



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.7.

10/24/2023

Subject:

Ordinance amending Chapter 14 - Animals, Article III. - Animal Care Facilities of the Brevard County Code of Ordinances.

Fiscal Impact:

None initially. BCSO Animal Services will evaluate to determine whether additional administrative support is required, and if so, whether a full or partial position is needed to support the animal care facilities inspection and registration program.

Dept/Office:

County Attorney's Office on behalf of BCSO Animal Services

Requested Action:

It is requested that the Board of County Commissioners hold a public hearing and adopt an ordinance amending Chapter 14 - Animals, Article III. - Animal Care Facilities of the Brevard County Code of Ordinances.

Summary Explanation and Background:

Chapter 14 - Animals, Article III. - Animal Care Facilities of the Brevard County Code of Ordinances provides for the inspection and licensure of animal care facilities, which includes, among other things, boarding facilities, veterinary hospitals, grooming establishments, and pet shops. Presently, the ordinance tasks the Brevard County Health Department with conducting inspections, issuing licenses, and enforcing violations of this article.

The County Health Department and the Brevard County Sheriff's Office have requested that these responsibilities be reassigned to the Animal Services division of the Sheriff's Office. The County Attorney's Office has coordinated with the Health Department and the Sheriff's Office regarding the proposed ordinance. Once the inspection responsibility is transferred, the Sheriff's Office will collect the \$75 animal care facility application fee established by Board resolution and previously collected by the Health Department.

In addition to transferring animal care facility inspection responsibilities, the Sheriff's Office requested revisions to Chapter 14, Article III., to clarify the following:

- Animal care facilities are required to provide adequate protection to animals from inclement weather including, but not limited to, extreme heat or cold and hurricanes.
- Persons convicted of animal cruelty are prohibited from owning, operating, or being employed by an animal care facility.

The ordinance also provides a fee schedule setting forth civil penalties for infractions.

Clerk to the Board Instructions:

Upon approval by the Board, execution by the Chair, and attestation by the Clerk, file the ordinance with the Department of State as required by law within the 10-day deadline.



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

October 30, 2023

Honorable Rachel M. Sadoff
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, FL 32781-0999

Dear Honorable Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2023-29, which was filed in this office on October 26, 2023.

Sincerely,

Anya Owens
Administrative Code and Register Director

ACO/wlh



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

October 25, 2023

M E M O R A N D U M

TO: Morris Richardson, County Attorney

RE: Item G.7., Ordinance Amending Chapter 14 – Animals, Article III – Animal Care Facilities of the Brevard County Code of Ordinances

The Board of County Commissioners, in regular session on October 24, 2023, conducted a public hearing and adopted Ordinance No. 23-29, amending Chapter 14 – Animals, Article III – Animal Care Facilities of the Brevard County Code of Ordinances. Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, reading "Kimberly Powell", is written over the typed name and title.

Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Finance
Budget

ORDINANCE NO. 2023-29

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 14, ARTICLE III ENTITLED "ANIMAL CARE FACILITIES"; AMENDING SECTION 14-36, "DEFINITIONS"; AMENDING SECTION 14-87, "PENALTY"; AMENDING SECTION 14-88, "ALTERNATE REMEDIES"; AMENDING SECTION 14-89, "INTERFERENCE WITH ANIMAL ENFORCEMENT OFFICER"; AMENDING SECTION 14-90, "INSPECTIONS"; AMENDING SECTION 14-91, "STANDARDS"; AMENDING SECTION 14-116, REQUIRED; APPLICATION; TERMS"; REPEALING SECTION 14-117, "RENEWAL"; AMENDING SECTION 14-118, "DENIAL OR REVOCATION; PROCEDURE UPON VIOLATION"; CREATING A NEW SECTION 14-119, "VIOLATION FEE SCHEDULE"; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AREA ENCOMPASSED, AND AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Brevard County Board of County Commissioners (the "County") has the authority to adopt regulations to ensure the health, safety and welfare of animals at places of business where animals receive care; and

WHEREAS, previously, in 1979, the County established an ordinance allowing for county health department officials to inspect animal care facilities; and

WHEREAS, in 2014, the County transferred the animal control and animal services responsibilities of Brevard County Animal Services to the Brevard County Sheriff's Office Animal Services; and

WHEREAS, the County now desires to update and streamline the current regulatory system for animal care facilities so that the Brevard County Sheriff's Office Animal Services performs registrations and inspections of animal care facilities; and

WHEREAS, the County finds that these changes to the regulation of animal care facilities are in the interest of the health, safety, and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. Section 14-86 of the Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 14-86. - Definitions.

