Chapter 14 of the Brevard County Code of Ordinances. Chapter 14 is hereby amended to include the following provisions:

Section 14-64. Reserved. is now hereby entitled **Section 14-64. Retail Sale of Dogs and Cats at Pet Stores.** and shall read as follows:

Section 14-64. Retail Sale of Dogs and Cats at Pet Stores.

(a) Definitions. The following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to them below or as defined in Section 14-36 of the Brevard County Code of Ordinances, except where the context clearly indicates a different meaning:

Animal rescue organization means a duly incorporated nonprofit organization, properly organized under Section 501(c)(3) of the Internal Revenue Code, devoted to the rescue, care, humane treatment, and adoption of stray, abandoned, or surrendered animals, and does not intentionally or willfully breed animals. The term includes neither any broker nor any entity that obtains dogs or cats from any source for payment or compensation.

Animal shelter shall have the same meaning as defined in Section 14-36 of the Brevard County Code of Ordinances. The term includes neither any entity that willfully causes dogs or cat to reproduce nor any broker. This does not include any entity that obtains dogs or cats from any source for payment or compensation.

Breeder means any person or entity that causes dogs or cats to reproduce, either willfully or through failure to exercise due care and control, regardless of the size or number of litters produced. Any person or entity offering male dogs or cats for stud purposes will be classified as a breeder. This classification will not apply to a hobby breeder, as defined in this Section, or to a pet owner who breeds his or her own pets and keeps all of the offspring.

Broker means any person or entity that obtains dogs or cats, for payment or compensation, from one or more breeders and subsequently transfers said dogs or cats for resale by a pet store. This does not include hobby breeders, as defined below.

Cat means an animal of any age that is a member of *Felis Catus*, or any genetic hybridization of this species, not under the jurisdiction of the Florida Fish and Wildlife Conservation Commission.

Dog means an animal of any age that is a member of *Canus Lupus Familiaris*, or any genetic hybridization of this species, not under the jurisdiction of the Florida Fish and Wildlife Conservation Commission.

Hobby Breeder means any person or entity that causes or allows the breeding of dogs or cats resulting in no more than forty-eight offspring per calendar year, while permitting consumers access to directly see the condition in which the dogs or cats are bred and raised, or can confer directly with the breeder concerning said conditions. Hobby breeder sales to pet stores are expressly conditioned upon compliance with any and all registration, inspection, and compliance requirements put in place by the Board, the

Brevard County Sheriff's Office, or any other entity lawfully entitled to regulate such activity.

Official certificate of veterinary inspection, which is defined in Section 828.29, Florida Statutes (2018), as may be amended, means a legible certificate of veterinary inspection signed by the examining veterinarian licensed by the state of origin and accredited by the United States Department of Agriculture, that shows:

- (1) the age, sex, breed, color, and health records of the dog or cat;
- (2) the printed or typed names and addresses of the person or business from whom the animal was obtained, the consignor or seller, the consignee or purchaser, and the examining veterinarian, and the veterinarian's license number;
- (3) a list of all vaccines and deworming medications administered to the dog or cat, including the manufacturer, vaccine, type, lot number, expiration date, and the dates of administration thereof;
- (4) that the examining veterinarian warrants that, to the best of his or her knowledge, the animal has no sign of contagious or infectious diseases and has no evidence of internal or external parasites, including coccidiosis and ear mites, but excluding fleas and ticks.

The veterinarian shall be responsible for filling out the official certificate of veterinary inspection in accordance with Florida law.

Pet store means any retail establishment that: (1) has obtained a tax receipt, (2) is open to the public, and (3) sells or transfers, or offers for sale or transfer, dogs or cats, regardless of the age of the dog or cat, or the physical location of the animal. Such an establishment may be a permanent, temporary, or virtual establishment.

Retail sale means a sale, regardless of whether any exchange of consideration for the animal takes place at the same time or location. This term includes, but is not limited to: offering for sale; auctioning; bartering; displaying for sale, adoption, or re-home; exchanging for compensation; giving away; trading; delivering; advertising for sale; or

otherwise disposing of dogs or cats to a person in a pet store or in association with a pet store.

(b) Intent.

- (1) The intent of this Section is to prohibit the retail sale of commercially bred dogs and cats from puppy mills and kitten factories at pet stores. Rather, an adoption-based business model shall be required for the retail sale of dogs or cats at pet stores in Brevard County, whereby all dogs or cats must be sourced from an animal shelter, animal rescue organization, or hobby breeder.
- (2) The Board finds it reasonable and necessary to establish regulations regarding the sale of cats and dogs at pet stores to protect the health, safety, and welfare of both animals and pet owners. Furthermore, the Board finds these regulations will encourage pet consumers to obtain dogs and cats from animal shelters, animal rescue organization, or hobby breeders thereby saving the lives of animals and reducing the cost to the public of sheltering and euthanizing animals.
- (3) The Board intends for this Section to conform with and supplement Chapter 828, Florida Statutes, as may be amended, relating to animal cruelty, animal sales, and animal protection regulations.

(c) Retail Sale of Dogs and Cats at Pet Stores.

- (1) No pet store shall offer dogs or cats for sale in Brevard County, unless the dog or cat was obtained from an animal shelter, animal rescue organization, or hobby breeder.
- (2) Any dog or cat offered for sale in Brevard County must be accompanied by an official certificate of veterinary inspection issued by a licensed, accredited veterinarian. Upon sale, a copy of the certificate must be given to the buyer and the seller must retain one copy of the certificate for at least one year after the date of sale.
- (3) Pet stores shall maintain records that include the name, address, telephone number, and email address of the animal

shelter, animal rescue organization or hobby breeder from which each dog or cat was acquired for three years following the date of acquisition from the animal shelter or animal rescue organization or hobby breeder.

(4) Any such records shall be made available, immediately upon request, to the County's animal control authority or any other County official(s) charged with enforcing the provisions of this Section.

(d) *Adoption of Shelter and Rescue Animals.* Nothing in this Section shall prevent a pet store, its owner(s), operator(s), or employee(s), from providing space and appropriate care for animals owned by an animal shelter or animal rescue organization, and maintained at the pet store for the purpose of adopting those animals to the public.

(e) *Adoption Fee(s).* Nothing in this Section shall be construed to prohibit an animal rescue organization or an animal shelter from recovering or offsetting costs, including feeding, sheltering, or providing care for an animal by means of an adoption fee.

(f) *Prohibition on Retail Sale in Public Places.* There shall be no retail sale of dogs or cats on any public thoroughfare, public common areas, public parks, or other places of public accommodations, unless such animals are from an animal shelter, animal rescue organization or hobby breeder. If applicable, the individual or entity responsible for running the event must obtain any and all applicable permits required by Federal, State, County, or municipal law, rule, or regulation.

(g) *Exemptions.* This Section shall not apply to:

(1) An animal shelter, including, but not limited to, one that operates out of or in connection with a pet store or other retail store.

(2) An animal rescue organization, including, but not limited to, one that operates out of or in connection with a pet store or other retail store.

(3) A hobby breeder as defined in (a), above.

(h) *Enforcement and Penalties.*

- (1) Any pet store found to be in violation of this Section may be subject to any applicable enforcement mechanism(s) available to the County. Such mechanisms may include, but are not limited to: prosecuting a violation of this Section in the same manner as a misdemeanor, as provided in Section 125.69, Florida Statutes (2018), as may be amended; prosecuting a violation of this Section in accordance with Section 1-7 of the Brevard County Code of Ordinances; and other forms of relief as may be granted by a court of competent jurisdiction.
 - (2) Each animal produced, reared, bred, kept, sold, or released in violation of this Section will be deemed a separate offense, and a separate offense will be deemed committed on each day during which a violation occurs or continues to occur.
 - (3) A hobby breeder as defined in (a), above.
- (i) *Area Encompassed.* This Section shall apply throughout the incorporated and unincorporated areas of the County. A municipal ordinance shall prevail over this Section within the municipality's jurisdiction to the extent of any conflict with this Section.
 - (j) *Applicability.* This Section shall take effect one month after the date of its adoption. However, any individual or entity with a business tax receipt from the County for the retail sale of dogs or cats, issued on or before the date this Section is adopted, shall be given a twelve-month grace period from the date of adoption before being subject to the regulations provided for in this Section.

Section 2. Inclusion in Code. It is the intention of the Board that the provisions of this Ordinance shall become and be made part of the Brevard County Code of Ordinances, and that the sections of this Ordinance may be renumbered or re-lettered and that the word "Ordinance" may be changed to "Chapter," "Section," "Article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 3. Conflict. In the case of a direct conflict between any provision of this Ordinance and a provision of County law, rule, or regulation, the more restrictive shall apply.

Section 4. Severability. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or

applications of this 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 5. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. Unless specified otherwise, this Ordinance shall take effect upon adoption and filing as required by law.

DONE, ORDERED, AND ADOPTED in Regular Session, this 26th day of March, 2019.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: _____
Scott Ellis, Clerk of Court

By: _____
Kristine Isnardi, Chair
(as approved by the Board on __/__/__)

Deborah Thomas

From: Scott Ellis
Sent: Monday, March 25, 2019 12:47 PM
To: 'Debbie Rich'
Cc: Clerk to the Board
Subject: FW: D1 Draft Ordinance Item H4 BOCC meeting 3-26-19 Rita Pritchett Version
Attachments: D1 draft ordinance 03262019.docx

Here you go, Debbie, the D1 version.

From: Donna Scott
Sent: Friday, March 22, 2019 3:32 PM
To: Internal Audit
Subject: FW: D1 Draft Ordinance Item H4 BOCC meeting 3-26-19 Rita Pritchett Version

FYI

Donna Scott
Assistant Clerk to the Board
(321) 637-2001 / Ext. 49120



From: Lewis, Sally A [mailto:Sally.Lewis@brevardfl.gov]
Sent: Friday, March 22, 2019 2:53 PM
To: Christine Mulligan-Willey; Deborah Thomas; Donna Scott; Kimberly Powell; Tammy Rowe
Subject: FW: D1 Draft Ordinance Item H4 BOCC meeting 3-26-19

Hello ladies,

This attached ordinance was sent to the Commissioners for discussion at the March 26th meeting along with Agenda Item H 4. It is not part of the agenda but will be part of the discussion. So this is FYI

Thanks,

Sally

From: Newell, Marcia
Sent: Friday, March 22, 2019 1:22 PM
To: Abbate, Frank B
Cc: Lewis, Sally A; Roth, Joy; Mascellino, Carol; Pritchett, Rita; Craddock, Amy; Bentley, Eden
Subject: D1 Draft Ordinance Item H4 BOCC meeting 3-26-19

Good afternoon,

On behalf of Commissioner Pritchett, please see attached Ordinance for Item H4 to be distributed to Commissioners.

