

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PASCO COUNTY, FLORIDA, AMENDING CHAPTER 14 OF THE PASCO COUNTY CODE RELATING TO ANIMALS; RESTRICTIONS ON THE RETAIL SALE OF DOGS AND CATS; PROVIDING FOR APPLICABILITY; REPEALER; SEVERABILITY; INCLUSION INTO THE CODE OF ORDINANCES; PROVIDING FOR TRANSMISSION OF ORDINANCE TO THE DEPARTMENT OF STATE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Pasco County Board of County Commissioners has previously established restrictions on the sale of dogs and cats in public areas and venues to protect both the pet and consumer from unlicensed breeders, pet dealers and kennels; and

WHEREAS, there has been a growing concern throughout Florida and the country involving the sale of dogs and cats from pet stores which primarily source these pets from large puppy and kitten mills; and

WHEREAS, the documented abuses endemic to 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; and

WHEREAS, the inhumane conditions in puppy and kitten 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 and kitten mill dogs and cats in pet stores; and

WHEREAS, prohibiting the retail sale of puppies and kittens in pet stores is likely to decrease the demand for puppies and kittens bred in puppy and kitten mills, and is likely to increase demand for animals from animal shelters, animal rescue organizations, and registered breeders; and

WHEREAS, across the country, thousands of independent pet stores as well as large chains operate profitably with a business model focused on the sale of pet services and pet supplies and not on the sale of dogs and cats. Many of these stores adhere to an adoption-based business model where they collaborate with local animal shelters and animal rescue organizations to offer space and support for showcasing adoptable homeless pets on their premises; and

WHEREAS, this Ordinance will not affect a consumer’s ability to obtain a dog or cat of his or her choice directly from an animal shelter, animal rescue organization, breed-specific rescue organization, or registered breeder where the consumer can see directly the conditions in which the dogs or cats are housed, sheltered, bred, or raised; and

WHEREAS, this Ordinance makes exemption for pet stores in existence in Pasco County prior to the effective date of the ordinance from which this section was derived. Those pet stores may continue to operate with their existing pet store business model, provided, however, such establishments must obtain a non-conforming use determination on or before January 1, 2021, and comply with Chapter 1200 of the Pasco County Land Development Code; and

WHEREAS, it is the intent of the Board of County Commissioners that this Ordinance will conform with and supplement Section 828.29, Florida Statutes, as may be amended, relating to the sale of dogs and cats transported into the state for sale, health requirements, and consumer guarantee; and

WHEREAS, for these reasons the Board of County Commissioners finds it reasonable and necessary to provide the following standards governing the sale of dogs and cats to protect the health, safety and welfare of both animal and pet owners; that such regulation constitutes a legitimate purpose, and may encourage pet consumers to adopt homeless dogs and cats from shelters and animal rescue organizations thereby saving animals lives and reducing the cost to the public of sheltering and euthanizing animals.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pasco County, Florida, as follows:

SECTION 1. AUTHORITY.

This Ordinance is enacted pursuant to Chapter 125, Florida Statutes (2015), and under the home rule powers of the County.

SECTION 2. LEGISLATIVE FINDINGS OF FACT.

The foregoing WHEREAS clauses are hereby adopted as legislative findings of the Board of County Commissioners and are ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 3. AMENDMENT.

The Pasco County Code of Ordinances Chapter 14 is hereby amended as follows:

Chapter 14 - ANIMALS

ARTICLE II. - ANIMAL CONTROL

DIVISION 1. - GENERALLY

Sec. 14-27. - Definitions.

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

Adoption-based business model shall mean a business model whereby all dogs and cats offered for retail sale at a pet store shall only be sourced from stray and unwanted pets that have been taken in by an animal shelter or an animal rescue organization established in accordance with Section 501(c)(3) of the United States Internal Revenue Code to rehome stray and other unwanted pets. It also means that no dogs and cats may be offered for sale in a pet store that are sourced from a breeder or from some other intermediary such as a broker or wholesaler.

Animal abuser means any person 18 years of age or older (including a person who was under 18 when the conduct resulting in conviction occurred but who is tried and convicted as an adult) convicted of an animal abuse offense for conduct that occurs on or after March 1, 2017.

Aggressive animal or aggressive behavior means any animal that, without provocation, constitutes a physical threat to human beings or other animals. Aggressive behavior also includes, but is not limited to, the following:

- (1) A loose, unconfined animal, when unprovoked, chasing or approaching a person in a menacing fashion or apparent attitude of attack.
- (2) Chasing vehicles.
- (3) Molesting livestock or other domestic animals.

Animal means any living creature, other than a human being.

