

**VILLAGE OF DOWNERS GROVE**  
**Report for the Village Council Meeting**  
**3/5/2019**

<b>SUBJECT:</b>	<b>SUBMITTED BY:</b>
Regulations Restricting the Retail Sale of Dogs, Cats and Rabbits	David Fieldman Village Manager

**SYNOPSIS**

An ordinance has been prepared to restrict the retail sale of dogs, cats and rabbits in the Village of Downers Grove. Additionally, a resolution has been prepared in support of Senate Bill 2280 which would amend the Illinois Animal Welfare Act by restricting the retail sale of dogs, cats and rabbits in DuPage and Will Counties.

**STRATEGIC PLAN ALIGNMENT**

The goals for 2017-2019 include *Exceptional Municipal Services*.

**FISCAL IMPACT**

N/A

**UPDATE & RECOMMENDATION**

This item was discussed at the February 12, 2019 Village Council meeting. Based on Council discussion, the following updates have been made to the ordinance restricting the retail sale of dogs, cats and rabbits:

***Section 8.33. Definitions***

The definition of a Humane Society has been updated to “*Humane Society* means any chartered, not-for-profit organization authorized to do business in this State and organized for the purpose of preventing cruelty to animals and promoting humane care and treatment of animals.”

***Section 8.37. Amortization Period***

The amortization period has been updated to October 1, 2019.

***Section 8.38. Penalties***

The penalties have been updated to:

- A \$500 minimum and \$750 maximum for the first offense.
- A \$750 minimum and \$1,000 maximum for the second and each subsequent offense.
- A separate offense shall be deemed committed for every dog, cat or rabbit that is sold in violation of this Article.

In addition, the resolution prepared by staff in support of Senate Bill 2280 will not be presented to Council for approval. No further action can be taken on Senate Bill 2280 as the bill was not passed before the 100<sup>th</sup> Illinois General Assembly concluded and there is no legislation currently pending.

Staff recommends approval on the March 5, 2019 Active Agenda.

## **BACKGROUND**

At the January 8, 2019 meeting, Village staff presented potential options for regulating the sale of dogs, cats and rabbits in the Village of Downers Grove. The staff report detailing the options presented to Council can be found [here](#).

After Council deliberation and public comment, the Council directed Village staff to:

- 1) Draft an ordinance restricting the retail sale of dogs, cats and rabbits in the Village of Downers Grove.
- 2) Draft a resolution in support of Senate Bill 2280.

### *Ordinance restricting the retail sale of dogs, cats and rabbits*

The proposed ordinance has been crafted to meet the following objectives:

1. To protect dogs, cats and rabbits from improper use, abuse, neglect, inhumane treatment and health hazards.
2. To prevent dogs, cats and rabbits from being bred and housed in overcrowded and unsanitary conditions without adequate care, food, water, shelter, space, exercise and socialization (mill-bred).
3. To reduce health and behavioral issues as well as congenital and hereditary illness and disease seen in mill-bred dogs, cats and rabbits.
4. To reduce the financial and emotional costs on consumers who purchase a mill-bred dog, cat or rabbit which has health or behavioral issues.
5. To fill in gaps in Federal, State and County regulations as they do not properly address the sale of mill-bred dogs, cats and rabbits in pet stores.
6. To promote community awareness of animal welfare.

To meet these objectives the proposed ordinance would prohibit pet stores to sell dogs, cats or rabbits in the Village of Downers Grove unless the animals are obtained from an animal care facility, animal rescue organization or humane society.

In addition, any retail pet store that sells a dog, cat or rabbit must provide written disclosure that shall be signed by the retailer and customer at the time of sale. The retailer shall retain the original copy of such disclosure for two years after the time of sale, and the original copy shall be made immediately available to an authorized Village official upon request.

Happiness is Pets, located at 605 Ogden Avenue, is the only retail pet store that sells dogs, cats or rabbits in the Village of Downers Grove. The owner of Happiness is Pets recently moved the store to its current location and has invested resources into upgrading the facility. The store also has a lease agreement for this property ending on December 31, 2022. The proposed ordinance establishes an amortization period which would allow Happiness is Pets to operate with its current business model until the lease expires on December 31, 2022.

### *Support for Senate Bill 2280*

Senate Bill 2280 includes regulations for the sale of dogs, cats and rabbits in DuPage and Will Counties. This bill would allow pet shop operators to offer a dog, cat or rabbit for sale only if the pet shop operator

has obtained the dog, cat or rabbit from an animal facility operated by a subdivision of local, state or federal government, or a specified animal rescue organization. The provisions do not prohibit the county or a municipality in Will County or DuPage County from adopting requirements that are more protective of animal welfare than those set forth, and home rule units in Will County or DuPage County may adopt an ordinance explicitly exempting itself from the provisions.

There is no timetable for consideration of Senate Bill 2280. This Bill has been referred to Senate assignment and no further action has been taken.