Thank you.

Regards,

Marcia Newell

Legislative Aide to Commissioner Rita Pritchett

Marcia.newell@brevardfl.gov



District 1 Commission Office

2000 S. Washington Avenue, Suite 2

Titusville, Florida 32780

321-607-6901

Please note:

Florida has a very broad public records law. Most written communications to or from the offices of elected officials are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure.

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA AMENDING CHAPTER 14 OF THE BREVARD COUNTY CODE OF ORDINANCES, “ANIMALS”; CREATING A NEW SECTION IN ARTICLE II OF CHAPTER 14, SECTION 14-64, “RETAIL SALE OF DOGS AND CATS AT PET STORES”; PROHIBITING THE RETAIL SALE OF DOGS AND CATS AT PET STORES UNLESS THE ANIMAL IS FROM AN ANIMAL SHELTER, ANIMAL RESCUE ORGANIZATION, OR HOBBY BREEDER; PROVIDING FOR DEFINITIONS; PROVIDING FOR PENALTIES; PROVIDING FOR EXEMPTIONS; PROVIDING FOR AN AREA ENCOMPASSED; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section (1)(g) of the Florida Constitution and Section 125.01, Florida Statutes (2018), the Board of County Commissioners of Brevard County, Florida (hereinafter the “Board”), has broad authority to enact ordinances not inconsistent with general law or with special laws approved by the vote of the electors; and

WHEREAS, at the Federal level, the United States Department of Agriculture is responsible for enforcing the Animal Welfare Act, which establishes minimum standards of care for dogs bred for sale; and

WHEREAS, at the State level, Chapter 828, Florida Statutes (2018), deals with animal cruelty, animal sales, and animal protection regulations, but does not explicitly regulate all breeding facilities which may be referred to as “puppy mills” or “kitten factories,” where dogs and cats are mass-produced for sale to the public, including through sale at pet stores; and

WHEREAS, puppy mills disregard the health of dogs in order to maintain a low overhead and maximize profits;¹ and

WHEREAS, the documented abuses endemic to puppy mills and kitten factories include over-breeding; inbreeding; minimal to non-existent veterinary care; lack of adequate and nutritious food, water and shelter; lack of socialization; lack of adequate space; and lack of adequate exercise; and

WHEREAS, socialization is critically important for the emotional health of dogs;² and

¹See, *Avenson v. Zegart*, 577 F.Supp. 958, 960 (D. Minn. 1984).

²See, generally, 9 C.F.R. § 3.8(c)(2) (2018); see, generally, American Veterinary Medical Association (AVMA), *Model Bill and Regulations to Assure Appropriate Care for Dogs Intended for Use as Pets*, available at:

WHEREAS, dogs and cats, due to their sentience and capability of feeling, perception, and affection, ought to be afforded certain protections not necessarily afforded to non-sentient creatures; and

WHEREAS, according to the Humane Society of the United States, there are an estimated ten thousand puppy mills in the United States and, on an annual basis, around two million three hundred thousand puppies who originated from these puppy mills are sold throughout the country, while roughly three million cats and dogs are euthanized by shelters every year in the United States;³ and

WHEREAS, due to poor conditions at these mills, dogs and cats are often sick, subjected to inhumane conditions, and suffer from painful and/or life-limiting congenital disorders;⁴ and

WHEREAS, consumers unknowingly purchase mill-bred puppies or kittens from places like pet stores believing that the animal is healthy and genetically sound, only to find out that the dog or cat will often face an array of health problems, including communicable diseases and/or genetic disorders, that present themselves immediately or soon after sale, or that do not surface for years, costing the owner hundreds or thousands of dollars in expensive veterinary treatment;⁵ and

WHEREAS, the DeSoto County Board of County Commissioners recently recognized that Florida has the highest number of consumer complaints submitted to the Humane Society regarding sick puppies purchased from puppy mills;⁶ and

WHEREAS, Lyndsay Cole, a spokeswoman for the United States Department of Agriculture Animal and Plant Health Inspection Service (hereinafter the “Animal Inspection Service”), explained that a substantial recent drop in citations to research facilities, breeders,

<https://www.avma.org/KB/Policies/Pages/Model-Bill-and-Regulations-to-Assure-Appropriate-Care-for-Dogs-Intended-for-Use-as-Pets.aspx> (last visited Feb. 28, 2019).

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⁴The Humane Society of the United States, *Puppy Mills and the Animal Welfare Act*, p. 1, available at: <https://www.humanesociety.org/sites/default/files/docs/puppy-mills-awa-booklet-lores.pdf> (last visited: Feb. 28, 2018).

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exhibitors, and dealers could be attributed, in part, to a shortage of Animal Inspection Service inspectors;⁷ and

WHEREAS, inspection by the Animal Inspection Service does not ensure compliance with any applicable State statute(s) governing the humane treatment of animals, including, but not limited to, Section 828.12, Florida Statutes, “Cruelty to animals”; Section 828.126, Florida Statutes, “Sexual activities involving animals”; Section 828.13, Florida Statutes, “Confinement of animals without sufficient food, water, or exercise; abandonment of animals”; and, Section 828.16, Florida Statutes, “Contagious diseases”; and

WHEREAS, due to a publicly acknowledged shortage of inspectors and due to being tasked with enforcing only certain federal regulations, relying solely upon Animal Inspection Service inspections to ensure the ethical and humane treatment of animals is inadequate; and

WHEREAS, neither Brevard County nor the Brevard County Sheriff’s Office has any legal authority upon which to inspect or directly regulate out-of-county commercial breeders or brokers; and

WHEREAS, it is routine practice for pet stores operating within Brevard County to source puppies and kittens from out-of-county commercial breeders or brokers; and

WHEREAS, while the Board recognizes that not all dogs and cats sold in pet stores are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to pet stores as the operator of a puppy mill or kitten factory, it is the belief of the Board that puppy mills and kitten factories continue to exist, at least in part, because of public demand for dogs and cats offered for sale at pet stores, and that the most effective way to stop puppy mills and kitten factories is to discourage the purchase and sale of animals produced at those inhumane facilities; and

WHEREAS, even the most ethical and humane treatment of puppies and kittens following procurement from out-of-county commercial breeders and brokers does nothing to disincentive sub-standard unethical and inhumane conditions at out-of-county breeding locations; and

WHEREAS, the procurement of puppies and kittens by local pet stores from out-of-county sources subject to nonexistent or ineffective local regulation may actively encourage an abusive industry and incentivize that industry’s inhumane practices; and

WHEREAS, the Board has determined that an effective tool to reduce and, ultimately, eliminate the retail market for dogs and cats bred through puppy mills and kitten factories is to

⁷Karin Brulliard, *The USDA is issuing far fewer citations to zoos, labs and breeders for animal welfare violations*, WASH. POST (Feb. 26, 2019), <https://www.washingtonpost.com/science/2019/02/26/usda-is-issuing-far-fewer-citations-zoos-labs-breeders-animal-welfare-violations/> (last visited Feb. 28, 2019).

~~require~~ *encourage* that pet stores utilize an adoption-based business model, which ensures that the animals sold by retail outlets are sourced from shelters or animal rescue organizations, or hobby breeders, encouraging the adoption of homeless pets and reducing the financial and emotional toll on consumers who purchase mill-bred pets with latent physical and behavioral problems; and

WHEREAS, this Ordinance does not affect a consumer's ability to obtain a dog or cat of his or her choice directly from an animal rescue organization (including, but not limited to, breed-specific animal rescue organizations) or animal shelter, or reputable hobby breeder where the consumer can directly see the conditions in which the dogs or cats are bred, or can confer directly with the breeder concerning said conditions; and

WHEREAS, due to inadequate regulations governing the retail sale of dogs and cats in Brevard County, the Board finds that prohibiting the retail sale of dogs and cats in pet stores in the County will promote community awareness of the plight of animals in puppy mills and kitten factories and, in turn, will foster a more humane environment, as well as encourage consumers to adopt dogs and cats from shelters and rescue organizations, thereby saving the lives of animals while reducing the cost to the public of sheltering or euthanizing animals.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Brevard County, Florida, as follows:

Section 1. Amendments to Chapter 14 of the Brevard County Code of Ordinances. Chapter 14 is hereby amended to include the following provisions:

Section 14-64. Reserved. is now hereby entitled **Section 14-64. Retail Sale of Dogs and Cats at Pet Stores.** and shall read as follows:

Section 14-64. Retail Sale of Dogs and Cats at Pet Stores.

(a) Definitions. The following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to them below or as defined in Section 14-36 of the Brevard County Code of Ordinances, except where the context clearly indicates a different meaning:

Animal rescue organization means a duly incorporated nonprofit organization, properly organized under Section 501(c)(3) of the Internal Revenue Code, devoted to the rescue, care, humane treatment, and adoption of stray, abandoned, or surrendered animals, and does not intentionally or willfully breed animals. ~~The term includes neither any broker nor any entity that obtains dogs or cats~~

~~from any source for payment or compensation. Any 501(c)(3) entity that buys or sells dogs or cats will be classified as a broker or breeder.~~

Animal shelter shall have the same meaning as defined in Section 14-36 of the Brevard County Code of Ordinances. The term includes neither any entity that willfully causes dogs or cat to reproduce nor any broker. ~~This does not include any entity that obtains dogs or cats from any source for payment or compensation. Any animal shelter organization, as defined above, that buys or sells dogs or cats will be classified as a broker or breeder.~~

Breeder means any person or entity that causes dogs or cats to reproduce, either willfully or through failure to exercise due care and control, regardless of the size or number of litters produced. Any person or entity offering male dogs or cats for stud purposes will be classified as a breeder. This classification will not apply to a hobby breeder, as defined in this Section, or to a pet owner who breeds his or her own pets and keeps all of the offspring.

Broker means any person or entity that obtains dogs or cats, for payment or compensation, from one or more breeders and subsequently transfers said dogs or cats for resale by a pet store. This does not include hobby breeders, as defined below.

Cat means an animal of any age that is a member of *Felis Catus*, or any genetic hybridization of this species, not under the jurisdiction of the Florida Fish and Wildlife Conservation Commission.

Dog means an animal of any age that is a member of *Canus Lupus Familiaris*, or any genetic hybridization of this species, not under the jurisdiction of the Florida Fish and Wildlife Conservation Commission.

