

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, ADOPTING AN AMENDMENT TO TITLE 4 OF THE DEL MAR MUNICIPAL CODE BY ADDING A NEW CHAPTER 4.09 TO REGULATE THE RETAIL SALE OF DOGS, CATS AND RABBITS IN THE CITY OF DEL MAR

WHEREAS, On_____, 2017 the City Council conducted a public hearing for the purpose of considering regulations on the retail sale of dogs, cats and rabbits; and

WHEREAS, the City Council has duly considered all public testimony and the evaluation and recommendation by staff, presented at said hearing; and

WHEREAS, the Council finds that the sale of dogs, cats, and rabbits from commercial breeders contributes to the proliferation of homeless or unwanted animals that end up in the public animal shelters and humane societies; and

WHEREAS, the need exists to regulate pet shops, retail businesses, and other commercial establishments that may sell dogs, cats and rabbits; and

WHEREAS, existing federal and state laws, including the federal Animal Welfare Act, the California Lockyer-Polanco-Farr Pet Protection Act, the California Polanco-Lockyer Pet Breeder Warranty Act, and the California Pet Store Animal Care Act, illustrate society's trend towards promoting the humane treatment of animals by regulating dog and cat breeders, as well as pet shops and stores; and

WHEREAS, according to the Humane Society of the United States, hundreds of thousands of dogs and cats in the United States have been housed and bred at substandard breeding facilities known as "puppy mills" or "kitten factories" that mass-produce animals for sale to the public, and many of these animals are sold at retail in pet shops; and

WHEREAS, because of the lack of proper animal husbandry practices at these facilities, animals born and raised at these "puppy mills" or "kitten factories" are more likely to have genetic disorders and lack adequate socialization, while breeding animals utilized there are subjected to inhumane housing conditions and are indiscriminately disposed of when they reach the end of their profitable breeding cycle; and

WHEREAS, Rabbits, too, are commonly bred for retail sale in very inhumane conditions ("rabbit mills"), and rabbits are commonly purchased impulsively through pet stores and are often subsequently relinquished to shelters; and

WHEREAS, prohibiting the unregulated sale of dogs, cats and rabbits in pet shops, retail businesses, or other commercial establishments may lower the sale of these animals from "mills," may lower the shelter animal euthanasia rate, and lead to a greater adoption rate of shelter animals; and

WHEREAS, while the City Council recognizes there are many reputable, responsible dog, cat and rabbit breeders who refuse to sell through pet shops and who work carefully to screen families and ensure good, lifelong matches; and

WHEREAS, not all dogs, cats and rabbits retailed in pet shops are products of inhumane breeding conditions, it is the City Council's belief that puppy mills and kitten and rabbit factories continue to exist in part because of public demand and the sale of dogs, cats and rabbits in pet shops, retail businesses, and other commercial establishments; and

WHEREAS, the City seeks to prohibit the retail sale of dogs, cats and rabbits in pet shops, retail businesses, and commercial establishments unless the animals are obtained from a city or county animal shelter or animal control agency, humane society, or non-profit rescue organization; and

WHEREAS, the City Council believes that prohibiting the retail sale of dogs, cats and rabbits obtained from sources other than a city or county animal shelter or animal control agency, humane society, or non-profit rescue organization will promote community awareness and encourage pet consumers to adopt dogs, cats and rabbits from a city or county animal shelter or animal control agency, humane society, or non-profit rescue organization, thereby saving animals' lives; and

WHEREAS, the City Council finds that, in addition to state and federal laws, the City of Del Mar has a local responsibility to promote animal welfare and encourage best practices in the breeding and purchasing of dogs, cats and rabbits; and

WHEREAS, The City Council believes that a community that promotes animal welfare will be a healthier community;

NOW, THEREFORE, the City Council of the City of Del Mar, California, hereby ordains as follows:

SECTION ONE:

The following provisions are hereby added to the Del Mar Municipal Code, to read as follows:

SEE EXHIBIT "A"

SECTION TWO: ENVIRONMENTAL DETERMINATION.

The City Council, in its independent judgment, finds that the adoption of the Municipal Code Amendment is exempt from environmental review pursuant to General Rule,

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Section 15061 (b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

SECTION THREE: PUBLIC NOTICE AND EFFECTIVE DATE.

