

Ordinance 2019-109

An Ordinance of Osceola County Board of County Commissioners, Amending Chapter 4 “Animals” Article I, Section 4-3 “Definitions”, Section 4-12 “Fees and Civil Penalties”, and Creating Article II, Section 4-42 “Adoption-Based Business Model for Retail Adoption of Dogs and Cats and Other Requirements”; Providing for Severability; Providing for Conflict; Providing for Inclusion into the Code; Providing for Filing with Department of State; Providing for an Effective Date.

WHEREAS, Article VIII, Section (1)(f) of the Florida Constitution and Section 125.01, Florida Statutes, grant Osceola County Board of County Commissioners broad home rule authority to adopt ordinances to provide for the common good; and

WHEREAS, Section 828.27, Florida Statutes, authorizes a county to enact an ordinance related to animal control or cruelty; and

WHEREAS, it has become necessary to address the public health and animal welfare issues regarding the importation and sale of dogs and cats from substandard breeding facilities known as “mills” ; and

WHEREAS, these mills often house animals in overcrowded and unsanitary conditions without adequate veterinary care, food, water, and socialization, which allows for congenital disorders, the spread of infectious and zoonotic diseases and environmental contamination; and

WHEREAS, Florida pet stores are a primary destination for mill-generated dogs and cats; and

WHEREAS, an effective tool to eliminate the retail market for domestic dogs and cats bred through these “mills” is to require that pet shops utilize an adoption-based business model, which ensures that the transactions for animals at retail outlets are sourced from shelters and animal rescue organizations, encouraging the adoption of homeless pets and reducing the financial and emotional toll on consumers who purchase mill-bred pets with latent physical and behavioral problems; and

WHEREAS, this Ordinance does not affect a consumer’s ability to obtain a dog or cat of his or her choice directly from a breed-specific animal rescue organization or shelter, or from a reputable breeder where the consumer can directly see the conditions in which the dogs and cats are bred, or can confer directly with the reputable local breeder concerning said conditions; and

WHEREAS, many Florida Counties have already addressed this problem by implementing prohibitions regarding pet shop acquisition of dogs and cats and by moving to an adoption-based business model for dogs and cats; and

WHEREAS, it is the intent of the Osceola County Board of County Commissioners that this Ordinance will conform with and supplement Section 828.29, Florida Statutes (2019), and Section 4-28, Osceola County Code of Ordinances, 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, the Osceola County Board of County Commissioners has determined that the public health, safety and welfare will best be served by amending the Animal Code to include provisions requiring Osceola County pet stores to implement an adoption-based model for dogs and cats and in doing so, will 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 OSCEOLA COUNTY, FLORIDA:

SECTION 1. Chapter 4 “Animals” of the Osceola County Code is hereby amended as follows:

**CHAPTER 4
ANIMALS**

ARTICLE I. - IN GENERAL

Sec. 4-3. – 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:

Abandon means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner. An animal will not be considered abandoned if the owner arranges for a person to feed, water, and monitor the animal's condition on a scheduled or regular basis. Intervals between monitoring, watering, and feeding shall not exceed twenty-four (24) hours.

Adoption-Based Business Model means a business model whereby all dogs and cats offered for rehoming at a pet shop shall only be sourced from pets that have been taken in by an Animal Shelter or Animal Rescue Organization to rehome stray and abandoned pets. It also means that no commercially-bred dogs or cats may be offered for sale, adoption, transfer or other outcome whether purchased directly from the commercial breeder or from some other intermediary such as a broker or wholesaler.

Animal abuser means any person eighteen (18) years of age or older convicted of an Animal Abuse Offense in Osceola County for conduct that occurs on or after January 1, 2019, except youthful offenders whose convictions or adjudications include sealed records.

Animal means any living non-human creature.

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

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

Animal Abuser Link shall mean the online link at Osceolaclerk.com identifying persons convicted in Osceola County of an Animal Abuse Offense that occurs on or after January 1, 2019.

Animal control officer means any person employed or appointed by the county to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations.

Animal Rescue Organization means a duly incorporated nonprofit organization properly organized under Section 501(c)(3) of the United States Internal Revenue Code, devoted to the rescue, care, humane treatment, and adoption of stray, abandoned or surrendered animals and which does not breed dogs or cats or accept dogs or cats from commercial breeders, either directly or indirectly.