Hobby Breeder means any person or entity that causes or allows the breeding of dogs or cats resulting in no more than forty-eight offspring per calendar year. ~~while permitting consumers access to directly see the condition in which the dogs or cats are bred and raised, or can confer~~

~~directly with the breeder concerning said conditions. Hobby breeder sales to pet stores are expressly conditioned upon compliance with any and all registration, inspection, and compliance requirements put in place by the Board, the Brevard County Sheriff's Office, or any other entity lawfully entitled to regulate such activity.~~

Official certificate of veterinary inspection, which is defined in Section 828.29, Florida Statutes (2018), as may be amended, means a legible certificate of veterinary inspection signed by the examining veterinarian licensed by the state of origin and accredited by the United States Department of Agriculture, that shows:

- (1) the age, sex, breed, color, and health records of the dog or cat;
- (2) the printed or typed names and addresses of the person or business from whom the animal was obtained, the consignor or seller, the consignee or purchaser, and the examining veterinarian, and the veterinarian's license number;
- (3) a list of all vaccines and deworming medications administered to the dog or cat, including the manufacturer, vaccine, type, lot number, expiration date, and the dates of administration thereof;
- (4) that the examining veterinarian warrants that, to the best of his or her knowledge, the animal has no sign of contagious or infectious diseases and has no evidence of internal or external parasites, including coccidiosis and ear mites, but excluding fleas and ticks.

The veterinarian shall be responsible for filling out the official certificate of veterinary inspection in accordance with Florida law.

Pet store means any retail establishment that: (1) has obtained a tax receipt, (2) is open to the public, and (3) sells or transfers, or offers for sale or transfer, dogs or cats, regardless of the age of the dog or cat, or the physical location of the animal. Such an establishment may be a permanent, temporary, or virtual establishment.

Retail sale means a sale, regardless of whether any exchange of consideration for the animal takes place at the

same time or location. This term includes, but is not limited to: offering for sale; auctioning; bartering; displaying for sale, adoption, or re-home; exchanging for compensation; giving away; trading; delivering; advertising for sale; or otherwise disposing of dogs or cats to a person in a pet store or in association with a pet store.

(b) Intent.

- (1) The intent of this Section is to prohibit the retail sale of commercially bred dogs and cats from puppy mills and kitten factories at pet stores. Rather, an adoption-based business model shall be ~~required~~ *encouraged* for the retail sale of dogs or cats at pet stores in Brevard County, whereby all dogs or cats must be sourced from an animal shelter, animal rescue organization, or hobby breeder.
- (2) The Board finds it reasonable and necessary to establish regulations regarding the sale of cats and dogs at pet stores to protect the health, safety, and welfare of both animals and pet owners. Furthermore, the Board finds these regulations will encourage pet consumers to obtain dogs and cats from animal shelters, animal rescue organization, or hobby breeders thereby saving the lives of animals and reducing the cost to the public of sheltering and euthanizing animals.
- (3) The Board intends for this Section to conform with and supplement Chapter 828, Florida Statutes, as may be amended, relating to animal cruelty, animal sales, and animal protection regulations.

(c) Retail Sale of Dogs and Cats at Pet Stores.

- (1) No pet store shall offer dogs or cats for sale in Brevard County, unless the dog or cat was obtained from an animal shelter, animal rescue organization, or hobby breeder.
- (2) Any dog or cat offered for sale in Brevard County must be accompanied by an official certificate of veterinary inspection issued by a licensed, accredited veterinarian. Upon sale, a copy of the certificate must be given to the

buyer and the seller must retain one copy of the certificate for at least one year after the date of sale.

(3) Pet stores shall maintain records that include the name, address, telephone number, and email address of the animal shelter, animal rescue organization ~~or hobby breeder~~ from which each dog or cat was acquired for three years following the date of acquisition from the animal shelter, animal rescue organization ~~or hobby breeder~~.

(4) Any such records shall be made available, immediately upon request, to the County's animal control authority or any other County official(s) charged with enforcing the provisions of this Section.

(d) *Adoption of Shelter and Rescue Animals.* Nothing in this Section shall prevent a pet store, its owner(s), operator(s), or employee(s), from providing space and appropriate care for animals owned by an animal shelter or animal rescue organization, and maintained at the pet store for the purpose of adopting those animals to the public.

(e) *Adoption Fee(s).* Nothing in this Section shall be construed to prohibit an animal rescue organization or an animal shelter from recovering or offsetting costs, including feeding, sheltering, or providing care for an animal by means of an adoption fee. *An itemized fee statement will be provided to buyer for each adoption.*

(f) *Prohibition on Retail Sale in Public Places.* ~~There shall be no retail sale of dogs or cats on any public thoroughfare, public common areas, public parks, or other places of public accommodations, unless such animals are from an animal shelter or animal rescue organization. If applicable, the individual or entity responsible for running the event must obtain any and all applicable permits required by Federal, State, County, or municipal law, rule, or regulation.~~

(g) *Exemptions.* This Section shall not apply to:

(1) ~~An animal shelter, including, but not limited to, one that operates out of or in connection with a pet store or other retail store.~~

~~(2) An animal rescue organization, including, but not limited to, one that operates out of or in connection with a pet store or other retail store.~~

~~(3) A hobby breeder as defined in (a), above.~~

(h) Enforcement and Penalties.

(1) Any pet store found to be in violation of this Section may be subject to any applicable enforcement mechanism(s) available to the County. Such mechanisms may include, but are not limited to: prosecuting a violation of this Section in the same manner as a misdemeanor, as provided in Section 125.69, Florida Statutes (2018), as may be amended; prosecuting a violation of this Section in accordance with Section 1-7 of the Brevard County Code of Ordinances; and other forms of relief as may be granted by a court of competent jurisdiction.

~~(2) Each animal produced, reared, bred, kept, sold, or released in violation of this Section will be deemed a separate offense, and a separate offense will be deemed committed on each day during which a violation occurs or continues to occur.~~

~~(3) A hobby breeder as defined in (a), above.~~

(i) *Area Encompassed.* This Section shall apply throughout the incorporated and unincorporated areas of the County. A municipal ordinance shall prevail over this Section within the municipality's jurisdiction to the extent of any conflict with this Section.

(j) *Applicability.* This Section shall take effect one month after the date of its adoption. However, any individual or entity with a business tax receipt from the County for the retail sale of dogs or cats, issued on or before the date this Section is adopted, shall be ~~given a twelve-month grace period from the date of adoption before being subject to the regulations provided for in this Section.~~ *exempt from this ordinance.*

Section 2. Inclusion in Code. It is the intention of the Board that the provisions of this Ordinance shall become and be made part of the Brevard County Code of Ordinances, and that

the sections of this Ordinance may be renumbered or re-lettered and that the word "Ordinance" may be changed to "Chapter," "Section," "Article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 3. Conflict. In the case of a direct conflict between any provision of this Ordinance and a provision of County law, rule, or regulation, the more restrictive shall apply.

Section 4. Severability. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this 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 5. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. Unless specified otherwise, this Ordinance shall take effect upon adoption and filing as required by law.

DONE, ORDERED, AND ADOPTED in Regular Session, this ____ day of _____, 2019.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: _____
Scott Ellis, Clerk of Court

By: _____
Kristine Isnardi, Chair
(as approved by the Board on ____/____/____)

Lewis, Sally A

H.4.

From: Lober, Bryan
Sent: Monday, March 25, 2019 4:10 PM
To: Tammy Rowe; Lewis, Sally A
Subject: FW: Revised Puppy Mill Ordinance
Attachments: D2 Ordinance Mods (rev 3-25-19).pdf; D2 Ordinance Mods (rev 3-25-19).docx
Importance: High

Tammy & Sally,

I am not going to distribute the appended file prior to tomorrow in an abundance of caution (Sunshine) but I wanted you to have this as it will be what I am proposing at the meeting.

Thanks,

Bryan

From: Lober, Bryan
Sent: Monday, March 25, 2019 4:00 PM
To: 'Ivey, Wayne' <wayne.ivey@bcso.us>; Scragg, Doug <douglas.scragg@bcso.us>; Singleton, Dan <dan.singleton@bcso.us>; 'Hellebrand, Joseph' <joseph.hellebrand@bcso.us>; Michele Lazarow <mlazarow@animaldefensecoalition.org>; Michele Lazarow <mlvegan67@gmail.com>; 'Jenna Jensen' <jjensen@humanesociety.org>; Esseeesse, Alexander <Alexander.Esseeesse@brevardfl.gov>; Bentley, Eden <Eden.Bentley@brevardfl.gov>
Cc: 'Giles Malone' <gilesmalone@gmail.com>; Tom Palermo <palermo.tom@gmail.com>
Subject: Revised Puppy Mill Ordinance
Importance: High

Ladies and gentlemen:

Please find appended hereto a revised ordinance which I will be proposing tomorrow. I have attempted to incorporate as many concerns as possible while still retaining the value and honoring the intent of this item.

Eden & Alex: If there is no Sunshine issue with distributing this to the other commissioners, please do so. I don't think there is anything which will necessitate a re-advertisement but, if you feel there is, please let me know.

Thanks,

Bryan

--
Bryan A. Lober
County Commissioner, District 2
Merritt Island Service Complex
2575 North Courtenay Parkway Suite 200
Merritt Island, Florida 32953
Ph: (321) 454-6601
Fax: (321) 454-6602
E-Mail: D2.Commissioner@BrevardFL.gov

This message may have been sent on a mobile device. Please forgive any typos.

Under Florida law, all correspondence sent to this office, which is not exempt or confidential pursuant to Chapter 119 of the Florida Statutes, is public record. If you do not want the public record contents of your e-mail or your e-mail address to be provided to the public in response to a public records request, please do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA AMENDING CHAPTER 14 OF THE BREVARD COUNTY CODE OF ORDINANCES, "ANIMALS"; CREATING A NEW SECTION IN ARTICLE II OF CHAPTER 14, SECTION 14-64, "RETAIL SALE OF DOGS AND CATS AT PET STORES"; PROHIBITING THE RETAIL SALE OF DOGS AND CATS AT PET STORES UNLESS THE ANIMAL IS FROM AN ANIMAL SHELTER, ANIMAL RESCUE ORGANIZATION, OR HOBBY BREEDER; PROVIDING FOR DEFINITIONS; PROVIDING FOR PENALTIES; PROVIDING FOR EXEMPTIONS; PROVIDING FOR AN AREA ENCOMPASSED; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section (1)(g) of the Florida Constitution and Section 125.01, Florida Statutes (2018), the Board of County Commissioners of Brevard County, Florida (hereinafter the "Board"), has broad authority to enact ordinances not inconsistent with general law or with special laws approved by the vote of the electors; and

WHEREAS, at the Federal level, the United States Department of Agriculture is responsible for enforcing the Animal Welfare Act, which establishes minimum standards of care for dogs bred for sale; and

WHEREAS, at the State level, Chapter 828, Florida Statutes (2018), deals with animal cruelty, animal sales, and animal protection regulations, but does not explicitly regulate all breeding facilities which may be referred to as "puppy mills" or "kitten factories," where dogs and cats are mass-produced for sale to the public, including through sale at pet stores; and

WHEREAS, puppy mills disregard the health of dogs in order to maintain a low overhead and maximize profits;¹ and

WHEREAS, the documented abuses endemic to puppy mills and kitten factories include over-breeding; inbreeding; minimal to non-existent veterinary care; lack of adequate and nutritious food, water and shelter; lack of socialization; lack of adequate space; and lack of adequate exercise; and

WHEREAS, socialization is critically important for the emotional health of dogs;² and

¹See, *Avenson v. Zegart*, 577 F.Supp. 958, 960 (D. Minn. 1984).