**ATTACHMENTS**

Ordinance

VILLAGE OF DOWNERS GROVE  
COUNCIL ACTION SUMMARY

INITIATED: Village Attorney DATE: March 5, 2019  
(Name)

RECOMMENDATION FROM: \_\_\_\_\_ FILE REF: \_\_\_\_\_  
(Board or Department)

**NATURE OF ACTION:**

- Ordinance
- Resolution
- Motion
- Other

**STEPS NEEDED TO IMPLEMENT ACTION:**

Motion to Adopt "AN ORDINANCE REGULATING THE SALE OF CATS, DOGS AND RABBITS", as presented.



**SUMMARY OF ITEM:**

Adoption of the attached ordinance shall regulate the sale of cats, dogs and rabbits.

**RECORD OF ACTION TAKEN:**

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## Retail Pet Sales

**ORDINANCE NO. \_\_\_\_\_****AN ORDINANCE REGULATING THE SALE OF  
DOGS, CATS AND RABBITS**

WHEREAS, The Village of Downers Grove is a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois and as such may legislate as to matters which pertain to its local government affairs; and

WHEREAS, the Village Council of the Village of the Village of Downers Grove, pursuant to its home rule powers, has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and protect the public health, safety and welfare of its citizens; and

WHEREAS, a significant number of young dogs, cats and rabbits sold at pet stores come from large-scale commercial breeding facilities where the health and welfare of the animals are not adequately provided for ("puppy mills", "kitten mills" and "rabbit mills", respectively). According to the Humane Society of the United States, it is estimated that 10,000 puppy mills produce more than 2,400,000 puppies a year in the United States and that most pet store dogs and cats, and many pet store rabbits, come from puppy mills, kitten mills and rabbit mills; and

WHEREAS, the documented abuses in puppy and kitten mills 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. The inhumane conditions in puppy, kitten and rabbit mill facilities lead to health and behavioral issues in the animals bred in those facilities, which many consumers are unaware of when purchasing animals from pet stores due to both a lack of education on the issue and misleading tactics of pet stores in some cases. These health and behavioral issues, which may not present themselves until sometime after the purchase of the animals, can impose exorbitant financial and emotional costs on consumers; and

WHEREAS, current Federal, State and County regulations do not properly address the sale of puppy, kitten and rabbit mill animals in pet stores; and

WHEREAS, restricting the retail sale of puppies, kittens and rabbits to only those sourced from animal care facilities, rescue organizations or humane societies, is likely to decrease the demand for mill-bred puppies, kittens and rabbits; and

WHEREAS, this Ordinance will not affect a consumer's ability to obtain a dog, cat or rabbit of his or her choice directly from a breed-specific rescue organization or a shelter, or from a hobby breeder where the consumer can see directly the conditions in which the dogs, cats or rabbits are bred, and where the health, temperament and best interests of the animal are placed before profit; and where the breeder is committed to the animal for life; and

WHEREAS, the Village Council believes it is in the best interests of this Village to adopt reasonable regulations to reduce costs to the Village and its residents, protect the citizens of the Village who may purchase cats, dogs or rabbits from a pet store or other business establishment, help prevent inhumane breeding conditions, promote community awareness of animal welfare, and foster a more humane environment in the Village.

NOW, THEREFORE, BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by **shading**/underline; deletions

## Retail Pet Sales

by ~~strikeout~~):

**Section 1. That Section 8.31.17ART. is hereby amended to read as follows:**

**8.31.17ART. Article VII. Retail Sale of Dogs, Cats and Rabbits**

**Section 2. That Section 8.32. is hereby amended to read as follows:**

**8.32. Purpose.**

The purpose of this Ordinance includes the following:

1. To protect dogs, cats and rabbits from improper use, abuse, neglect, inhumane treatment and health hazards.
2. To prevent dogs, cats and rabbits from being bred and housed in overcrowded and unsanitary conditions without adequate care, food, water, shelter, space, exercise and socialization (mill-bred).
3. To reduce health and behavioral issues as well as congenital and hereditary illness and disease seen in mill-bred dogs, cats and rabbits.
4. To reduce the financial and emotional costs on consumers who purchase a mill-bred dog, cat or rabbit which has health or behavioral issues.
5. To fill in gaps in Federal, State and County regulations as they do not properly address the sale of mill-bred dogs, cats and rabbits in pet stores.
6. To promote community awareness of animal welfare.

**Section 3. That Section 8.33. is hereby added to read as follows:**

**8.33. Definitions.**

*Animal care facility* means an animal control center or animal shelter, maintained by or under contract with any state, county, or municipality, whose mission and practice is, in whole, or in significant part, the rescue and placement of animals in permanent homes or rescue organizations.

*Animal rescue organization* means any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue and placement of animals in permanent homes. This term does not include any entity which, is or is housed on the premises of, a breeder or broker, obtains dogs, cats or rabbits from a breeder or broker in exchange for payment or compensation, or resells dogs, cats or rabbits obtained from a breeder or broker and provides payment or compensation to such breeder or broker.

*Humane Society* means any chartered, not-for-profit organization authorized to do business in this State and organized for the purpose of preventing cruelty to animals and promoting humane care and treatment of animals.