Officially filed with the Secretary of the State on October 26, 2023.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal care facility means any place of business where dogs, cats, ~~rabbits~~, horses, and other animals, except livestock and rodents, regardless of number, are kept for sale, breeding, boarding or treatment purposes including ~~veterinary hospitals~~, animal grooming establishments or pet shops, except such facilities which are licensed, permitted, and subject to regular inspections by other animal regulatory agencies.

~~County health officer means the director of the county health department, and his designated agents.~~

Animal control authority means the entity tasked with animal control and animal services for the county. The animal control authority shall be designated by the board of county commissioners and authorized to enforce this article and the animal control laws of the state.

Animal enforcement officer shall have the meaning ascribed to "Animal Enforcement Officer" in section 828.27, Florida Statutes as may be amended from time to time. The terms animal enforcement officer and animal control officer may be used interchangeably herein.

County means Brevard County, Florida.

Registry means a current record, either ledger or card, indicating, at a minimum, animal's name, description, owner's name, owner's address, owner's phone number, animal's veterinarian's name and phone number, vaccination history, description of current medication and date of entry to establishment.

SECTION 2. Section 14-87 of the Code of Ordinances of Brevard County Florida is hereby amended to read as follows:

Sec. 14-87. - Penalty.

~~Any person found in violation of any provision of this article, if convicted, shall be punished as provided in section 1-7.~~

(a) Except as otherwise provided herein, a violation of this article shall constitute a civil infraction.

(b) The maximum civil penalty for an infraction shall not exceed \$500.00 per violation and may be less than the maximum civil penalty if the person who has committed the civil infraction does not contest the citation.

(c) The board of county commissioners shall establish the amount of any civil penalty for a civil infraction under this chapter. See section 14-119. Any changes to this schedule shall be done by the board of county commissioners.

(d) The county shall request an order to show cause for any person failing to pay the civil penalty, appear in court to contest a citation, or appear in court as required by a citation. The order shall require such person to appear before the court to explain why action on the citation has not been taken. If any person issued such order fails to appear in response to the court's directive, that person may be held in contempt of court.

(e) Any person who willfully refuses to sign and accept a citation issued by an officer is guilty of a misdemeanor of the second degree, punishable as provided in sections 828.27(5), 775.082 or 775.083, Florida Statutes.

(f) Any animal care facility owner, operator, or agent who (i) fails to register said facility with the animal control authority pursuant to this article; (ii) operates a facility after denial of the registration request; or (iii) after having been on two or more occasions adjudicated guilty of violating the standards provided for in section 14-91 of this article commits a third or subsequent violation of section 14-91, commits a misdemeanor of the second degree, punishable as provided in sections 775.082 or 775.083, Florida Statutes.

SECTION 3. Section 14-88 of the Code of Ordinances of Brevard County Florida is hereby amended to read as follows:

Sec. 14-88. – ~~Alternate~~Additional Remedies.

If any animal care facility is operated without ~~a license granted first~~ registering with the animal control authority pursuant to this article, or if a ~~licensee~~ an animal care facility has repeatedly violated the standards provided for in this article, or if there is a violation of the standards provided for in this article which seriously threatens the public health, safety or welfare, the proper authorities of the county, in addition to the ~~remedies~~penalties provided in this article, may institute any action or proceeding to prevent such violations in a court of competent jurisdiction.

SECTION 4. Section 14-89 of the Code of Ordinances of Brevard County Florida is hereby amended to read as follows:

Sec. 14-89. - Interference with Animal Enforcement Officer~~county health officer~~.

Any person who obstructs or interferes with ~~the county health officer, his designated agent or the county health department~~ an animal enforcement officer or the animal control authority in the enforcement of the provisions of this article, or in the performance of any duty required under the provisions of this article, shall, ~~upon conviction, be punished as provided in section 1-7~~ be guilty of a misdemeanor of the second degree, punishable as provided in sections 775.082 or 775.083, Florida Statutes.