²See, generally, 9 C.F.R. § 3.8(c)(2) (2018); see, generally, American Veterinary Medical Association (AVMA), *Model Bill and Regulations to Assure Appropriate Care for Dogs Intended for Use as Pets*, available at:

WHEREAS, dogs and cats, due to their sentience and capability of feeling, perception, and affection, ought to be afforded certain protections not necessarily afforded to non-sentient creatures; and

WHEREAS, according to the Humane Society of the United States, there are an estimated ten thousand puppy mills in the United States and, on an annual basis, around two million three hundred thousand puppies who originated from these puppy mills are sold throughout the country, while roughly three million cats and dogs are euthanized by shelters every year in the United States;³ and

WHEREAS, due to poor conditions at these mills, dogs and cats are often sick, subjected to inhumane conditions, and suffer from painful and/or life-limiting congenital disorders;⁴ and

WHEREAS, consumers unknowingly purchase mill-bred puppies or kittens from places like pet stores believing that the animal is healthy and genetically sound, only to find out that the dog or cat will often face an array of health problems, including communicable diseases and/or genetic disorders, that present themselves immediately or soon after sale, or that do not surface for years, costing the owner hundreds or thousands of dollars in expensive veterinary treatment;⁵ and

WHEREAS, the DeSoto County Board of County Commissioners recently recognized that Florida has the highest number of consumer complaints submitted to the Humane Society regarding sick puppies purchased from puppy mills;⁶ and

WHEREAS, Lyndsay Cole, a spokeswoman for the United States Department of Agriculture Animal and Plant Health Inspection Service (hereinafter the “Animal Inspection Service”), explained that a substantial recent drop in citations to research facilities, breeders,

<https://www.avma.org/KB/Policies/Pages/Model-Bill-and-Regulations-to-Assure-Appropriate-Care-for-Dogs-Intended-for-Use-as-Pets.aspx> (last visited Feb. 28, 2019).

³The Humane Society of the United States, *Puppy Mills: Facts and Figures – August 2018*, available at: <https://www.humanesociety.org/sites/default/files/docs/Puppy%20Mill%20Facts%20and%20Figures%20August%202018.pdf> (last visited: Feb. 28, 2019).

⁴The Humane Society of the United States, *Puppy Mills and the Animal Welfare Act*, p. 1, available at: <https://www.humanesociety.org/sites/default/files/docs/puppy-mills-awa-booklet-lores.pdf> (last visited: Feb. 28, 2018).

⁵The Humane Society of the United States, *Puppy Buyer Complaints – A Ten Year Summary 2007-2017*, available at: <https://www.humanesociety.org/sites/default/files/docs/2018-puppy-buyers-complaint.pdf> (last visited Dec. 28, 2018).

⁶DeSoto County Code of County Ordinances, Chapter 4, Article III, Section 4-71, adopted on July 25, 2017, via Ordinance 2017-11, available at: https://librarystage.municode.com/fl/desoto_county/codes/code_of_ordinances?nodeId=COOR_CH4ANCO_ARTIII_IRESADOCARA_S4-71FI (last visited Feb. 28, 2019).

exhibitors, and dealers could be attributed, in part, to a shortage of Animal Inspection Service inspectors;⁷ and

WHEREAS, inspection by the Animal Inspection Service does not ensure compliance with any applicable State statute(s) governing the humane treatment of animals, including, but not limited to, Section 828.12, Florida Statutes, “Cruelty to animals”; Section 828.126, Florida Statutes, “Sexual activities involving animals”; Section 828.13, Florida Statutes, “Confinement of animals without sufficient food, water, or exercise; abandonment of animals”; and, Section 828.16, Florida Statutes, “Contagious diseases”; and

WHEREAS, due to a publicly acknowledged shortage of inspectors and due to being tasked with enforcing only certain federal regulations, relying solely upon Animal Inspection Service inspections to ensure the ethical and humane treatment of animals is inadequate; and

WHEREAS, neither Brevard County nor the Brevard County Sheriff’s Office has any legal authority upon which to inspect or directly regulate out-of-county commercial breeders or brokers; and

WHEREAS, it is routine practice for pet stores operating within Brevard County to source puppies and kittens from out-of-county commercial breeders or brokers; and

WHEREAS, while the Board recognizes that not all dogs and cats sold in pet stores are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to pet stores as the operator of a puppy mill or kitten factory, it is the belief of the Board that puppy mills and kitten factories continue to exist, at least in part, because of public demand for dogs and cats offered for sale at pet stores, and that the most effective way to stop puppy mills and kitten factories is to discourage the purchase and sale of animals produced at those inhumane facilities; and

WHEREAS, even the most ethical and humane treatment of puppies and kittens following procurement from out-of-county commercial breeders and brokers does nothing to disincentive sub-standard unethical and inhumane conditions at out-of-county breeding locations; and

WHEREAS, the procurement of puppies and kittens by local pet stores from out-of-county sources subject to nonexistent or ineffective local regulation may actively encourage an abusive industry and incentivize that industry’s inhumane practices; and

WHEREAS, the Board has determined that an effective tool to reduce and, ultimately, eliminate the retail market for dogs and cats bred through puppy mills and kitten factories is to

⁷Karin Brulliard, *The USDA is issuing far fewer citations to zoos, labs and breeders for animal welfare violations*, WASH. POST (Feb. 26, 2019), <https://www.washingtonpost.com/science/2019/02/26/usda-is-issuing-far-fewer-citations-zoos-labs-breeders-animal-welfare-violations/> (last visited Feb. 28, 2019).

~~require~~ *encourage* that pet stores utilize an adoption-based business model, which ensures that the animals sold by retail outlets are sourced from shelters or animal rescue organizations, or hobby breeders, encouraging the adoption of homeless pets and reducing the financial and emotional toll on consumers who purchase mill-bred pets with latent physical and behavioral problems; and

WHEREAS, this Ordinance does not affect a consumer's ability to obtain a dog or cat of his or her choice directly from an animal rescue organization (including, but not limited to, breed-specific animal rescue organizations) or animal shelter, or reputable hobby breeder where the consumer can directly see the conditions in which the dogs or cats are bred, or can confer directly with the breeder concerning said conditions; and

WHEREAS, due to inadequate regulations governing the retail sale of dogs and cats in Brevard County, the Board finds that prohibiting the retail sale of dogs and cats in pet stores in the County will promote community awareness of the plight of animals in puppy mills and kitten factories and, in turn, will foster a more humane environment, as well as encourage consumers to adopt dogs and cats from shelters and rescue organizations, thereby saving the lives of animals while reducing the cost to the public of sheltering or euthanizing animals.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Brevard County, Florida, as follows:

Section 1. Amendments to Chapter 14 of the Brevard County Code of Ordinances. Chapter 14 is hereby amended to include the following provisions:

Section 14-64. Reserved. is now hereby entitled **Section 14-64. Retail Sale of Dogs and Cats at Pet Stores.** and shall read as follows:

Section 14-64. Retail Sale of Dogs and Cats at Pet Stores.

(a) *Definitions.* The following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to them below or as defined in Section 14-36 of the Brevard County Code of Ordinances, except where the context clearly indicates a different meaning:

Animal rescue organization means a duly incorporated nonprofit organization, properly organized under Section 501(c)(3) of the Internal Revenue Code, devoted to the rescue, care, humane treatment, and adoption of stray, abandoned, or surrendered animals, and does not intentionally or willfully breed animals. This does not include any broker or any entity that obtains dogs or cats

from any source for payment or compensation. While animal rescue organizations are entitled to seek adoption fees to offset costs incurred in rehabilitating and caring for animals, they are not entitled to otherwise seek to profit from the sale of animals.

Animal shelter shall have the same meaning as defined in Section 14-36 of the Brevard County Code of Ordinances. The term includes neither any entity that willfully causes dogs or cat to reproduce nor any broker. This does not include any entity that obtains dogs or cats from any source for payment or compensation. While animal shelters are entitled to seek adoption fees to offset costs incurred in rehabilitating and caring for animals, they are not entitled to otherwise seek to profit from the sale of animals.

Breeder means any person or entity that causes dogs or cats to reproduce, either willfully or through failure to exercise due care and control, regardless of the size or number of litters produced. Any person or entity offering male dogs or cats for stud purposes will be classified as a breeder. This classification will not apply to a hobby breeder, as defined in this Section, or to a pet owner who breeds his or her own pets and keeps all of the offspring.

Broker means any person or entity that obtains dogs or cats, for payment or compensation, from one or more breeders and subsequently transfers said dogs or cats for resale by a pet store. This does not include hobby breeders, as defined below.

Cat means an animal of any age that is a member of *Felis Catus*, or any genetic hybridization of this species, not under the jurisdiction of the Florida Fish and Wildlife Conservation Commission.

Dog means an animal of any age that is a member of *Canus Lupus Familiaris*, or any genetic hybridization of this species, not under the jurisdiction of the Florida Fish and Wildlife Conservation Commission.

Hobby Breeder means any person or entity that causes or allows the breeding of dogs or cats resulting in no more



than forty-eight offspring within a 12-month period while permitting consumers access to directly see the condition in which the dogs or cats are bred and raised, or can confer directly with the breeder concerning said conditions. Hobby breeder sales to pet stores are expressly conditioned upon compliance with any and all registration and inspection requirements lawfully enacted by any governmental entity or agency. The Brevard County Sheriff Office shall be the sole county authorized entity entitled to conduct any and all inspection(s) of hobby breeders. Nothing herein shall serve to prohibit the federal government (e.g., USDA) or the State of Florida from imposing additional registration and/or inspection requirements as may be lawfully enacted.