Animal abuse offense shall mean the commission of any act that constitutes the criminal offense of:

- (1) Cruelty to animals under F.S. § 828.12;
- (2) Fighting or baiting animals under F.S. § 828.122;
- (3) Killing a dog or cat with the intent to sell or give away its pelt under F.S. § 828.123;
- (4) Killing or aggravated abuse of horse or cattle under F.S. § 828.125;
- (5) Sexual activities involving animals under F.S. § 828.126;
- (6) Confinement of animals without sufficient food, water, or exercise under F.S. § 828.13.

Animal abuser link shall mean the online link at Pascoclerk.com identifying persons convicted in Pasco County of an animal abuse offense that occurs on or after March 1, 2017.

Animal control officer means any person employed or appointed by the board of county commissioners as an animal control officer. An animal control officer is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations. An animal control officer is not authorized to bear arms or make arrests.

Animal rescue organization means any not-for-profit organization which has tax-exemption 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 an entity that is a breeder or broker; an entity that is affiliated with or housed on the premises of a breeder or broker; an entity that obtains dogs or cats from a breeder or broker in exchange for payment or compensation or resells dogs or cats obtained from a breeder or broker and provides payment or compensation to a breeder or broker.

Animal shelter shall mean any public or privately owned organization, including, but not limited to, any incorporated humane society, animal control center, animal protective association or animal rescue organization which maintains buildings, structures, or other property for the purpose of harboring animals which may be stray, unwanted, lost, abandoned, or abused and seeks to find appropriate temporary or permanent homes for such animals.

At large means an animal which is not under the actual control, custody, charge or possession of the owner or other responsible person either by leash, cord, chain, enclosure or as otherwise provided in this chapter.

Breeder means any person that owns, harbors, or keeps dogs or cats that reproduce more than 20 animals in any rolling (consecutive) 12-month period for any purpose.

Broker means any person that transfers dogs or cats for resale by another person.

Cat means, but is expressly not limited to, domestic cat, *Felis catus*, and any genetic hybridization thereof, including, but expressly not limited to, ocelot hybrids and bobcat hybrids, that is not under the jurisdiction of the Florida Fish and Wildlife Conservation Commission.

Certificate of source means a document from an animal shelter, animal control agency, animal rescue organization, pet dealer, or breeder declaring the source of origin of a dog or cat on the premises offered for retail sale, as defined in this section. The certificate of source must include at a minimum: (1) a brief description of the dog or cat; (2) the name, address, telephone number and email address of the source of the dog or cat; (3) the signature of the pet store certifying the accuracy of the certificate; and ; and upon sale (4) the signature of the purchaser or transferee of the dog or cat acknowledging receipt of the certificate of source.

Convicted or conviction means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether or not adjudication is withheld.

County health officer means the person appointed, pursuant to law, as director of the county health department and his designated agents.

Department means the Pasco County Animal Services Department.

Direct control means immediate, continuous physical control of an animal at all times such as by means of a fence, leash, cord or chain of such strength to restrain the animal.

Director means that person in charge of the administration of the Department of Animal Services or anyone designated by that person.

Dog means, but is expressly not limited to, domestic dog, *Canis familiaris*, and any genetic hybridization thereof, including, but expressly not limited to, wolf hybrids and coyote hybrids.

Domestic means those animals trained to live with and be of use to man; tame.

Ear-tip means a mark identifying a community or feral cat as being in a Trap-Neuter-Return program, specifically the removal of approximately three-eighths of an inch off the tip of the cat's left ear in a straight line, while the cat is anesthetized. Ear-tipping is the universal sign of a feral cat symbolizing the cat has been spayed/neutered and rabies vaccinated.

Farm animal shall mean animals used in the production of human or animal food, feed or fiber, regardless of whether or not the animal is actually being used or raised for such purposes.

Feral means a dog or cat that exists in an untamed state or that has returned to an untamed state, generally not socialized to human contact, and is no longer considered domesticated.

Flea market means any premises where the principal use is the sale or offer of goods by five or more individuals, in an open area or partly enclosed booths or stalls, or within an enclosed building, of new and used household goods, personal effects, tools, art work, small household appliances, and other similar merchandise, objects or equipment, in small quantities, in broken lots or parcels, not in bulk, for use or consumption by the immediate purchaser.

Good and wholesome food means palatable nutriment appropriate for the type of animal it is fed to, free from contamination, and of sufficient nutritive value to maintain such animal in good health.

Harbor means to own, feed, shelter, keep, maintain or control an animal and includes permanent and temporary harboring of animals.