This Ordinance shall take effect and be in force thirty (30) days after its passage and the City Clerk of the City of Del Mar is hereby authorized to use summary publication procedures pursuant to Government Code Section 36933 utilizing the Del Mar Times, a newspaper of general circulation published in the City of Del Mar.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council held on the ____ day of ____ 2017.

Terry Sinnott, Mayor
City of Del Mar

APPROVED AS TO FORM:

Leslie E. Devaney, City Attorney
City of Del Mar

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ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, ASHLEY JONES, Administrative Services Director/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No.____, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the ____ day of _____, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ashley Jones, Administrative Services
Director/City Clerk
City of Del Mar

EXHIBIT "A"

CHAPTER 4.09

Retail Sale of Dogs, Cats and Rabbits (Ordinance No. ____)

Sections:

4.09.010 PURPOSE

4.09.020 DEFINITIONS

4.09.030 PROHIBITION OF THE SALE OF DOGS AND CATS

4.09.040 EXEMPTIONS 9.23.050 ADOPTION OF SHELTER AND RESCUE ANIMALS

Section 4.09.010 PURPOSE

A. It is the purpose and intent of the Del Mar City Council to promote animal welfare and encourage best practices in the breeding and purchasing of dogs, cats and rabbits if offered for retail sale in the City of Del Mar.

Section 4.09.020 DEFINITIONS

For the purposes of this Chapter only, the following words and terms shall be deemed to mean and be construed as follows:

A. "Certificate of source" shall mean any document from the source city or county animal shelter or animal control agency, humane society, or non-profit rescue organization declaring the source of the dog, cat or rabbit on the premises of the pet shop, retail business, or other commercial establishment.

B. "Commercial establishment" shall mean any business, including a sole proprietorship engaged in retail or wholesale commerce related to dogs, cats or rabbits, including grooming parlors, canine day care, and pet boarding facilities.

C. "Non-profit rescue organization" shall mean any California non-profit corporation that is exempt from taxation under Internal Revenue Code section 501(c)(3), whose mission and practice is, in whole or in significant part, the rescue and placement of dogs, cats or rabbits; or any non-profit organization that is not exempt from taxation under Internal Revenue Code section 501(c)(3), but is currently an active rescue partner with City of Del Mar or County of San Diego shelter or humane society, whose mission is, in whole or in significant part, the rescue and placement of dogs, cats or rabbits.

Section 4.09.030 PROHIBITION OF THE SALE OF DOGS, CATS AND RABBITS

A. It is unlawful for any person to display, offer for sale, deliver, barter, auction, give away, transfer, or sell any live dog, cat or rabbit in any pet shop, retail business, or other commercial establishment located in the City of Del Mar, unless the dog, cat or rabbit was obtained from a city or county animal shelter or animal control agency, a

humane society, or a non-profit rescue organization. All pet shops, retail businesses, or other commercial establishments selling dogs, cats or rabbits shall maintain a certificate of source for each animal offered for sale and make it available upon request to animal control officers, law enforcement, code enforcement officials, or any other City employee charged with enforcing the provisions of this section.

Section 4.09.040 EXEMPTIONS

The provisions of this Ordinance _____ shall not apply to the following:

- A. The display, offer for sale, delivery, bartering, auction, giving away, transfer, or sale of dogs, cats or rabbits from the premises on which they were born and reared.
- B. An animal control enforcement agency or animal shelter.
- C. A private, charitable, nonprofit humane society or animal rescue organization.
- D. A publicly operated animal shelter, nonprofit animal humane society, or nonprofit animal rescue organization that operates out of or in connection with a pet store, which has received approval from the City to display, offer for sale, deliver, barter, auction, give away, transfer, or sell dogs, cats or rabbits, on a finding by the City that allowing the exemption is consistent with the intent and purpose of this Ordinance. The approval and finding shall be made by the City Manager subject to appeal to the City Council pursuant to the process set forth in Chapter 1.12 of the Municipal Code or such other procedure specified by the City Council.

Section 4.09.050 ADOPTION OF SHELTER AND RESCUE ANIMALS

Nothing in this section shall prevent the owner, operator, or employees of a pet shop, retail business, or other commercial establishment located in the City of Del Mar from providing space and appropriate care for animals owned by a city or county animal shelter or animal control agency, humane society, or non-profit rescue organization and maintaining those animals at the pet shop, retail business, or other commercial establishment for the purpose of public adoption.

Section 4.09.060 ENFORCEMENT

Enforcement of this Chapter shall be pursuant to Chapter 1.08 of this municipal code.