Official certificate of veterinary inspection, which is defined in Section 828.29, Florida Statutes (2018), as may be amended, means a legible certificate of veterinary inspection signed by the examining veterinarian licensed by the state of origin and accredited by the United States Department of Agriculture, that shows:

- (1) the age, sex, breed, color, and health records of the dog or cat;
- (2) the printed or typed names and addresses of the person or business from whom the animal was obtained, the consignor or seller, the consignee or purchaser, and the examining veterinarian, and the veterinarian's license number;
- (3) a list of all vaccines and deworming medications administered to the dog or cat, including the manufacturer, vaccine, type, lot number, expiration date, and the dates of administration thereof;
- (4) that the examining veterinarian warrants that, to the best of his or her knowledge, the animal has no sign of contagious or infectious diseases and has no evidence of internal or external parasites, including coccidiosis and ear mites, but excluding fleas and ticks.

The veterinarian shall be responsible for filling out the official certificate of veterinary inspection in accordance with Florida law.

Pet store means any retail establishment that: (1) has obtained a tax receipt, (2) is open to the public, and (3) sells or transfers, or offers for sale or transfer, dogs or cats, regardless of the age of the dog or cat, or the physical location of the animal. Such an establishment may be a permanent, temporary, or virtual establishment.

Retail sale means a sale, regardless of whether any exchange of consideration for the animal takes place at the same time or location. This term includes, but is not limited to: offering for sale; auctioning; bartering; displaying for sale, adoption, or re-home; exchanging for compensation; giving away; trading; delivering; advertising for sale; or otherwise disposing of dogs or cats to a person in a pet store or in association with a pet store.

(b) *Intent.*

- (1) The intent of this Section is to prohibit the retail sale of commercially bred dogs and cats from puppy mills and kitten factories at pet stores. Rather, an adoption-based business model shall be encouraged for the retail sale of dogs or cats at pet stores in Brevard County, whereby all dogs or cats must be sourced from an animal shelter, animal rescue organization, or hobby breeder.
- (2) The Board finds it reasonable and necessary to establish regulations regarding the sale of cats and dogs at pet stores to protect the health, safety, and welfare of both animals and pet owners. Furthermore, the Board finds these regulations will encourage pet consumers to obtain dogs and cats from animal shelters, animal rescue organization, or hobby breeders thereby saving the lives of animals and reducing the cost to the public of sheltering and euthanizing animals.
- (3) The Board intends for this Section to conform with and supplement Chapter 828, Florida Statutes, as may be amended, relating to animal cruelty, animal sales, and animal protection regulations.

(c) *Retail Sale of Dogs and Cats at Pet Stores.*

- (1) No pet store shall offer dogs or cats for sale in Brevard County, unless the dog or cat was obtained from an animal shelter, animal rescue organization, or hobby breeder.
- (2) Any dog or cat offered for sale in Brevard County must be accompanied by an official certificate of veterinary inspection issued by a licensed, accredited veterinarian. Upon sale, a copy of the certificate must be given to the buyer and the seller must retain one copy of the certificate for at least one year after the date of sale.
- (3) Pet stores shall maintain records that include the name, address, telephone number, and email address of the animal shelter, animal rescue organization or hobby breeder from which each dog or cat was acquired for three years following the date of acquisition from the animal shelter, animal rescue organization or hobby breeder.
- (4) Any such records shall be made available, immediately upon request, to the County's animal control authority or any other County official(s) charged with enforcing the provisions of this Section.
- (d) *Adoption of Shelter and Rescue Animals.* Nothing in this Section shall prevent a pet store, its owner(s), operator(s), or employee(s), from providing space and appropriate care for animals owned by an animal shelter or animal rescue organization, and maintained at the pet store for the purpose of adopting those animals to the public.
- (e) *Adoption Fee(s).* Nothing in this Section shall be construed to prohibit an animal rescue organization or an animal shelter from recovering or offsetting costs, including feeding, sheltering, or providing care for an animal by means of an adoption fee. *An itemized fee statement will be provided to buyer for each adoption.*
- (f) *Prohibition on Retail Sale in Public Places.* There shall be no retail sale of dogs or cats on any public thoroughfare, public common areas, public parks, or other places of public accommodations, unless such animals are from an animal shelter, animal rescue organization, or hobby breeder. If applicable, the individual or entity responsible for running the event must obtain any and all applicable permits required by Federal, State, County, or municipal

law, rule, or regulation. The same rules, regulations, recordkeeping requirements, and limitations which apply to pet stores shall apply to any individual or entity responsible for running the event irrespective of whether said individual or entity is or should be in possession of a business tax receipt.

(g) *Enforcement and Penalties.*

(1) Any pet store found to be in violation of this Section may be subject to any applicable enforcement mechanism(s) available to the County. Such mechanisms may include, but are not limited to: prosecuting a violation of this Section in the same manner as a misdemeanor, as provided in Section 125.69, Florida Statutes (2018), as may be amended; prosecuting a violation of this Section in accordance with Section 1-7 of the Brevard County Code of Ordinances; and other forms of relief as may be granted by a court of competent jurisdiction.

(2) Each animal produced, reared, bred, kept, sold, or released in violation of this Section will be deemed a separate offense, and a separate offense will be deemed committed on each day during which a violation occurs or continues to occur.

(h) *Area Encompassed.* This Section shall apply throughout the incorporated and unincorporated areas of the County. A municipal ordinance shall prevail over this Section within the municipality's jurisdiction to the extent of any conflict with this Section.

(i) *Applicability.* This Section shall take effect one month after the date of its adoption. However, any individual or entity with a business tax receipt from the County for the retail sale of dogs or cats, issued on or before the date this Section is adopted, shall be given a twelve-month grace period from the date of adoption before being subject to the regulations provided for in this Section.

Section 2. Inclusion in Code. It is the intention of the Board that the provisions of this Ordinance shall become and be made part of the Brevard County Code of Ordinances, and that the sections of this Ordinance may be renumbered or re-lettered and that the word "Ordinance"

H.4.

may be changed to "Chapter," "Section," "Article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 3. Conflict. In the case of a direct conflict between any provision of this Ordinance and a provision of County law, rule, or regulation, the more restrictive shall apply.

Section 4. Severability. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this 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 5. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. Unless specified otherwise, this Ordinance shall take effect upon adoption and filing as required by law.

DONE, ORDERED, AND ADOPTED in Regular Session, this ____ day of _____, 2019.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: _____
Scott Ellis, Clerk of Court

By: _____
Kristine Isnardi, Chair
(as approved by the Board on ____/____/____)

ORDINANCE NO. 2019-_____

Fitchett
ccB
meeting
H.4.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA AMENDING CHAPTER 14 OF THE BREVARD COUNTY CODE OF ORDINANCES, "ANIMALS"; CREATING A NEW SECTION IN ARTICLE II OF CHAPTER 14, SECTION 14-64, "RETAIL SALE OF DOGS AND CATS AT PET STORES"; PROHIBITING THE RETAIL SALE OF DOGS AND CATS AT PET STORES UNLESS THE ANIMAL IS FROM AN ANIMAL SHELTER, ANIMAL RESCUE ORGANIZATION, HOBBY BREEDER OR LICENSED COMMERCIAL BREEDER PROVIDING FOR DEFINITIONS; PROVIDING FOR PENALTIES; PROVIDING FOR EXEMPTIONS; PROVIDING FOR AN AREA ENCOMPASSED; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section (1)(g) of the Florida Constitution and Section 125.01, Florida Statutes (2018), the Board of County Commissioners of Brevard County, Florida (hereinafter the "Board"), has broad authority to enact ordinances not inconsistent with general law or with special laws approved by the vote of the electors; and

WHEREAS, at the Federal level, the United States Department of Agriculture is responsible for enforcing the Animal Welfare Act, which establishes minimum standards of care for dogs bred for sale; and

WHEREAS, at the State level, Chapter 828, Florida Statutes (2018), deals with animal cruelty, animal sales, and animal protection regulations, but does not explicitly regulate all breeding facilities which may be referred to as "puppy mills" or "kitten factories," where dogs and cats are mass-produced for sale to the public, including through sale at pet stores; and

WHEREAS, puppy mills disregard the health of dogs in order to maintain a low overhead and maximize profits;¹ and

WHEREAS, the documented abuses endemic to puppy mills and kitten factories include over-breeding; inbreeding; minimal to non-existent veterinary care; lack of adequate and nutritious food, water and shelter; lack of socialization; lack of adequate space; and lack of adequate exercise; and

WHEREAS, socialization is critically important for the emotional health of dogs;² and

¹See, *Avenson v. Zegart*, 577 F.Supp. 958, 960 (D. Minn. 1984).

²See, generally, 9 C.F.R. § 3.8(c)(2) (2018); see, generally, American Veterinary Medical Association (AVMA), *Model Bill and Regulations to Assure Appropriate Care for Dogs Intended for Use as Pets*, available at:

WHEREAS, dogs and cats, due to their sentience and capability of feeling, perception, and affection, ought to be afforded certain protections not necessarily afforded to non-sentient creatures; and

WHEREAS, according to the Humane Society of the United States, there are an estimated ten thousand puppy mills in the United States and, on an annual basis, around two million three hundred thousand puppies who originated from these puppy mills are sold throughout the country, while roughly three million cats and dogs are euthanized by shelters every year in the United States;³ and

WHEREAS, due to poor conditions at these mills, dogs and cats are often sick, subjected to inhumane conditions, and suffer from painful and/or life-limiting congenital disorders;⁴ and

WHEREAS, consumers unknowingly purchase mill-bred puppies or kittens from places like pet stores believing that the animal is healthy and genetically sound, only to find out that the dog or cat will often face an array of health problems, including communicable diseases and/or genetic disorders, that present themselves immediately or soon after sale, or that do not surface for years, costing the owner hundreds or thousands of dollars in expensive veterinary treatment;⁵ and

WHEREAS, the DeSoto County Board of County Commissioners recently recognized that Florida has the highest number of consumer complaints submitted to the Humane Society regarding sick puppies purchased from puppy mills;⁶ and

WHEREAS, Lyndsay Cole, a spokeswoman for the United States Department of Agriculture Animal and Plant Health Inspection Service (hereinafter the “Animal Inspection Service”), explained that a substantial recent drop in citations to research facilities, breeders,

<https://www.avma.org/KB/Policies/Pages/Model-Bill-and-Regulations-to-Assure-Appropriate-Care-for-Dogs-Intended-for-Use-as-Pets.aspx> (last visited Feb. 28, 2019).