~~*Humane organization* means any nonprofit organization that is dedicated to the rescue and protection of animals, duly registered with the Florida Department of State, and Florida Department of Agriculture and Consumer Services, and duly~~

~~organized as a charitable organization under 26 U.S.C. § 501(c)(3) of the Internal Revenue Code of the United States, and spays or neuters any dog or cat as is strictly consistent with the provisions of this chapter.~~

Hybrid means, but is expressly not limited to, a mixture of one or more types of wild animals crossed with any combination of domestic animals.

Large kennel means any person or entity who owns, harbors or keeps more than 9 dogs or cats, in aggregate, at a property or structure, for any purpose, including, but not limited to, housing, boarding, breeding, training, show or exhibition, hunting, sale, rescue, adoption or personal pet or use. Kennel does not include any property or structure where a Florida state licensed veterinarian practices and has a premises permit, as required by F.S. ch. 474, or any property or structure used as a veterinary hospital, medical research laboratory, , or any governmental agency, or to any boarding kennel operated in conjunction with any of the foregoing.

Mandatory court appearance means that a person shall not have the option to pay the fine instead of appearing in court.

Pet means any animal kept for pleasure rather than utility.

Pet dealer means any person that offers for sale, has sold, or intends to sell, either concurrently or in aggregate, more than 20 dogs or cats in any rolling (consecutive) 12-month period. This definition includes breeders of dogs or cats who sell such animals directly to a consumer. Animal shelters or animal rescue organizations are excluded.

Pet seller shall mean any individual or person, partnership, firm, corporation, retail establishment or other entity which offers dogs or cats for sale, exchange, barter or is engaged in the sale, exchange, or other transfer of ownership of animals.

Pet store means a retail establishment where dogs or cats are sold, exchanged, bartered or offered for sale or transfer, regardless of the age of the dog or cat or the physical location of the animal. Such establishment may be a permanent, temporary, or virtual establishment. An animal shelter or animal rescue organizations are not considered a pet store as defined herein.

Premises means land and all structures and articles appurtenant or attached thereto which are owned, leased, occupied or controlled by a person.

Rescue tag means current animal tag or tags issued by the division for a humane organization. Such tags shall have one serial number unique to that humane organization.

Retail sale: means a sale, regardless of any exchange of consideration for the animal, or animal services, that takes place at the same time or same location. This term also includes any combination of the following: offer for sale; auction; barter; display for sale; adoption; re-home; exchange for compensation; or otherwise, give away; trade; deliver; lease; rent; include as part of a package deal;

advertise for sale; or otherwise dispose of dogs or cats to a person in a pet store or in association with a pet store.

~~*Sale* means a transaction for an animal for any value received, including, but not limited to, currency, fees, including, but not limited to, re-homing fees and any other administrative fees for humane organizations or other nonprofit entities, services, or goods.~~

Serious physical injury or severe physical injury or damage means any physical injury that results in any of the following injuries:

- (a) broken bones;
- (b) Muscle, ligament, or tendon tears;
- (c) Skin lacerations, puncture wounds, or other injuries that require sutures, or surgery, or for which the victim seeks emergency treatment;
- (d) The transmission of an infectious or contagious disease; or any physical injury that creates a substantial risk of death or that causes death, serious disfigurement, protracted impairment of health, impairment of function of any bodily organ, or plastic surgery.

Service animal shall mean any dog or miniature horse that has been individually trained to do work or perform tasks for people with disabilities as defined under the Americans with Disabilities Act (ADA). This definition shall incorporate any future legislative, administrative, or judicial changes to the definition of service animal within the Americans With Disabilities Act.

Shelter, minimally defined, means a three-sided roofed and floored structure that is a secure weather-resistant structure which protects an animal from exposure to the elements including, but not limited to, rain, cold, wind and heat, and in size is a minimum of six inches higher than the animal's height at full stand with head erect, one and one-half the animal's full body length, and sufficient in width to permit the animal to turn around. Shelter shall not include a lean-to, drums or barrels, spaces underneath mobile or prefabricated homes or spaces underneath porches or decks.

Tag means a current department animal license tag.

Unprovoked means that the victim has been conducting himself peacefully and lawfully.

Veterinarian means a veterinarian duly licensed and registered by the state.

Vicious animal or vicious behavior means any animal that, without provocation:

- (1) causes severe physical injury to a human being, or
- (2) severely injures or kills a domestic animal while off the owner, harborer or keeper's property.

Vicious animal or vicious behavior shall not be interpreted to include an animal that at the time of causing physical injury, was being tormented, abused, assaulted or

was protecting a human being from an unjustified attack, or if the injury caused was while the person injured was unlawfully on the property of the animal.

Water means potable water free from contamination.