Animal Shelter means the Osceola County Animal Shelter or any other local animal control authority, public animal shelter or private animal shelter maintained by or under contract with the County or a municipality.

Appropriate disposition means an animal is adopted, sent to rescue, fostered, transferred, reclaimed by the owner, or euthanized. This definition excludes any cat that qualifies as a community cat under this Chapter.

At-large means an animal, except those meeting the qualifications of a community cat as defined herein that is off the premises of its owner and not under the direct control of a competent adult by means of a leash, cord, chain, bridle, rope, halter or other appropriate physical restraint. In the case of dogs, in addition to the above, at-large means a dog that is on the premises of its owner and is not under the direct control of a competent adult by the means described above or confined to the property by a secure fence or other appropriate enclosure or physical restraint designed to confine the dog to the property. An animal engaged in hunting, agricultural tasks, ranching tasks, competition, trial or a show, or at a recognized dog park, while being supervised in a manner which is necessary under the circumstances, shall not be considered at-large.

Commercial Breeder means any natural person, corporation, partnership, association or other legal entity or business unit and every officer, agent, or employee thereof who intentionally seeks to have animals reproduce for sale or other commercial purpose, either willfully or through failure to exercise due care and control and regardless of the number of litters produced and/or to selectively mate animals with desirable genetic traits and/or to maintain or enhance the traits in future generations. This classification will not apply to a hobby breeder as defined in this section or to a pet owner who breeds his or her own pets and keeps all of the offspring.

Community Cat means any free roaming cat that may be cared for by one or more residents in the area, known or unknown. Community cats that are ear-tipped indicate the animal is sterilized and vaccinated against rabies at least one time. A community cat may also mean a cat that is found outside with no valid identification that is brought to the animal shelter and is not yet sterilized, ear-tipped, and rabies vaccinated.

Community Cat Caregiver means a person who provides care to a community cat in the form of food, water, shelter and veterinary care, while not being considered the owner, custodian, harbinger, possessor, or keeper of a community cat.

Complaint means any verbal or written notification filed with the County or the Osceola County Sheriff's Office or another law enforcement agency regarding animal issues in Osceola County.

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 means Osceola County.

County manager means the county manager or a designee thereof.

Department means the Osceola County Animal Services Department.

Director means the Director of the Osceola County Animal Services Department or a designee thereof.

Ear-tipped refers to removing approximately a quarter-inch off the tip of the cat's left ear in a straight line cut.

Hobby Breeder means a person or entity that is a member of a national, state, or local breeder organization and that houses or breeds dogs or cats at or adjoining a private residence for the purpose of: continuing genetic lines of specific breeds, exhibiting dogs or cats at shows operated by a national, state, or local breeder organizations; or raising service animals or animals used for law enforcement or other types of work. A hobby breeder may sell no more than two (2) litters of puppies or kittens per year per legal residence. A hobby breeder that sells more than two litters per year per household shall be deemed to be a commercial breeder. Any person or entity acting as a breeder for the purposes of offering and/or supplying service animals as defined under the Americans with Disabilities Act is exempt from this requirements of this definition.

Livestock means grazing animals, such as cattle, horses, sheep, swine, goats, other hoofed animals, ostriches, emus and rheas, raised for private or commercial use.

Material Error means error that reasonably might have affected the outcome.

Officer means any animal control officer or any law enforcement officer as defined by Florida Statutes § 943.10.

Owner means any individual or entity owning, harboring or having control, custody or possession of an animal; any individual or entity who feeds or shelters an animal for a period of fourteen (14) days or more; or any individual or entity who knowingly permits an animal to remain on the property of said individual or entity for a period of fourteen (14) days or more, consecutive or not. If an animal is owned by an individual under the age of eighteen (18), the parent or guardian of that individual is deemed to be the owner of the animal. Community Cat Caregivers are not owners as defined in this Chapter.

Pet seller means any individual or person, partnership, firm, corporation or other entity which offers animals for sale or is engaged in the sale, exchange, or other transfer of ownership of animals. This definition applies to specifically to Section 4-41, Osceola County Code of Ordinances.

Pet Shop means a business entity that has obtained a business tax receipt or occupational license, open to the public, that 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.