³The Humane Society of the United States, *Puppy Mills: Facts and Figures – August 2018*, available at: <https://www.humanesociety.org/sites/default/files/docs/Puppy%20Mill%20Facts%20and%20Figures%20August%202018.pdf> (last visited: Feb. 28, 2019).

⁴The Humane Society of the United States, *Puppy Mills and the Animal Welfare Act*, p. 1, available at: <https://www.humanesociety.org/sites/default/files/docs/puppy-mills-awa-booklet-lores.pdf> (last visited: Feb. 28, 2018).

⁵The Humane Society of the United States, *Puppy Buyer Complaints – A Ten Year Summary 2007-2017*, available at: <https://www.humanesociety.org/sites/default/files/docs/2018-puppy-buyers-complaint.pdf> (last visited Dec. 28, 2018).

⁶DeSoto County Code of County Ordinances, Chapter 4, Article III, Section 4-71, adopted on July 25, 2017, via Ordinance 2017-11, available at:

https://librarystage.municode.com/fl/desoto_county/codes/code_of_ordinances?nodeId=COOR_CH4ANCO_ARTIII_IRESADOCARA_S4-71FI (last visited Feb. 28, 2019).

exhibitors, and dealers could be attributed, in part, to a shortage of Animal Inspection Service inspectors;⁷ and

WHEREAS, inspection by the Animal Inspection Service does not ensure compliance with any applicable State statute(s) governing the humane treatment of animals, including, but not limited to, Section 828.12, Florida Statutes, “Cruelty to animals”; Section 828.126, Florida Statutes, “Sexual activities involving animals”; Section 828.13, Florida Statutes, “Confinement of animals without sufficient food, water, or exercise; abandonment of animals”; and, Section 828.16, Florida Statutes, “Contagious diseases”; and

WHEREAS, due to a publicly acknowledged shortage of inspectors and due to being tasked with enforcing only certain federal regulations, relying solely upon Animal Inspection Service inspections to ensure the ethical and humane treatment of animals is inadequate; and

WHEREAS, neither Brevard County nor the Brevard County Sheriff’s Office has any legal authority upon which to inspect or directly regulate out-of-county commercial breeders or brokers; and

WHEREAS, it is routine practice for pet stores operating within Brevard County to source puppies and kittens from out-of-county commercial breeders or brokers; and

WHEREAS, while the Board recognizes that not all dogs and cats sold in pet stores are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to pet stores as the operator of a puppy mill or kitten factory, it is the belief of the Board that puppy mills and kitten factories continue to exist, at least in part, because of public demand for dogs and cats offered for sale at pet stores, and that the most effective way to stop puppy mills and kitten factories is to discourage the purchase and sale of animals produced at those inhumane facilities; and

WHEREAS, even the most ethical and humane treatment of puppies and kittens following procurement from out-of-county commercial breeders and brokers does nothing to disincentive sub-standard unethical and inhumane conditions at out-of-county breeding locations; and

WHEREAS, the procurement of puppies and kittens by local pet stores from *unlicensed breeders* out-of-county subject to nonexistent or ineffective local regulation may actively encourage an abusive industry and incentivize that industry’s inhumane practices; and

WHEREAS, the Board has determined that an effective tool to reduce and, ultimately, eliminate the retail market for dogs and cats bred through puppy mills and kitten factories is to

⁷Karin Brulliard, *The USDA is issuing far fewer citations to zoos, labs and breeders for animal welfare violations*, WASH. POST (Feb. 26, 2019), <https://www.washingtonpost.com/science/2019/02/26/usda-is-issuing-far-fewer-citations-zoos-labs-breeders-animal-welfare-violations/> (last visited Feb. 28, 2019).

encourage that pet stores utilize an adoption-based business model, which ensures that the animals sold by retail outlets are sourced from shelters or animal rescue organizations, *local* hobby breeders, *or licensed commercial breeders* encouraging the adoption of homeless pets and reducing the financial and emotional toll on consumers who purchase mill-bred pets with latent physical and behavioral problems; and

WHEREAS, this Ordinance does not affect a consumer's ability to obtain a dog or cat of his or her choice directly from an animal rescue organization (including, but not limited to, breed-specific animal rescue organizations) or animal shelter, or reputable hobby breeder where the consumer can directly see the conditions in which the dogs or cats are bred, or can confer directly with the breeder concerning said conditions; and

WHEREAS, due to inadequate regulations governing the retail sale of dogs and cats in Brevard County, the Board finds that prohibiting the retail sale of dogs and cats *in pet stores where the pet store representative does not make annual visits in person to the licensed commercial breeding facility* will promote community awareness of the plight of animals in puppy mills and kitten factories and, in turn, will foster a more humane environment, as well as encourage consumers to adopt dogs and cats from shelters and rescue organizations, thereby saving the lives of animals while reducing the cost to the public of sheltering or euthanizing animals.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Brevard County, Florida, as follows:

Section 1. Amendments to Chapter 14 of the Brevard County Code of Ordinances. Chapter 14 is hereby amended to include the following provisions:

Section 14-64. Reserved. is now hereby entitled **Section 14-64. Retail Sale of Dogs and Cats at Pet Stores.** and shall read as follows:

Section 14-64. Retail Sale of Dogs and Cats at Pet Stores.

(a) *Definitions.* The following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to them below or as defined in Section 14-36 of the Brevard County Code of Ordinances, except where the context clearly indicates a different meaning:

Animal rescue organization means a duly incorporated nonprofit organization, properly organized under Section 501(c)(3) of the Internal Revenue Code, devoted to the rescue, care, humane treatment, and adoption of stray, abandoned, or surrendered animals, and does not

intentionally or willfully breed animals. *Any 501(c)(3) entity that buys or sells dogs or cats for profit will be classified as a broker or breeder.*

Animal shelter shall have the same meaning as defined in Section 14-36 of the Brevard County Code of Ordinances. The term includes neither any entity that willfully causes dogs or cat to reproduce nor any broker. *Any animal shelter organization, as defined above, that buys or sells dogs or cats for profit will be classified as a broker or breeder.*

Breeder means any person or entity that causes dogs or cats to reproduce, either willfully or through failure to exercise due care and control, regardless of the size or number of litters produced. Any person or entity offering male dogs or cats for stud purposes will be classified as a breeder. This classification will not apply to a hobby breeder, as defined in this Section, or to a pet owner who breeds his or her own pets and keeps all of the offspring.

Broker means any person or entity that obtains dogs or cats, for payment or compensation, from one or more breeders and subsequently transfers said dogs or cats for resale by a pet store. This does not include hobby breeders, as defined below.

Cat means an animal of any age that is a member of *Felis Catus*, or any genetic hybridization of this species, not under the jurisdiction of the Florida Fish and Wildlife Conservation Commission.

Dog means an animal of any age that is a member of *Canus Lupus Familiaris*, or any genetic hybridization of this species, not under the jurisdiction of the Florida Fish and Wildlife Conservation Commission.

Hobby Breeder means any person or entity that causes or allows the breeding of dogs or cats resulting in no more than forty-eight offspring per year, *four breeding females maximum.*

Licensed Commercial Breeder means any person or entity that has 5 or more breeding females and sells the offspring

to pet stores, brokers, research facilities or over the internet sight unseen and are licensed through the USDA and the State which the licensed commercial breeder is located.

Official certificate of veterinary inspection, which is defined in Section 828.29, Florida Statutes (2018), as may be amended, means a legible certificate of veterinary inspection signed by the examining veterinarian licensed by the state of origin and accredited by the United States Department of Agriculture, that shows:

- (1) the age, sex, breed, color, and health records of the dog or cat;
- (2) the printed or typed names and addresses of the person or business from whom the animal was obtained, the consignor or seller, the consignee or purchaser, and the examining veterinarian, and the veterinarian's license number;
- (3) a list of all vaccines and deworming medications administered to the dog or cat, including the manufacturer, vaccine, type, lot number, expiration date, and the dates of administration thereof;
- (4) that the examining veterinarian warrants that, to the best of his or her knowledge, the animal has no sign of contagious or infectious diseases and has no evidence of internal or external parasites, including coccidiosis and ear mites, but excluding fleas and ticks.

The veterinarian shall be responsible for filling out the official certificate of veterinary inspection in accordance with Florida law.

Pet store means any retail establishment that: (1) has obtained a tax receipt, (2) is open to the public, and (3) sells or transfers, or offers for sale or transfer, dogs or cats, regardless of the age of the dog or cat, or the physical location of the animal. Such an establishment may be a permanent, temporary, or virtual establishment.

Retail sale means a sale, regardless of whether any exchange of consideration for the animal takes place at the same time or location. This term includes, but is not limited to: offering for sale; auctioning; bartering; displaying for

sale, adoption, or re-home; exchanging for compensation; giving away; trading; delivering; advertising for sale; or otherwise disposing of dogs or cats to a person in a pet store or in association with a pet store.

(b) Intent.

1. The intent of this Section is to prohibit the retail sale of commercially bred dogs and cats from puppy mills and kitten factories at pet stores. Rather, an adoption-based business model shall be *encouraged* for the retail sale of dogs or cats at pet stores in Brevard County, whereby all dogs or cats must be sourced from an animal shelter, animal rescue organization, *local* hobby breeder *or a licensed commercial breeder who has been visited annually by a pet store representative*.
2. The Board finds it reasonable and necessary to establish regulations regarding the sale of cats and dogs at pet stores to protect the health, safety, and welfare of both animals and pet owners. Furthermore, the Board finds these regulations will encourage pet consumers to obtain dogs and cats from animal shelters, animal rescue organization, *local* hobby breeders *or a licensed commercial breeder who has been visited annually by a pet store representative* thereby saving the lives of animals and reducing the cost to the public of sheltering and euthanizing animals.
3. The Board intends for this Section to conform with and supplement Chapter 828, Florida Statutes, as may be amended, relating to animal cruelty, animal sales, and animal protection regulations.

(c) Retail Sale of Dogs and Cats at Pet Stores.

1. No pet store shall offer dogs or cats for sale in Brevard County, unless the dog or cat was obtained from an animal shelter, animal rescue organization, *local* hobby breeder *or a licensed commercial breeder who has been visited annually by a pet store representative*.
2. Any dog or cat offered for sale in Brevard County must be accompanied by an official certificate of veterinary

inspection issued by a licensed, accredited veterinarian. Upon sale, a copy of the certificate must be given to the buyer and the seller must retain one copy of the certificate for at least one year after the date of sale.