SECTION 5. Section 14-90 of the Code of Ordinances of Brevard County Florida is hereby amended to read as follows:

Sec. 14-90. - Inspections.

- (a) ~~The county health department~~ The animal control authority shall have the right to inspect, or cause to be inspected, any animal care facility within the county, at such reasonable times during normal business hours as ~~the county health department~~ the animal control authority, in its sole discretion, shall deem necessary to assure continued compliance with the provisions of this article, and shall have the unqualified right to go upon the property of any animal care facility at such times to make an inspection.
- (b) Upon receipt of an registration application to operate an animal care facility, ~~the county health department~~ the animal control authority shall conduct a physical inspection of the animal care facility of the applicant to ensure compliance with the provisions of this article, and with the inspection standards established in this article. The inspection shall be completed by the ~~county health department~~ animal control authority within 30 days from the date of receipt of the application.
- (c) ~~No license required for the operation or maintenance~~ Permission to operate or maintain of any an animal care facility shall be ~~granted~~ denied by the animal control authority if the inspection of the animal care facility by ~~the county health department~~ indicates that the proposed animal care facility is not in compliance with the provisions of this article and the standards established in this article. Further, ~~no license for the operation and maintenance of any~~ permission to operate and maintain an animal care facility shall be ~~granted~~ denied if the operation of the animal care facility is not a permitted land use under the provisions of chapter 62, article VI (zoning), applicable zoning regulations, as confirmed by the planning department of the county or municipality in which the animal care facility is located.
- (d) ~~No license for the operation and maintenance of~~ permission to operate and maintain an animal care facility shall be granted unless the building or structure in which the facility is housed ~~is in~~ demonstrates compliance with all applicable building codes, fire codes, animal control authority inspections and requirements, and all other applicable local and state codes, laws, rules or regulations.
- (e) If the initial inspection reveals that the proposed animal care facility is not in compliance with the provisions of this article or the standards established in this article, the animal control authority shall issue a written denial statement ~~shall be furnished~~ to the applicant containing the provisions of this article with which the application has not complied.
- (f) Operation of an animal care facility after receipt of a denial notice constitutes a violation as set forth in section 14-88. No license permission to operate shall be ~~issued for~~ granted to such animal care facility until compliance with all the provisions of this article have been implemented. Failure of any applicant to comply with all of the provisions

within ten days from the date of receipt of the written statement denial shall result in the termination of the license registration application.

- (g) ~~Nothing contained in this section shall be construed or interpreted to apply to the issuance of a renewal license as specified in section 14-117, or to affect the right of the county health department to inspect any animal care facility holding a license at any reasonable time.~~
- (h) Nothing contained in this section shall be interpreted or construed to vest in any ~~applicant for a license~~ registrant the right to operate any animal care facility in the county until ~~a license has been issued~~ registration has been approved at the completion of the inspection procedure set forth in this section.
- (i) This section shall not apply to private homes or residences unless such home or residence is utilized for business and is operated as an animal care facility.

SECTION 6. Section 14-91 of the Code of Ordinances of Brevard County Florida is hereby amended to read as follows:

Sec. 14-91. - Standards.

All inspections of animal care facilities by ~~the county health department~~ the animal control authority shall be made so as to ensure the protection of the public health, safety and welfare, and to specifically ensure that the facility being inspected provides for the following:

- (1) All animals are adequately fed on a daily basis.
- (2) Fresh water is available to all animals at all times.
- (3) Animal enclosures are of sizes appropriate to the size of the animal held so that the animal may freely stand normally erect and have enough floor area to turn about without obstruction. With the exception of horses, the floor area shall be smooth and impervious to water.
- (4) All animal feces and other waste are removed from the animal enclosure area on a ~~daily~~ an as-needed basis.
- (5) A program exists for the effective control of insects, vermin and parasites within the facility.
- (6) All outside animal enclosures shall be provided with adequate protection from direct sunlight or inclement weather including but not limited to: extreme heat or cold, or hurricanes.
- (7) The entire animal care facility is kept in a clean, safe and sanitary condition.
- (8) The animal care facility maintains a registry including a list for each animal in residence.
- (9) Whoever violates these standards as set forth in section 14-91 (1-8) is guilty of a civil infraction as defined in section 14-87; except that a third

or subsequent violation constitutes a misdemeanor as described in section 14-87(f).