*Offer for sale* means to sell, offer for sale or adoption, advertise for sale of, barter, auction, give away or otherwise dispose of a dog, cat or rabbit.

*Retail pet store* means a retail establishment where dogs, cats and rabbits are sold, exchanged, bartered or offered for sale as pet animals to the general public at retail. Such definition shall not include an animal care facility or animal rescue organization, as defined herein.

**Section 4. That Section 8.34. is hereby added to read as follows:**

**8.34. Restrictions on the Retail Sale of Dogs, Cats or Rabbits.**

No retail pet store shall sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or

## Retail Pet Sales

dispose of dogs, cats or rabbits unless said animals are obtained from an animal care facility, animal rescue organization or humane society.

**Section 5. Section 8.34ART. is hereby repealed in its entirety**

**8.34ART. Article IX. Reserved**

**Section 6. That Section 8.35. is hereby amended to read as follows:**

**8.35. Disclosures Required.**

Any retail pet store who offers for sale a dog, cat or rabbit shall make the following disclosures to the customer about such animal:

1. For each dog or cat: a written disclosure meeting all of the requirements set forth in Sections 3.5 or 3.15, as applicable, of the Animal Welfare Act, codified at 225 ILCS 605; and
2. For each rabbit: (i) the breed, approximate age, sex and color of the animal; (ii) the date and description of any inoculation or medical treatment that the animal received while under the possession of the retailer, (iii) the name and address of the location where the rabbit was born, rescued, relinquished or impounded; and (iv) if the rabbit was returned by a customer, the date of and reason for the return.

The disclosure required under this Section shall be provided by the retailer to the customer in written form and shall be signed by both the retailer and customer at the time of sale. The retailer shall retain the original copy of such disclosure and acknowledgment for a period of two (2) years from the date of sale. Upon request by an authorized Village official, the original copy of such disclosure and acknowledgment shall be made immediately available for inspection by such authorized Village official.

The retail pet store shall post, in writing, in a conspicuous place on or near the cage of any dog, cat or rabbit offered for sale all of the information about a dog, cat or rabbit required under this Section and other applicable law.

**Section 7. That Section 8.36. is hereby amended to read as follows:**

**8.36. Exceptions.**

The restrictions on retail pet stores set forth in Section 8.34 shall not apply to the following entities: An animal control center, animal care facility, kennel, pound or training facility operated by any subdivision of local, State or federal government; a humane society or rescue organization; or to any veterinary hospital or clinic licensed pursuant to the Veterinary Medicine and Surgery Practice Act of 2004, codified at 225 ILCS 115.

**Section 8. That Section 8.37. is hereby amended to read as follows:**

**8.37. Amortization Period.**

Any retail pet store which existed lawfully on the effective date of this Ordinance which remains or becomes non-conforming by reason of adoption of this Ordinance or because of subsequent amendments thereto, or which shall become non-conforming by reason of the annexation to the Village of the lot or parcel on which retail pet store is located, shall be considered a non-conforming retail pet store and the continued sale of dogs, cats or rabbits not obtained from an animal care facility, animal rescue organization or human

## Retail Pet Sales

society by the retail pet store shall be only as hereinafter permitted:

If a non-conforming retail pet store is located on property which is sold, with the full ownership of the property being transferred, the non-conforming retail pet store shall be brought into conformance with this Ordinance at the time of the transfer unless the business will continue to operate under the same name.

If a non-conforming retail pet store is abandoned or discontinued for a continuous period of thirty (30) days, it shall be discontinued and any subsequent retail pet store shall conform to all of the requirements of this Ordinance.

Notwithstanding the above, on or prior to October 1, 2019 all non-conforming retail pet stores shall be brought into conformance with this Ordinance. Said period shall for all purposes be deemed an appropriate amortization period for each and every non-conforming retail pet store presently located within the corporate limits of the Village or hereinafter located within the Village by reason of annexation into the Village of the lot or parcel on which the retail pet store is located. Such amortization period shall be non-compensated.

**Section 9. That Section 8.38. is hereby amended to read as follows:**

**8.38. Penalties.**

Any person or entity who shall be guilty of a violation of any of the provisions of this Article shall be subject to a fine of not less than five hundred dollars (\$500.00) nor more than seven hundred fifty dollars (\$750.00) for the first offense, and not less than seven hundred fifty dollars (\$750) nor more than one thousand dollars (\$1,000.00) for the second and each subsequent offence. A separate offense shall be deemed committed for every dog, cat or rabbit that is sold in violation of this Article.

**Section 10. That Section 8.39. is hereby amended to read as follows:**

**8.39. Severability.**

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance which shall continue in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

**Section 11. That Section 8.39ART. is hereby amended to read as follows:**

**8.39ART. Article VIII through Article XI. Reserved.**

**Section 12.** That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 13.** That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

\_\_\_\_\_  
Mayor

Passed:

Published:

Attest: \_\_\_\_\_

Village Clerk