3. Pet stores shall maintain records that include the name, address, telephone number, and email address of the animal shelter, animal rescue organization, *or an annually visited licensed commercial breeder* from which each dog or cat was acquired for three years following the date of acquisition from the animal shelter, animal rescue organization, *or annually visited licensed commercial breeder. All pet stores are encouraged to post and handout the Florida Pet Lemon Law. Florida Lemon Law shall be followed. Pet stores are encouraged to post the following information for each dog and cat for sale;*

- 1) *Breed*
- 2) *ID number*
- 3) *Name of breeder, City and State*
- 4) *USDA number*

4. Any such records shall be made available, immediately upon request, to the County's animal control authority or any other County official(s) charged with enforcing the provisions of this Section.

(d) *Adoption of Shelter and Rescue Animals.* Nothing in this Section shall prevent a pet store, its owner(s), operator(s), or employee(s), from providing space and appropriate care for animals owned by an animal shelter or animal rescue organization, and maintained at the pet store for the purpose of adopting those animals to the public.

(e) *Adoption Fee(s).* Nothing in this Section shall be construed to prohibit an animal rescue organization or an animal shelter from recovering or offsetting costs, including feeding, sheltering, or providing care for an animal by means of an adoption fee.

(f) *Enforcement and Penalties.*

1. Any pet store found to be in violation of this Section may be subject to any applicable enforcement mechanism(s)

available to the County. Such mechanisms may include, but are not limited to: prosecuting a violation of this Section in the same manner as a misdemeanor, as provided in Section 125.69, Florida Statutes (2018), as may be amended; prosecuting a violation of this Section in accordance with Section 1-7 of the Brevard County Code of Ordinances; and other forms of relief as may be granted by a court of competent jurisdiction.

2. Each animal produced, reared, bred, kept, sold, or released in violation of this Section will be deemed a separate offense, and a separate offense will be deemed committed on each day during which a violation occurs or continues to occur.

(g) *Area Encompassed.* This Section shall apply throughout the incorporated and unincorporated areas of the County. A municipal ordinance shall prevail over this Section within the municipality's jurisdiction to the extent of any conflict with this Section.

(h) *Applicability.* This Section shall take effect one month after the date of its adoption. However, any individual or entity with a business tax receipt from the County for the retail sale of dogs or cats, issued on or before the date this Section is adopted, shall be given a twelve-month grace period from the date of adoption before being subject to the regulations provided for in this Section.

Section 2. Inclusion in Code. It is the intention of the Board that the provisions of this Ordinance shall become and be made part of the Brevard County Code of Ordinances, and that the sections of this Ordinance may be renumbered or re-lettered and that the word "Ordinance" may be changed to "Chapter," "Section," "Article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 3. Conflict. In the case of a direct conflict between any provision of this Ordinance and a provision of County law, rule, or regulation, the more restrictive shall apply.

Section 4. Severability. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this 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 5. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. Unless specified otherwise, this Ordinance shall take effect upon adoption and filing as required by law.

DONE, ORDERED, AND ADOPTED in Regular Session, this ____ day of _____, 2019.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: _____
Scott Ellis, Clerk of Court

By: _____
Kristine Isnardi, Chair
(as approved by the Board on ____/____/____)

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA AMENDING CHAPTER 14 OF THE BREVARD COUNTY CODE OF ORDINANCES, "ANIMALS"; CREATING A NEW SECTION IN ARTICLE II OF CHAPTER 14, SECTION 14-64, "RETAIL SALE OF DOGS AND CATS AT PET STORES"; PROHIBITING THE RETAIL SALE OF DOGS AND CATS AT PET STORES UNLESS THE ANIMAL IS FROM AN ANIMAL SHELTER, ANIMAL RESCUE ORGANIZATION, OR HOBBY BREEDER; PROVIDING FOR DEFINITIONS; PROVIDING FOR PENALTIES; PROVIDING FOR EXEMPTIONS; PROVIDING FOR AN AREA ENCOMPASSED; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section (1)(g) of the Florida Constitution and Section 125.01, Florida Statutes (2018), the Board of County Commissioners of Brevard County, Florida (hereinafter the "Board"), has broad authority to enact ordinances not inconsistent with general law or with special laws approved by the vote of the electors; and

WHEREAS, at the Federal level, the United States Department of Agriculture is responsible for enforcing the Animal Welfare Act, which establishes minimum standards of care for dogs bred for sale; and

WHEREAS, at the State level, Chapter 828, Florida Statutes (2018), deals with animal cruelty, animal sales, and animal protection regulations, but does not explicitly regulate all breeding facilities which may be referred to as "puppy mills" or "kitten factories," where dogs and cats are mass-produced for sale to the public, including through sale at pet stores; and

WHEREAS, puppy mills disregard the health of dogs in order to maintain a low overhead and maximize profits;¹ and

WHEREAS, the documented abuses endemic to puppy mills and kitten factories include over-breeding; inbreeding; minimal to non-existent veterinary care; lack of adequate and nutritious food, water and shelter; lack of socialization; lack of adequate space; and lack of adequate exercise; and

WHEREAS, socialization is critically important for the emotional health of dogs;² and

¹See, *Avenson v. Zegart*, 577 F.Supp. 958, 960 (D. Minn. 1984).

²See, generally, 9 C.F.R. § 3.8(c)(2) (2018); see, generally, American Veterinary Medical Association (AVMA), *Model Bill and Regulations to Assure Appropriate Care for Dogs Intended for Use as Pets*, available at:

WHEREAS, dogs and cats, due to their sentience and capability of feeling, perception, and affection, ought to be afforded certain protections not necessarily afforded to non-sentient creatures; and

WHEREAS, according to the Humane Society of the United States, there are an estimated ten thousand puppy mills in the United States and, on an annual basis, around two million three hundred thousand puppies who originated from these puppy mills are sold throughout the country, while roughly three million cats and dogs are euthanized by shelters every year in the United States;³ and

WHEREAS, due to poor conditions at these mills, dogs and cats are often sick, subjected to inhumane conditions, and suffer from painful and/or life-limiting congenital disorders;⁴ and

WHEREAS, consumers unknowingly purchase mill-bred puppies or kittens from places like pet stores believing that the animal is healthy and genetically sound, only to find out that the dog or cat will often face an array of health problems, including communicable diseases and/or genetic disorders, that present themselves immediately or soon after sale, or that do not surface for years, costing the owner hundreds or thousands of dollars in expensive veterinary treatment;⁵ and

WHEREAS, the DeSoto County Board of County Commissioners recently recognized that Florida has the highest number of consumer complaints submitted to the Humane Society regarding sick puppies purchased from puppy mills;⁶ and

WHEREAS, Lyndsay Cole, a spokeswoman for the United States Department of Agriculture Animal and Plant Health Inspection Service (hereinafter the “Animal Inspection Service”), explained that a substantial recent drop in citations to research facilities, breeders,

<https://www.avma.org/KB/Policies/Pages/Model-Bill-and-Regulations-to-Assure-Appropriate-Care-for-Dogs-Intended-for-Use-as-Pets.aspx> (last visited Feb. 28, 2019).

³The Humane Society of the United States, *Puppy Mills: Facts and Figures – August 2018*, available at: <https://www.humanesociety.org/sites/default/files/docs/Puppy%20Mill%20Facts%20and%20Figures%20August%202018.pdf> (last visited: Feb. 28, 2019).

⁴The Humane Society of the United States, *Puppy Mills and the Animal Welfare Act*, p. 1, available at: <https://www.humanesociety.org/sites/default/files/docs/puppy-mills-awa-booklet-lores.pdf> (last visited: Feb. 28, 2018).

⁵The Humane Society of the United States, *Puppy Buyer Complaints – A Ten Year Summary 2007-2017*, available at: <https://www.humanesociety.org/sites/default/files/docs/2018-puppy-buyers-complaint.pdf> (last visited Dec. 28, 2018).

⁶DeSoto County Code of County Ordinances, Chapter 4, Article III, Section 4-71, adopted on July 25, 2017, via Ordinance 2017-11, available at: https://librarystage.municode.com/fl/desoto_county/codes/code_of_ordinances?nodeId=COOR_CH4ANCO_ARTIIIRESADOCARA_S4-71FI (last visited Feb. 28, 2019).

exhibitors, and dealers could be attributed, in part, to a shortage of Animal Inspection Service inspectors;⁷ and

WHEREAS, inspection by the Animal Inspection Service does not ensure compliance with any applicable State statute(s) governing the humane treatment of animals, including, but not limited to, Section 828.12, Florida Statutes, “Cruelty to animals”; Section 828.126, Florida Statutes, “Sexual activities involving animals”; Section 828.13, Florida Statutes, “Confinement of animals without sufficient food, water, or exercise; abandonment of animals”; and, Section 828.16, Florida Statutes, “Contagious diseases”; and

WHEREAS, due to a publicly acknowledged shortage of inspectors and due to being tasked with enforcing only certain federal regulations, relying solely upon Animal Inspection Service inspections to ensure the ethical and humane treatment of animals is inadequate; and

WHEREAS, neither Brevard County nor the Brevard County Sheriff’s Office has any legal authority upon which to inspect or directly regulate out-of-county commercial breeders or brokers; and

WHEREAS, it is routine practice for pet stores operating within Brevard County to source puppies and kittens from out-of-county commercial breeders or brokers; and

WHEREAS, while the Board recognizes that not all dogs and cats sold in pet stores are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to pet stores as the operator of a puppy mill or kitten factory, it is the belief of the Board that puppy mills and kitten factories continue to exist, at least in part, because of public demand for dogs and cats offered for sale at pet stores, and that the most effective way to stop puppy mills and kitten factories is to discourage the purchase and sale of animals produced at those inhumane facilities; and

WHEREAS, even the most ethical and humane treatment of puppies and kittens following procurement from out-of-county commercial breeders and brokers does nothing to disincentive sub-standard unethical and inhumane conditions at out-of-county breeding locations; and

WHEREAS, the procurement of puppies and kittens by local pet stores from out-of-county sources subject to nonexistent or ineffective local regulation may actively encourage an abusive industry and incentivize that industry’s inhumane practices; and

WHEREAS, the Board has determined that an effective tool to reduce and, ultimately, eliminate the retail market for dogs and cats bred through puppy mills and kitten factories is to

⁷Karin Brulliard, *The USDA is issuing far fewer citations to zoos, labs and breeders for animal welfare violations*, WASH. POST (Feb. 26, 2019), <https://www.washingtonpost.com/science/2019/02/26/usda-is-issuing-far-fewer-citations-zoos-labs-breeders-animal-welfare-violations/> (last visited Feb. 28, 2019).