Proper shelter for a dog means a structure with three sides, a top and a bottom, a waterproof roof, that is structurally sound, and is sufficient to protect the animal from the elements with space to stand up, sit down, turn around, lie down, and stretch out. The structure must also provide for adequate ventilation, exchange of fresh air, and maintain a temperature that is appropriate for the safety and well-being of the animal. The structure and surrounding areas shall be free of trash or waste so as not to threaten the physical well-being of the animal. Examples of inadequate shelter include, but are not limited to, lean-tos, cardboard boxes, airline carriers, vehicles, uncovered porches or decks, or any material that does not provide sufficient protection from the elements.

Retail adoption means a retail transaction, regardless of any exchange of consideration for the animal, that takes place at the same time or same location; 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 shop or in association with a pet shop.

Service animal means an animal that meets the definition as set forth in federal and state law.

Severe injury means any physical injury that results in broken bones, multiple bites or disfiguring lacerations requiring sutures or reconstructive surgery.

Sterilize means rendering an animal permanently incapable of reproduction.

Urban Growth Boundary means the area as defined in the Osceola County Comprehensive Plan.

Valid identification means any form of identification that is found on an animal which provides current owner contact information.

Veterinarian means an individual licensed to practice veterinary medicine in the State of Florida.

Working day means any day the county animal shelter is open for business including Saturday when applicable.

Sec. 4-12. – Fees and civil penalties.

- (a) By resolution, the board of county commissioners shall establish reasonable fees for administration of the provisions and procedures of this chapter. All such fees shall remain valid until modified by a new resolution.
- (b) The board of county commissioners hereby adopts the following schedule of civil penalties for violations of this chapter. All such penalties shall remain valid until modified by ordinance. The adopted penalties are set forth as follows:

Violation	1st Offense	2nd Offense	3rd Offense	4th Offense	Surcharge F.S. Ch. 828
Failure to Obtain Tags	\$50.00	\$100.00	\$150.00	\$200.00	\$5.00
Failure to Wear Tags	\$50.00	\$100.00	\$150.00	\$200.00	\$5.00
Invalid; Counterfeit or Forged Tags	\$50.00	\$100.00	\$150.00	\$200.00	\$5.00
Failure to Vaccinate	\$100.00	\$200.00	\$300.00	\$400.00	\$5.00
At Large or Improperly Confined Animal	\$100.00	\$200.00	\$300.00	\$400.00	\$5.00
At Large or Improperly Confined Animal with destruction or loss of	\$100.00	\$200.00	\$300.00 and mandatory	\$400.00 and mandatory	\$5.00

personal property			appearance	appearance	
At Large or Improperly Confined Animal resulting in unprovoked biting, attacking or wounding of a person or a domestic animal	\$450.00 (person); \$250.00 (animal)	\$500.00 and mandatory appearance	\$500.00 and mandatory appearance	\$500.00 and mandatory appearance	\$5.00
Animal Creating Nuisance	\$100.00	\$200.00	\$300.00	\$400.00	\$5.00
Failure to Properly Confine or Control and Aggressive Animal	\$150.00	\$250.00	\$350.00	\$450.00	\$5.00
Failure to comply with requirements for registration and maintenance of a Dangerous Dog	\$500.00	\$500.00	\$500.00	\$500.00	\$5.00
Cruel Treatment of Animal	\$500.00	\$500.00 and mandatory appearance	\$500.00 and mandatory appearance	\$500.00 and mandatory appearance	\$5.00
Interference with Animal Control Officer	\$500.00	\$500.00	\$500.00	\$500.00	\$5.00
Exceeds Animal Number or Animal Number/Type Combination Per Residence	\$100.00	\$200.00	\$300.00	\$400.00	\$5.00
Inhumane or unsafe transportation of an animal in an open vehicle	\$150.00	\$250.00	\$350.00 and mandatory appearance	\$500.00 and mandatory appearance	\$5.00
Failure to notify Animal Services Department of trapping of feral and domesticated cats	\$100.00	\$200.00	\$300.00	\$500.00	\$5.00
Failure to comply with trapping of feral or domesticated cat guidelines as established by the Department	\$100.00	\$200.00	\$300.00	\$500.00	\$5.00

Failure to surrender an animal for quarantine	\$500.00	\$500.00	\$500.00 and mandatory appearance	\$500.00 and mandatory appearance	\$5.00
Breach of terms of stipulated agreement	\$150.00	\$250.00	\$350.00	\$500.00	\$5.00
Violation of dogs and cats offered for sale; health requirements	\$100.00	\$200.00	\$350.00	\$500.00	\$5.00
Transfer of dog or cat to Animal Abuser	\$150.00	\$250.00	\$350.00	\$450.00	\$5.00
<u>Falsification of Pet Shop Records</u>	<u>\$100.00</u>	<u>\$200.00</u>	<u>\$350.00</u>	<u>\$500.00</u>	<u>\$5.00</u>
<u>Noncompliance with requirements of the adoption-based business model for retail adoption of dogs and cats</u>	<u>\$100.00</u>	<u>\$200.00</u>	<u>\$350.00</u>	<u>\$500.00</u>	<u>\$5.00</u>

