



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.1.

12/10/2019

Subject:

Public Hearing amending Ordinance 2019-07, specifically amending Section 14-64(a), "Definitions"; amending Section 14-64(c)(3), "Retail Sale of Dogs and Cats at Pet Stores"; of Chapter 14, "Animals", of the Brevard County Code of Ordinances.

Fiscal Impact:

None

Dept/Office:

County Attorney's Office

Requested Action:

Approve the proposed Ordinance amending Chapter 14, "Animals" of the Brevard County Code of Ordinances, specifically amending Section 14-64(a), "Definitions"; and amending Section 14-64(c)(3), "Retail Sale of Dogs and Cats at Pet Stores"

Summary Explanation and Background:

On October 8, 2019, the Board held discussion and directed staff to develop an Ordinance amending Ordinance 2019-07 with changes to the definitions and retail sales sections of Chapter 14, "Animals", of the Brevard County Code of Ordinances. The changes related to: 1) requirements relating to USDA violations, 2) prior violations of Chapter 828, Florida Statutes and 3) removal of the breeder's name from the posting requirements.

The proposed ordinance and a comparison between the old and new Section 14-64 and 14-64(c) (3) are included in this report.

Options:

1. Approve amendments
2. Reject amendments
3. Propose modifications provided they are within the parameters provided by the advertisement for the amendments.

Clerk to the Board Instructions:

Return a copy of the executed Ordinance after it has been recorded with the State.



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

December 11, 2019

MEMORANDUM

TO: Eden Bentley, County Attorney

RE: Item H.1., Public Hearing Amending Ordinance 2019-07, Specifically Amending Section 14-64(a), Definitions; Amending Section 14-64(c)(3), Retail Sale of Dogs and Cats at Pet Stores; of Chapter 14, Animals, of the Brevard County Code of Ordinances

The Board of County Commissioners, in regular session on December 10, 2019, adopted Ordinance No. 19-27, amending Chapter 14, Animals of the Brevard County Code of Ordinances, specifically amending Section 14-64(a), Definitions, including removal of the word "unresolved"; deleting a section relating to Section 828 Florida Statutes; and amending Section 14-64(c)(3), Retail Sale of Dogs and Cats at Pet Stores, to include the City and State of origin. Enclosed is a certified copy of the Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/kp

Encl. (1)

cc: Each Commissioner



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

December 13, 2019

Honorable Scott Ellis
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your corrected electronic copy of Brevard County Ordinance No. 2019-27, which was filed in this office on December 13, 2019.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

ORDINANCE NO. 2019- 27

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 14 OF THE BREVARD COUNTY CODE OF ORDINANCES, "ANIMALS"; SPECIFICALLY AMENDING SECTION 14-64(a), "DEFINITIONS"; AMENDING SECTION 14-64(c)(3), "RETAIL SALE OF DOGS AND CATS AT PET STORES"; PROVIDING FOR AN AREA ENCOMPASSED; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on April 9, 2019, the Board of County Commissioners of Brevard County, Florida (hereinafter the "Board"), adopted Ordinance 2019-07 which generally prohibits the retail sale of dogs and cats at pet stores unless the animal is from an animal shelter, animal rescue, hobby breeder, or a commercial breeder licensed by the United States Department of Agriculture; and

WHEREAS, the Board has determined minor updates are needed to Ordinance 2019-07 in order to provide the public with continued access to information pertaining to dogs and cats, while ensuring these animals remain protected from harm or abuse; and

WHEREAS, all provisions adopted in Ordinance 2019-07 that are not amended or altered herein shall remain in full force and effect, including the effective date and applicable time period established by Section 14-64(i) of the Brevard County Code adopted in April 2019; and

WHEREAS, the Board finds that such changes serve the public health, safety, and welfare of the residents and animals of Brevard County.

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(a). Definitions. the term below is hereby amended to read as follows:

United States Department of Agriculture Licensed Commercial Breeder means any person or entity that has more than forty eight offspring within a 12 month period and sells the offspring to pet stores, brokers, research facilities or over the internet and are licensed through the United States Department of Agriculture and, if required, the state in which the licensed

Officially filed with the Secretary of State on December 13, 2019

commercial breeder is located and shall have no documented critical or direct noncompliant items (N.C.I.s) identified in a U.S.D.A. field inspector's report in the preceding 24 month period by any governmental agency or entity.

Section 14-64(c)(3). Retail Sale of Dogs and Cats at Pet Stores. is hereby amended to read as follows:

- (3) Pet stores shall maintain records that include the name, address, telephone number, and email address of the animal shelter, animal rescue organization, hobby breeder, or United States Department of Agriculture licensed commercial breeders, from which each dog or cat was acquired for three years following the date of acquisition from the animal shelter, animal rescue organization, hobby breeder, or United States Department of Agriculture licensed commercial breeders. Pet stores shall post in a conspicuous location the following information if an animal is from a commercial breeder: (1) Breed; (2) Unique animal identification number (3) City and state of origin; (4) United States Department of Agriculture licensee's certificate number. The posting requirements apply regardless of the animal's place of origin. Hobby Breeder information shall be given to owner if requested at purchase.

Section 2. Area Encompassed. This Ordinance shall apply County-wide.

Section 3. 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 4. 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 5. 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.

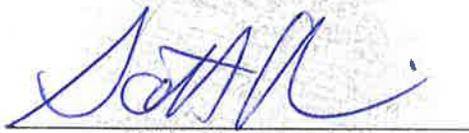
Section 6. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. Unless specified otherwise, this Ordinance shall take effect upon adoption and filing as required by law.

DONE, ORDERED, AND ADOPTED in Regular Session, this 10 day of December, 2019.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By:



A handwritten signature in blue ink, appearing to read 'Scott Ellis', written over a horizontal line.

Scott Ellis, Clerk of Court

By:



A handwritten signature in blue ink, appearing to read 'Bryan Andrew Lober', written over a horizontal line.

Bryan Andrew Lober, Chair

(as approved by the Board on 12/10/19)

Sec. 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 this Code, 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 this Code. 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.

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 state fish and wildlife conservation commission.

Dog means an animal of any age that is a member of *Canis Lupus Familiaris*, or any genetic hybridization of this species, not under the jurisdiction of the state 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 48 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 county sheriff's office shall be entitled to conduct inspection(s) of hobby breeders who sell to pet stores (to ensure they are hobby breeders). Nothing herein shall serve to prohibit the federal government (e.g., United States Department of Agriculture) or the state from imposing additional registration and/or inspection requirements as may be lawfully enacted. Nothing in this section is intended to create new inspection requirements insofar as hobby breeders are concerned.

Official certificate of veterinary inspection, which is defined in F.S. § 828.29, 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 state 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 of an animal regardless of location. This term includes, but is not limited to: offering for sale; auctioning; bartering; displaying for sale, adoption, or re-home; exchanging for compensation; 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.

New

United States Department of Agriculture Licensed Commercial Breeder means any person or entity that has more than forty eight offspring within a 12 month period and sells the offspring to pet stores, brokers, research facilities or over the internet and are licensed through the United States Department of Agriculture and, if required, the state in which the licensed commercial breeder is located and shall have no documented, unresolved critical or direct noncompliant items (N.C.I.s) identified in a U.S.D.A. field inspector's report violation nor any adjudication of guilt in a court of competent jurisdiction for a criminal violation of Chapter 828, Florida Statutes, in the preceding 2448 month period by any governmental agency or entity.

Old

United States Department of Agriculture licensed commercial breeder means any person or entity that has more than 48 offspring within a 12-month period and sells the offspring to pet stores, brokers, research facilities or over the internet and are licensed through the United States Department of Agriculture and, if required, the state in which the licensed commercial breeder is located and shall have no documented violation in the preceding 48 month period by any governmental agency or entity.

(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 the county, whereby all dogs or cats must be sourced from an animal shelter, animal rescue organization, hobby breeder, or United States Department of Agriculture licensed commercial breeders.
- (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.
- (3) The board intends for this section to conform with and supplement F.S. ch. 828, 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 the county, unless the dog or cat was obtained directly from an animal shelter, animal rescue organization, hobby breeder, or United States Department of Agriculture licensed commercial breeder.
- (2) Any dog or cat offered for sale in the 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.

New 14-64(c)(3)

- (3) Pet stores shall maintain records that include the name, address, telephone number, and email address of the animal shelter, animal rescue organization, hobby breeder, or United States Department of Agriculture licensed commercial breeders, from which each dog or cat was acquired for three years following the date of acquisition from the animal shelter, animal rescue organization, hobby breeder, or United States Department of Agriculture licensed commercial breeders. Pet stores shall post in a conspicuous location the following information: (1) Breed; (2) Unique animal identification number (3) Name of breeder, city and state of origin; and (4) United States Department of Agriculture licensee's certificate number. The posting requirements apply regardless of the animal's place of origin.

Old 14-64(c)(3)

- (3) Pet stores shall maintain records that include the name, address, telephone number, and email address of the animal shelter, animal rescue organization, hobby breeder, or United States Department of Agriculture licensed commercial breeders, from which each dog or cat was acquired for three years following the date of acquisition from the animal shelter, animal rescue organization, hobby breeder, or United States Department of Agriculture licensed commercial breeders. Pet stores shall post in a conspicuous location the following information:
 - a. Breed.
 - b. Identification number.
 - c. Name of breeder, city and state.
 - d. United States Department of Agriculture number.

The posting requirements apply regardless of the animal's place of origin.

- (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, hobby breeder, or United

States Department of Agriculture licensed commercial breeders. 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) All 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 F.S. § 125.69, as may be amended; prosecuting a violation of this section in accordance with section 1-7 of this Code; 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 12-month grace period from the date of adoption before being subject to the regulations provided for in this section.

(Ord. No. 2019-07, § 1, 4-9-19)

Kimberly Powell

From: Bentley, Eden <Eden.Bentley@brevardfl.gov>
Sent: Wednesday, December 11, 2019 10:01 AM
To: Kimberly Powell
Subject: RE: Item H.1 from last night's meeting, The puppy mill ordinance

See highlighting- assuming that addition matches your notes.

From: Kimberly Powell <Kimberly.Powell@brevardclerk.us>
Sent: Wednesday, December 11, 2019 9:56 AM
To: Bentley, Eden <Eden.Bentley@brevardfl.gov>
Subject: Item H.1 from last night's meeting, The puppy mill ordinance

Eden,

Please review the language below and let me know how it should be changed.

The Board of County Commissioners, in regular session on December 10, 2019, adopted Ordinance No. 2019-27, amending Chapter 14, Animals of the Brevard County Code of Ordinances, specifically amending Section 14-64(a), Definitions, and removing the word "unresolved"; deleting a section relating to Section 828 Florida Statutes; and amending Section 14-64(c)(3), Retail Sale of Dogs and Cats at Pet Stores, and to include the City and State of origin.

Thank you,

Kimberly Powell
Recording Secretary
Clerk to the Board
(321) 637-2001
Kimberly.powell@brevardclerk.us



Under Florida law, all correspondence sent to the Clerk's 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 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.