~~require~~ *encourage* that pet stores utilize an adoption-based business model, which ensures that the animals sold by retail outlets are sourced from shelters or animal rescue organizations, or hobby breeders, encouraging the adoption of homeless pets and reducing the financial and emotional toll on consumers who purchase mill-bred pets with latent physical and behavioral problems; and

WHEREAS, this Ordinance does not affect a consumer's ability to obtain a dog or cat of his or her choice directly from an animal rescue organization (including, but not limited to, breed-specific animal rescue organizations) or animal shelter, or reputable hobby breeder where the consumer can directly see the conditions in which the dogs or cats are bred, or can confer directly with the breeder concerning said conditions; and

WHEREAS, due to inadequate regulations governing the retail sale of dogs and cats in Brevard County, the Board finds that prohibiting the retail sale of dogs and cats in pet stores in the County will promote community awareness of the plight of animals in puppy mills and kitten factories and, in turn, will foster a more humane environment, as well as encourage consumers to adopt dogs and cats from shelters and rescue organizations, thereby saving the lives of animals while reducing the cost to the public of sheltering or euthanizing animals.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Brevard County, Florida, as follows:

Section 1. Amendments to Chapter 14 of the Brevard County Code of Ordinances. Chapter 14 is hereby amended to include the following provisions:

Section 14-64. Reserved. is now hereby entitled **Section 14-64. Retail Sale of Dogs and Cats at Pet Stores.** and shall read as follows:

Section 14-64. Retail Sale of Dogs and Cats at Pet Stores.

(a) Definitions. The following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to them below or as defined in Section 14-36 of the Brevard County Code of Ordinances, except where the context clearly indicates a different meaning:

Animal rescue organization means a duly incorporated nonprofit organization, properly organized under Section 501(c)(3) of the Internal Revenue Code, devoted to the rescue, care, humane treatment, and adoption of stray, abandoned, or surrendered animals, and does not intentionally or willfully breed animals. **This does not include any broker or any entity that obtains dogs or cats**

from any source for payment or compensation. While animal rescue organizations are entitled to seek adoption fees to offset costs incurred in rehabilitating and caring for animals, they are not entitled to otherwise seek to profit from the sale of animals.

Animal shelter shall have the same meaning as defined in Section 14-36 of the Brevard County Code of Ordinances. The term includes neither any entity that willfully causes dogs or cat to reproduce nor any broker. This does not include any entity that obtains dogs or cats from any source for payment or compensation. While animal shelters are entitled to seek adoption fees to offset costs incurred in rehabilitating and caring for animals, they are not entitled to otherwise seek to profit from the sale of animals.

Breeder means any person or entity that causes dogs or cats to reproduce, either willfully or through failure to exercise due care and control, regardless of the size or number of litters produced. Any person or entity offering male dogs or cats for stud purposes will be classified as a breeder. This classification will not apply to a hobby breeder, as defined in this Section, or to a pet owner who breeds his or her own pets and keeps all of the offspring.

Broker means any person or entity that obtains dogs or cats, for payment or compensation, from one or more breeders and subsequently transfers said dogs or cats for resale by a pet store. This does not include hobby breeders, as defined below.

Cat means an animal of any age that is a member of *Felis Catus*, or any genetic hybridization of this species, not under the jurisdiction of the Florida Fish and Wildlife Conservation Commission.

Dog means an animal of any age that is a member of *Canus Lupus Familiaris*, or any genetic hybridization of this species, not under the jurisdiction of the Florida Fish and Wildlife Conservation Commission.

Hobby Breeder means any person or entity that causes or allows the breeding of dogs or cats resulting in no more

than forty-eight offspring within a 12-month period while permitting consumers access to directly see the condition in which the dogs or cats are bred and raised, or can confer directly with the breeder concerning said conditions. Hobby breeder sales to pet stores are expressly conditioned upon compliance with any and all registration and inspection requirements lawfully enacted by any governmental entity or agency. The Brevard County Sheriff Office shall be the sole county authorized entity entitled to conduct any and all inspection(s) of hobby breeders. Nothing herein shall serve to prohibit the federal government (e.g., USDA) or the State of Florida from imposing additional registration and/or inspection requirements as may be lawfully enacted.

Official certificate of veterinary inspection, which is defined in Section 828.29, Florida Statutes (2018), as may be amended, means a legible certificate of veterinary inspection signed by the examining veterinarian licensed by the state of origin and accredited by the United States Department of Agriculture, that shows:

- (1) the age, sex, breed, color, and health records of the dog or cat;
- (2) the printed or typed names and addresses of the person or business from whom the animal was obtained, the consignor or seller, the consignee or purchaser, and the examining veterinarian, and the veterinarian's license number;
- (3) a list of all vaccines and deworming medications administered to the dog or cat, including the manufacturer, vaccine, type, lot number, expiration date, and the dates of administration thereof;
- (4) that the examining veterinarian warrants that, to the best of his or her knowledge, the animal has no sign of contagious or infectious diseases and has no evidence of internal or external parasites, including coccidiosis and ear mites, but excluding fleas and ticks.

The veterinarian shall be responsible for filling out the official certificate of veterinary inspection in accordance with Florida law.

Pet store means any retail establishment that: (1) has obtained a tax receipt, (2) is open to the public, and (3) sells or transfers, or offers for sale or transfer, dogs or cats, regardless of the age of the dog or cat, or the physical location of the animal. Such an establishment may be a permanent, temporary, or virtual establishment.

Retail sale means a sale, regardless of whether any exchange of consideration for the animal takes place at the same time or location. This term includes, but is not limited to: offering for sale; auctioning; bartering; displaying for sale, adoption, or re-home; exchanging for compensation; giving away; trading; delivering; advertising for sale; or otherwise disposing of dogs or cats to a person in a pet store or in association with a pet store.

(b) *Intent.*

- (1) The intent of this Section is to prohibit the retail sale of commercially bred dogs and cats from puppy mills and kitten factories at pet stores. Rather, an adoption-based business model shall be encouraged for the retail sale of dogs or cats at pet stores in Brevard County, whereby all dogs or cats must be sourced from an animal shelter, animal rescue organization, or hobby breeder.
- (2) The Board finds it reasonable and necessary to establish regulations regarding the sale of cats and dogs at pet stores to protect the health, safety, and welfare of both animals and pet owners. Furthermore, the Board finds these regulations will encourage pet consumers to obtain dogs and cats from animal shelters, animal rescue organization, or hobby breeders thereby saving the lives of animals and reducing the cost to the public of sheltering and euthanizing animals.
- (3) The Board intends for this Section to conform with and supplement Chapter 828, Florida Statutes, as may be amended, relating to animal cruelty, animal sales, and animal protection regulations.

(c) *Retail Sale of Dogs and Cats at Pet Stores.*

(1) No pet store shall offer dogs or cats for sale in Brevard County, unless the dog or cat was obtained from an animal shelter, animal rescue organization, or hobby breeder.

(2) Any dog or cat offered for sale in Brevard County must be accompanied by an official certificate of veterinary inspection issued by a licensed, accredited veterinarian. Upon sale, a copy of the certificate must be given to the buyer and the seller must retain one copy of the certificate for at least one year after the date of sale.

(3) Pet stores shall maintain records that include the name, address, telephone number, and email address of the animal shelter, animal rescue organization or hobby breeder from which each dog or cat was acquired for three years following the date of acquisition from the animal shelter, animal rescue organization or hobby breeder.

(4) Any such records shall be made available, immediately upon request, to the County's animal control authority or any other County official(s) charged with enforcing the provisions of this Section.

(d) *Adoption of Shelter and Rescue Animals.* Nothing in this Section shall prevent a pet store, its owner(s), operator(s), or employee(s), from providing space and appropriate care for animals owned by an animal shelter or animal rescue organization, and maintained at the pet store for the purpose of adopting those animals to the public.

(e) *Adoption Fee(s).* Nothing in this Section shall be construed to prohibit an animal rescue organization or an animal shelter from recovering or offsetting costs, including feeding, sheltering, or providing care for an animal by means of an adoption fee. *An itemized fee statement will be provided to buyer for each adoption.*

(f) *Prohibition on Retail Sale in Public Places.* There shall be no retail sale of dogs or cats on any public thoroughfare, public common areas, public parks, or other places of public accommodations, unless such animals are from an animal shelter, animal rescue organization, or hobby breeder. If applicable, the individual or entity responsible for running the event must obtain any and all applicable permits required by Federal, State, County, or municipal

law, rule, or regulation. The same rules, regulations, recordkeeping requirements, and limitations which apply to pet stores shall apply to any individual or entity responsible for running the event irrespective of whether said individual or entity is or should be in possession of a business tax receipt.

(g) *Enforcement and Penalties.*

(1) Any pet store found to be in violation of this Section may be subject to any applicable enforcement mechanism(s) available to the County. Such mechanisms may include, but are not limited to: prosecuting a violation of this Section in the same manner as a misdemeanor, as provided in Section 125.69, Florida Statutes (2018), as may be amended; prosecuting a violation of this Section in accordance with Section 1-7 of the Brevard County Code of Ordinances; and other forms of relief as may be granted by a court of competent jurisdiction.

(2) Each animal produced, reared, bred, kept, sold, or released in violation of this Section will be deemed a separate offense, and a separate offense will be deemed committed on each day during which a violation occurs or continues to occur.

(h) *Area Encompassed.* This Section shall apply throughout the incorporated and unincorporated areas of the County. A municipal ordinance shall prevail over this Section within the municipality's jurisdiction to the extent of any conflict with this Section.

(i) *Applicability.* This Section shall take effect one month after the date of its adoption. However, any individual or entity with a business tax receipt from the County for the retail sale of dogs or cats, issued on or before the date this Section is adopted, shall be given a twelve-month grace period from the date of adoption before being subject to the regulations provided for in this Section.

Section 2. Inclusion in Code. It is the intention of the Board that the provisions of this Ordinance shall become and be made part of the Brevard County Code of Ordinances, and that the sections of this Ordinance may be renumbered or re-lettered and that the word "Ordinance"

may be changed to "Chapter," "Section," "Article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 3. Conflict. In the case of a direct conflict between any provision of this Ordinance and a provision of County law, rule, or regulation, the more restrictive shall apply.

Section 4. Severability. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this 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 5. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. Unless specified otherwise, this Ordinance shall take effect upon adoption and filing as required by law.

DONE, ORDERED, AND ADOPTED in Regular Session, this ____ day of _____, 2019.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: _____
Scott Ellis, Clerk of Court

By: _____
Kristine Isnardi, Chair
(as approved by the Board on __/__/__)