Wild animal means every living creature belonging to a species which will normally be found in the wild state, meaning found primarily in a natural state or a wild environment.

DIVISION 4. – DOGS AND CATS

Sec. 14-108. - ~~Location of~~ Retail Sale of Dogs and Cats

(a) Requirements for the retail sale of dogs and cats.

- (1) An adoption-based business model shall be required for the retail sale of dogs or cats at a pet store whereby all dogs or cats will be sourced from stray and unwanted pets that have been taken in by an animal shelter or animal rescue organization. It also means that pets purchased directly from a breeder or indirectly through some other intermediary such as a broker or wholesaler may not be offered for sale.
- (2) No pet store shall offer dogs or cats in Pasco County, unless the dog or cat was obtained from:
 - a. An animal shelter;
 - b. An animal rescue organization.
- (2) This adoption-based business model for the retail sale of dogs or cats in the County applies to all pet stores currently operating in the county and any pet stores opened, transferred, assigned, or sold by owners of existing pet stores after the effective date of the Ordinance.
- (3) An official certificate of veterinary inspection must accompany the sale of any cat or dog transported into the state, in compliance with Section 828.29(3), Florida Statutes (2017), as this statute may be amended from time to time.
- (4) Pet stores shall post and maintain a certificate of source, as defined in this chapter, on each animal's cage, kennel, or enclosure, within clear view, and shall provide a copy of the certificate to the purchaser or transferee of any such dog or cat sold or transferred.
- (5) Pet stores shall maintain records, stating the name, address, telephone number and email of the animal shelter or animal rescue organization from which each dog or cat was acquired for three (3) years following the date of acquisition or in accordance with the required relation time set forth by business standards and practices governing the particular commercial establishment and record, whichever is greater.

(6) Any such records shall be made available, immediately upon request, to the County's animal control officers, any other County officials charged with enforcing the provisions of this Section, and/or law enforcement.

(7) Falsification of records by pet stores is hereby deemed unlawful and subject to the penalties of this Ordinance.

(b) Exemptions.

(1) All pet stores in existence, and in compliance with existing County regulations, prior to the effective date of the ordinance from which this section was derived, may continue to operate with their existing pet store business model, provided, however, such establishments must obtain a non-conforming use determination on or before January 1, 2021, and comply with Chapter 1200 of the Pasco County Land Development Code.

(2) Animal rescue organizations and government agencies are exempt from subsection (b).

(c) Prohibition on retail sale in public places.

(1) Any sale of dogs and cats, to include puppies and kittens, are prohibited on any public or private streets and rights-of-way, within 50 feet of any right-of-way, at any flea market, or private parking lots or any open air venue, such as, but not limited to, parades, concerts, and festivals.

(2) The sale of dogs and cats by a breeder, pet dealer or large kennel as defined in this chapter shall only take place at the premises for which the license is issued for. This shall not prohibit delivery at an offsite location of an animal which has been sold from the licensed premises.

(3) Animal rescue organizations and government agencies are exempt from subsection (b).

(d) Penalty

A pet store that violates this section shall be subject to penalties in accordance with Section 1-6 of this Code and a civil penalty of \$500 for each offense. Each dog or cat offered for sale in violation of this section shall constitute a separate offense. Each day a pet store is in violation of this section shall constitute a separate offense.

SECTION 4. APPLICABILITY.

For purposes of jurisdictional applicability, this Ordinance shall apply in unincorporated Pasco County and in the incorporated areas of Pasco County where, pursuant to an interlocal agreement, Pasco County enforces Chapter 14 of the Pasco County Code of Ordinances.

SECTION 5. REPEALER.

Any and all ordinances in conflict herewith are hereby repealed to the extent of any conflict.

SECTION 6. SEVERABILITY.

It is declared to be the intent of the Board of County Commissioners of Pasco County, Florida, that if any section, subsection, sentence, clause, or provision of this ordinance is held invalid, the remainder of the ordinance shall be construed as not having contained the said section, subsection, sentence, clause, or provision and shall not be affected by such holding.

SECTION 7. INCLUSION INTO THE CODE.

It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pasco County Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 8. EFFECTIVE DATE.

This Ordinance shall be transmitted to the Department of State by the Clerk to the Board by electronic mail within ten (10) days after adoption of this Ordinance, and this Ordinance shall take effect on signing.

ADOPTED with a quorum present and voting this 8th day of September 2020.

(S E A L)

BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

ATTEST:

By: _____
NIKKI ALVAREZ-SOWLES, ESQ
PASCO COUNTY CLERK & COMPTROLLER

By: _____
MIKE MOORE, CHAIRMAN