- (10) Whoever impounds or confines any animal in any place and fails to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water, or keeps any animals in any enclosure without wholesome exercise and change of air, or abandons to die any animal that is maimed, sick, infirm, or diseased, is guilty of a misdemeanor of the first degree, punishable as provided in section 775.082, Florida Statutes or by a fine of not more than \$500.00, or by both imprisonment and a fine.

Secs. 14-92—14-115. - Reserved.

SECTION 7. Section 14, Division 2 of the Code of Ordinances of Brevard County Florida is hereby amended to read as follows:

DIVISION 2. – LICENSE AUTHORITY TO OPERATE

SECTION 8. Section 14-116 of the Code of Ordinances of Brevard County Florida is hereby amended to read as follows:

Sec. 14-116. - Required; application; terms.

- (a) It shall be unlawful for any person or corporation to operate an animal care facility within the county without ~~a current license by the county health department~~ registering the facility with the animal control authority.
- (b) ~~The initial application for a license~~ The registration application to operate an animal care facility must be submitted in writing to ~~the county health department~~ to the animal control authority.
- (c) A fee, as established by the board of county commissioners from time to time, shall be required to accompany an registration application ~~for a license~~ to operate an animal care facility under the provisions of this article.
- (d) A separate ~~license~~ registration application and approval shall be required for each animal care facility location, and approval to operate ~~is such license shall not be transferable to another entity or location.~~
- (e) ~~Such license to operate an animal care facility shall be valid for a period of one year from date of issuance. Approval to operate a facility after registration remains valid unless revoked by the animal control authority for violation of this Code or the laws of the State of Florida.~~

SECTION 9. Section 14-117 of the Code of Ordinances of Brevard County Florida is hereby repealed.

Sec. 14-117. - Renewal.

- a) ~~Each owner or operator of a licensed animal care facility shall file an application for renewal with the county health department at least 45 days prior to the date of expiration of the current license. The renewal application shall be on such forms as provided by the county health department.~~
- b) ~~A renewal license shall be issued upon receipt of the renewal application and inspection of the animal care facility by the county health department, provided the inspection reveals that the standards for licensing continue to be met.~~

SECTION 10. Section 14-118 of the Code of Ordinances of Brevard County Florida is hereby amended to read as follows:

Sec. 14-118. - Denial or revocation; procedure upon violation.

- a) No authorization to operate an animal care facility license shall be granted or issued to a person who has been charged with and convicted of charges of animal cruelty as confirmed by the animal control authority. Such automatic denial shall extend to corporations, companies, partnerships, joint ventures, professional groups or associations which include a person so described.
- b) No person may own, operate, and/or be employed by an animal care facility if such person has been charged with and convicted of charges of animal cruelty as confirmed by the animal control authority. Such automatic denial shall extend to corporations, companies, partnerships, joint ventures, professional groups or associations which include a person so described.
- c) If any inspection by ~~the county health department~~ the animal control authority reveals that any animal care facility has not complied with the provisions of this article, ~~the county health department~~ the animal control authority shall notify the owner or operator by certified mail, return receipt requested, or by personal service. Such written notice shall specify that the animal care facility's license authority to operate is being denied or revoked, and shall specify the grounds upon which the license authority to operate is being denied or revoked. All items of violation or noncompliance with the provisions of this article shall constitute grounds for denial or revocation of ~~a license~~ the authority to operate. The notice of violation shall state that the license authority to operate shall be automatically denied or revoked if the listed items of violation or noncompliance are not corrected within ~~five~~ ten (10) days of the date of receipt of the notice by the operator.
- d) The owner or operator may request within ~~five~~ ten (10) days of the date of receipt of the written notice of violation a public hearing with ~~the county health department~~ the animal control authority, concerning the violations or items of noncompliance contained in the notice of violation. Failure of the owner or operator to request such public hearing, or to