ARTICLE II. – ANIMAL CONTROL

Sec. 4-42. – Adoption-Based Business Model for Retail Adoption of Dogs and Cats and Other Requirements

(1) An adoption-based business model shall be required for the retail adoption of dogs or cats at a pet shop 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. Dogs and cats purchased directly from a commercial breeder, a hobby breeder or indirectly through some other intermediary such as a broker or wholesaler may not be offered for sale, adoption, transfer, or other outcome.

(2) No pet shop shall offer dogs or cats in Osceola County, unless the dog or cat was obtained from an animal shelter or an animal rescue organization.

(3) This adoption-based business model for the retail adoption of dogs or cats in the County applies to any pet shops opened, transferred, assigned or sold by owners of existing pet shops after the effective date of the Ordinance. This section shall not apply to lawfully operating pet

shops in existence on or before the effective date of this Ordinance until such time that the pet shop is transferred, assigned, sold by owners, has a lapse in the maintenance of any licenses necessary to operate their business, is abandoned, or is found to be in violation of any federal or state administrative rules, regulations or statutes. At that time, the pet shop shall be subject to this section.

(4) Disclosures: A pet shop must be able to produce information upon request by an Animal Services Officer regarding the source of dogs and cats in the store.

(5) Pet shops 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 of the dog or cat and maintain a copy of the record for the previous year subject to inspection by the County's animal control officers or any other County officials charged with enforcing the provisions of this Section. Any such records shall be made available immediately upon request. Falsification of records by pet shops is hereby deemed unlawful and subject to the penalties under this Chapter.

(6) Any pet shop found to be in violation of the provisions of this Section may be subject to any applicable enforcement mechanism available to the County, including but not limited to: prosecution in the same manner as a misdemeanor, as provided in Section 125.69, Florida Statutes (2019), and Section 4-13 of this Code. It shall be a violation of this Ordinance to fail to comply with any of the requirements or restrictions contained in this Ordinance. Violations of this Ordinance are classified as a civil infraction in accordance with Section 828.27(2), Florida Statutes and the penalties shall be set forth in Section 4-12 of this Code.

(a) Each animal produced, reared, bred, kept, sold, or released in violation of this Section will be deemed a separate offense.

(b) A separate offense will be deemed committed on each day during which a violation occurs or continues.

(c) Imposition of a penalty for a violation does not excuse the violation nor does it imply permission for the violation to continue. All pet shops found to be in violation will be required to correct or remedy such violations immediately.

(c) The County may initiate a civil action in any court of competent jurisdiction to enjoin any violation of this Ordinance.

(d) Nothing precludes this section from being enforced in any other way in accordance with the law.

(7) This Ordinance shall be applicable in both incorporated and unincorporated portions of Osceola County until such time that the municipalities adopt a conflicting ordinance.

SECTION 2. SEVERABILITY. It is the declared intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase, or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

SECTION 3. CONFLICT. Any ordinance or part thereof in conflict with this Ordinance or any part hereof is hereby repealed to the extent of the conflict.

SECTION 4. INCLUSION INTO THE CODE. The provisions of this Ordinance shall be included and incorporated within the Code of Ordinances of Osceola County Florida, and may be renumbered or relettered to accommodate such inclusion.

SECTION 5. FILING WITH DEPARTMENT OF STATE. The Clerk be and hereby is directed forthwith to send a certified copy of this Ordinance to the Bureau of Administrative Code and the Department of State pursuant to law.

SECTION 6. EFFECTIVE DATE. A certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten days after enactment. This ordinance shall take effect immediately upon filing with the Florida Department of State.

**BOARD OF COUNTY COMMISSIONERS
OF OSCEOLA COUNTY, FLORIDA**

By: _____
Chair/Vice Chair

**ATTEST:
OSCEOLA COUNTY CLERK OF THE BOARD**

By: _____
Clerk/ Deputy Clerk of the Board

As authorized for execution at the Board of

County Commissioners meeting of:
