



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

New Business - Addon

J.1.

12/17/2019

Subject:

Legislative Intent and Permission to Advertise; RE: Adoption of Animal Abuse Registry Ordinance.

Fiscal Impact:

Estimated less than \$300.00 for staff time

Dept/Office:

District 2

Requested Action:

It is requested that the Board of County Commissioners approve Legislative Intent and grant permission to advertise for a public hearing to consider adoption of an Animal Abuse Registry for Brevard County, Florida.

Summary Explanation and Background:

Animal abuse is a serious problem and an issue of public concern that affects communities around the United States. Despite the State of Florida criminalizing and prohibiting the cruel treatment of animals, instances of abuse and/or cruelty to animals continue to exist in Brevard County. There is a desire to address these concerns by creating a list of individuals who are convicted of animal cruelty charges and/or abuse violations in Brevard County. In an attempt to help further educate members of the public on the seriousness of animal abuse and/or cruelty, an animal abuse registry is being recommended for consideration by the Board of County Commissioners. The purpose of this animal abuse registry will be to identify individuals who are convicted of animal cruelty charges and/or abuse crimes in Brevard County. The information will be extracted from available public records, including information available through the Clerk of the Court's Office, and will include the name, date of birth, charge(s), and other relevant information. Jurisdictions around the country and the State of Florida, including Pasco County, Hillsborough County, Marion County, and Volusia County, have implemented animal abuse registries and/or databases to better serve the public health, safety, and welfare of both citizens and animals. By adopting an animal abuse registry, the County will help better protect Brevard County residents and their animals by ensuring such information is made readily accessible to the public.

Clerk to the Board Instructions:

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December 18, 2019

MEMORANDUM

TO: Commissioner Bryan Lober, District 2

RE: Item J.1., Animal Abuse Registry Ordinance

The Board of County Commissioners, in regular session on December 17, 2019, approved legislative intent and granted permission to advertise for a public hearing to consider adoption of an Animal Abuse Registry ordinance.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/ds

ORDINANCE NO. 20__ - ____

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 ARTICLE IN CHAPTER 14, ARTICLE IV, ENTITLED "ANIMAL ABUSE REGISTRY", ESTABLISHING THE BREVARD COUNTY ANIMAL ABUSE REGISTRY; PROVIDING FOR THE PURPOSE AND INTENT FOR THE REGISTRY; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE ESTABLISHMENT AND REQUIREMENTS OF THE REGISTRY; PROVIDING FOR PROHIBITIONS; 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, 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, despite the State of Florida criminalizing and prohibiting the cruel treatment of animals, instances of abuse and/or cruelty to animals continue to exist in Brevard County; and

WHEREAS, the Board finds that cruelty and abuse to animals is a serious problem and an issue of public concern; and

WHEREAS, animal ownership carries with it both rights and responsibilities with respect to the humane treatment, care, and control of owned animals; and

WHEREAS, counties throughout the State of Florida have already put in place animal abuse registries and/or databases, including Pasco, Hillsborough, Marion, and Volusia; and

WHEREAS, the Board has determined that it is in the best interest of the residents and animals of Brevard County that an online registry be created to identify individuals convicted of animal cruelty charges and/or abuse crimes; and

WHEREAS, the Board finds that it serves the public health, safety, and welfare of the residents and animals of Brevard County to establish such a registry for those convicted of abusing and/or being cruel to 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:

Chapter 14, Article IV “Animal Abuse Registry” is hereby created and shall read as follows:

14-119. Purpose and Intent. The Brevard County Animal Abuse Registry, hereinafter referred to as the “Registry”, is hereby created. The Board of County Commissioners of Brevard County, Florida, hereinafter referred to as the “Board”, hereby determines and declares that a registry should be created for those who are abusive or cruel to animals. In order to ensure that the citizens and animals of Brevard County are kept safe, healthy, and protected, the Board finds that a registry for those that abuse animals or that are cruel to animals will serve the public health, safety, and welfare by identifying individuals within Brevard County convicted of animal cruelty charges and/or abuse crimes so as to prevent these individuals from adopting, purchasing, possessing, or otherwise obtaining animals from any animal shelter, pet seller, or other person or entity involved in the exchange of animals by adoption, sale, or other means.

14-120. Definition. As used in this Article, the following words and phrases are defined as follows:

Abuser shall mean any person who has been convicted of an Animal Abuse Violation in Brevard County.

Animal shall mean any living dumb creature, as provided for in Section 828.27, Florida Statutes, as may be amended; however such definition shall exclude livestock as defined in this section.

Animal Abuse Violation shall mean a violation, whether felony or misdemeanor, of any of the following provisions of State law, as may be amended:

- (a) Section 828.12, Florida Statutes – Cruelty to animals.
- (b) Section 828.122, Florida Statutes – Fighting or baiting animals.
- (c) Section 828.123, Florida Statutes – Killing dog or cat with intent of selling or giving away pelt.
- (d) Section 828.126, Florida Statutes – Sexual activities involving animals.
- (e) Section 828.13, Florida Statutes – Confinement of animals without sufficient food, water, or exercise; abandonment of animals.

This definition shall also extend to non-criminal violations of: Section 14-51 – Failure to surrender animal or carcass; Section 14-53 – Cruel and inhumane treatment of animals prohibited; Section 14-64 – Retail sale of dogs and cats at pet stores; and, Section 14-65 – Abandonment of animals.

Animal Abuse Registry or ***Registry*** shall mean the online registry established by this Ordinance for registering and/or identifying any person convicted of an Animal Abuse Violation in Brevard County.

Convicted or ***Conviction*** shall mean an adjudication of guilt by any court of competent jurisdiction, regardless of whether upon a verdict, plea of guilty, plea of nolo contendere, or withhold of adjudication of one or more of the applicable Animal Abuse Violation(s).

County shall mean the Board of County Commissioners of Brevard County, Florida, or its officers, agents, or designees.

Livestock shall mean cattle, calves, sheep, swine, horses, mules, goats, ostriches, rheas, emus, and any other domestic animal that can or may be used in the preparation of animal products.

Officer shall mean any law enforcement officer defined in Section 943.10, Florida Statutes, as may be amended, or any animal control officer.

Service Animal shall have the same meaning as provided for in the American with Disabilities Act, as amended from time to time.

14-121. Establishment and Requirements of the Animal Abuse Registry.

- (a) Brevard County (the “County”) hereby establishes an online Animal Abuse Registry that shall contain the name, date of birth, charge(s), case number, disposition date, disposition, and other related information available to the public of Abusers who were convicted of or found to have violated an Animal Abuse Violation in the County. The Registry shall be maintained by the County, or its agent; shall be listed on the County’s official website, which may include on the animal control authority’s website; and may contain links to other abuse registries around the State that are available, or that may become available in the future, to be used as informational resources by the general public, as well as animal shelters or other persons or entities located in the County that sell, exchange, or otherwise transfer ownership of animals. The County and/or the animal control authority

may promulgate internal policies and procedures, as may be amended from time to time, necessary for the implementation of this Ordinance.

- (b) Prior to the sale, exchange, or other transfer of ownership of any animal, the person or entity shall make every attempt to examine the Registry to confirm that the name of the potential owner of the animal is not listed, as well as to confirm that the purchaser of the animal does not reside at a listed address for any individual on the Registry. Upon request from the animal control authority, the person or entity shall provide proof by affidavit or otherwise, that this requirement was met prior to the transfer. This prohibition does not apply to livestock as defined herein or service animals as defined by the Americans with Disabilities Act.
- (c) The Registry shall contain identifying information about each particular Abuser following his or her release from incarceration or, if not incarcerated, from the date of the judgment finding a violation of an Animal Abuse Violation for a period of ten (10) years.
- (d) The County will attempt to ensure that the information in the Registry is accurate and complete. However, the County relies on other sources for the information. As a result, the County makes no express or implied guarantee concerning the accuracy or completeness of any information or data in the Registry.
- (e) Upon notification to the County that the records of a person have been expunged by the court or of a successful appeal of a conviction of an Animal Abuse Violation by a person included in the Registry, the individual shall be removed from the Registry within ten (10) business days following notification. It shall be the individual's responsibility to initiate the removal of his or her name from the Registry by providing verified documentation to the County of grounds for removal.

14-122. Prohibitions.

- (a) An Abuser shall be subject to the following prohibitions while on the Registry:
 - i. The Abuser shall not be allowed to own, or possess, or live in the same home with any animal, unless otherwise provided in a court order.
 - ii. The Abuser shall not be allowed to work with animals, with or without compensation, unless otherwise provided by court order.
- (b) In addition to other legal remedies provided for by law, the County, or its agent, reserves the right and may exercise its right at any time it

deems necessary to enforce, or, notwithstanding any other court order, to seek a court order enjoining an Abuser from owning or possessing or living with an animal or working with an animal while on the Registry.

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 ____ day of _____, 20__.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: _____
Scott Ellis, Clerk of Court

By: _____
Bryan Lober, Chairman
(as approved by the Board on __/__/__)