abate and correct such violations so as to fully comply with all the provisions of this article within the five ten-day period specified in the notice of violation shall result in automatic revocation of the animal care facility's license authority to operate with no further administrative right of appeal or review. The request for a public hearing shall be in writing, and shall be served upon ~~the director of the county health department~~ or an agent designated by him in the notice of violation the animal control authority within the five ten-day period. All such hearings shall be held by ~~the director of the county health department, or any agent designated by him,~~ the special magistrate within 15 45 days of receipt of a request for hearing. Notice of the time and place for the hearing shall be given to the owner or operator of the animal care facility at least five ten days prior to the date of the hearing. Upon the conclusion of the hearing, the ~~county health department~~ special magistrate shall affirm the items of violation and noncompliance specified in the notice of violation, or modify the notice of violation in whole or in part, or discharge the notice of violation in whole or in part, or set a time certain for the abatement or correction of the violations and full compliance with all the provisions of this article, or take such other action as is deemed necessary and proper to compel compliance with the laws of the state and the county.

SECTION 11. Creating a new Section 14-119 of the Code of Ordinances of Brevard County Florida to read as follows:

Sec. 14-119 – Violation Fee Schedule

Civil Penalties for Civil Infractions Includes Applicable Civil Penalty + \$10.00 Court Cost + \$5.00 Officer Training Surcharge					
Code (Section)	Description of Violation	Offenses			
		1st	2nd	3rd	4th
14-89	Interference with Animal Control Officer	\$300 w/ Mandatory Court Date	\$300 w/ Mandatory Court Date	2nd Degree Misdemeanor	2nd Degree Misdemeanor
14-91(1)	Failure to provide adequate daily feeding	Written Warning w/ Comply Date	\$100	\$200	\$300 w/ Revocation of License
14-91(2)	Failure to provide available fresh water	Written Warning w/ Comply Date	\$100	\$200	\$300 w/ Revocation of License
14-91(3)	Inappropriate animal enclosure	Written Warning w/ Comply Date	\$100	\$200	\$300 w/ Revocation of License
14-91(4)	Failure to remove animal waste in a timely manner	Written Warning w/ Comply Date	\$100	\$200	\$300 w/ Revocation of License
14-91(5)	Insect, vermin and parasite control	Written Warning w/ Comply Date	\$100	\$200	\$300 w/ Revocation of License
14-91(6)	Protection from direct sunlight for outside enclosures	Written Warning w/ Comply Date	\$100	\$200	\$300 w/ Revocation of License
14-91(7)	Clean, safe and sanitary conditions of the facility	Written Warning w/ Comply Date	\$100	\$200	\$300 w/ Revocation of License

SECTION 12. CONFLICTING PROVISIONS. In the case of a direct conflict between any provision of this Ordinance and a portion or provision of any other applicable

federal, state or county law, rule, code or regulation, the more restrictive shall apply, unless preempted by law.

SECTION 13. SEVERABILITY. If any section, subsection, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such invalid unconstitutional portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, provided the remaining portions effectuate purpose and intent of this ordinance.

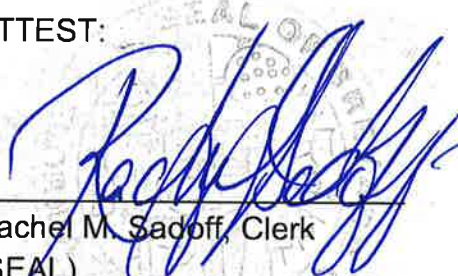
SECTION 14. AREA ENCOMPASSED. This Ordinance shall apply in both the incorporated and unincorporated areas of Brevard County; provided that any provision of this Ordinance in conflict with a municipal ordinance shall not be effective within that municipality to the extent of such conflict.

SECTION 15. EFFECTIVE DATE. This Ordinance shall take effect upon filing as provided by law.

SECTION 16. INCLUSION IN THE CODE. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall be made a part of the Brevard County Code of Ordinances, and that the sections of this ordinance may be renumbered to accomplish such intention.

DONE, ORDERED AND ADOPTED, in Regular Session, this 24th day of October, 2023.

ATTEST:



Rachel M. Sadoff, Clerk
(SEAL)

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA


Rita Pritchett, Chair

As approved by the Board on 10/24/2023.

Reviewed for legal form and sufficiency:


Morris Richardson, County Attorney