



Interoffice Memorandum

June 4, 2021

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Yolanda G. Martínez, EdPh.D., Ph.D., Director *YGM*
Health Services Department

CONTACT: Sawsan Mohiuddin, Assistant County Attorney
(407) 836-7320

SUBJECT: Proposed Ordinance for Ban on Retail Sales of Dogs, Cats and Rabbits
Public Hearing – June 22, 2021

EXPLANATION & SUMMARY

On May 11, 2021, the Board of County Commissioners ("BCC") directed staff to draft an ordinance that would prohibit the retail sale of dogs, cats and rabbits in Orange County. The Ordinance is entitled "Retail Sale of Dogs, Cats, Rabbits by Pet Stores Prohibited." The intent of the Ordinance is to address the growing concern around the State of the sale of dogs and cats that come from large-scale, commercial breeding facilities where the health and welfare of the animals is disregarded in order to maximize profits. The prohibition of the retail sale of dogs, cats, and rabbits in Orange County is considered to be in the best interest of the health, safety and welfare of its residents and citizens and the public at large.

ACTION REQUESTED: Approval and execution of an Ordinance relating to Animal Services in Orange County, Florida; enacting section 5-53 of the Orange County Code of Ordinances entitled "Retail Sale of Dogs, Cats, Rabbits by Pet Stores Prohibited"; and providing an effective date.

Attachment

C: Byron W. Brooks, AICP, County Administrator
Danny Banks, Deputy County Administrator
Jeffrey J. Newton, County Attorney
Sawsan K. Mohiuddin, Assistant County Attorney

ORDINANCE NO. 2021-

AN ORDINANCE RELATING TO ANIMAL SERVICES IN
ORANGE COUNTY, FLORIDA; ENACTING SECTION 5-53
OF THE ORANGE COUNTY CODE OF ORDINANCES
ENTITLED "RETAIL SALE OF DOGS, CATS, RABBITS BY
PET STORES PROHIBITED"; AND PROVIDING AN
EFFECTIVE DATE.

WHEREAS, Article VIII, section (1)(f) of the Florida Constitution and chapter 125, Florida Statutes, grant the Orange County Board of County Commissioners ("BCC") 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, there has been growing concern throughout Florida and the country involving the sale of dogs and cats from pet stores; and

WHEREAS, most dogs and cats sold in pet stores come from large-scale, commercial breeding facilities where the health and welfare of the animals is disregarded in order to maximize profits; and

WHEREAS, current federal and state regulations do not adequately address the animal welfare and consumer protection problems that the sale of dogs, cats, or rabbits in pet stores pose; and

WHEREAS, the BCC deems the prohibition of the retail sale of dogs, cats, and rabbits in Orange County to be in the best interest of the health, safety and welfare of its residents and citizens and the public at large.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

Section 1: Enactment of New Section 5-53, Retail Sale of Dogs, Cats, Rabbits by Pet Stores Prohibited. New Section 5-53 is hereby enacted to read as follows:

CHAPTER 5. ANIMALS

Article II. ANIMAL SERVICES

34 **Sec. 5-53. – Retail Sale of Dogs, Cats, Rabbits by Pet Stores Prohibited**

36 (a) *Definitions.* When used in this section, the following terms shall have the following meanings unless the context clearly indicates otherwise:

38 1. *Animal Rescue Organization* shall mean a not-for-profit organization that has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant
40 part, the rescue and placement of dogs or cats into permanent homes and that does not breed animals nor obtain animals in exchange for payment or
42 compensation from any person that breeds or brokers animals.

44 2. *Animal Shelter* shall mean the local animal control authority, public animal shelter, or private animal shelter maintained by or under contract with the county or municipality, devoted to the rescue, care, and adoption of stray or
46 abandoned or unwanted animals; or any brick and mortar animal shelter whose primary mission is to find permanent homes or recues for sterilized,
48 unwanted and homeless pets.

50 3. *Cat* means any member of the species *Catus felis*.

52 4. *Certificate of source* means a document which includes the following information about the dog or cat involved in any retail sale:

54 a. The name address, telephone number and email address of any breeder, wholesaler, and transporter;

b. breed;

c. color;

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d. age

e. approximate weight; and

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f. signatures of the breeder, wholesaler and transporter.

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5. *Dog* means any member of the species *Canis Lupus Familiaris*, or any genetic hybridization thereof, not under the jurisdiction of the Fish and Wildlife Conservation Commission.

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6. *Pet store* means a retail establishment where animals are kept, sold or offered for sale on the premises. An animal shelter or animal rescue organization shall not be considered a pet store for the purposes of this Section.

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7. *Rabbit* means any member of the species *Oryctolagus Cuniculus*.

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8. *Retail sale* shall mean to sell (whether or not consideration for the animal, and/or animal services is exchanged at the same time and/or location), offer for sale, auction, barter, display for sale, rehome, exchange (for compensation or otherwise), give away, trade, deliver, lease, rent, include as part of a package deal, advertise to do any of the aforementioned, or otherwise dispose of dogs and/or cats to a person/s in a pet store or in association with a pet store.

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(b) *Sale of Dogs, Cats, Rabbits Prohibited*. It shall be a violation of this section for a pet store to engage in the retail sale of any dog, cat, or rabbit.

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(c) *Adoptions*. Nothing in this section shall prevent a pet store from providing space and appropriate shelter, food or care for animals owned by any animal

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rescue organization or animal shelter as defined in subsection (a) to display dogs, cats, and/or rabbits for adoption.

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1. A pet store that provides space for the adoption dogs, cats, and/or rabbits shall post, in a conspicuous location on the cage or enclosure of each such animal, a sign stating the name of the animal rescue organization or animal shelter which owns the dog, cat, and/ or rabbit offered for adoption.

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2. It shall be a violation of this section for a pet store to have any ownership interest in any dog, cat, or rabbit displayed for adoption.

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(d) *Amortization period.* Any existing pet store that is lawfully operating on or before June 22, 2021, shall be permitted to continue the retail sale of dogs, cats, and/or rabbits until June 22, 2022.

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1. As a condition of continued operation during the amortization period, a pet store shall not increase or enlarge its floor space.

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2. An existing pet store shall provide proof of its retail sales existing as of June 22, 2021 to the Division manager through sales receipts, franchise agreements, leases or other documentation readily authenticated as true and accurate documents. Proof of its retail sales existing as June 22, 2021 shall be provided to the Division Manager within thirty (30) days after June 22, 2021. Failure to provide required documentation will result in the loss of nonconforming status.

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3. Any existing pet store that voluntarily abandons the retail sale for a period of more than thirty (30) days, or ceases retail sale as a result of destruction by fire or other peril shall lose its nonconforming status.

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102 4. Certificate of Source. During the amortization period, a pet store shall
104 post and maintain in a conspicuous place, a certificate of source of each
106 dog, cat, or rabbit offered for sale or transfer and shall provide a copy
108 of such certificate to the purchaser or transferee of any dog or cat sold
or transferred. The failure to maintain complete records on each dog,
cat, or rabbit as required by this section shall constitute a separate
violation as to each record missing or incomplete. Falsification of
records by pet stores is hereby deemed unlawful and subject to the
penalties under this section.

110 (e) *Applicability.* All provisions of this Ordinance shall be applicable throughout
the incorporated and unincorporated areas of Orange County.

112 (f) *Enforcement.* Provisions of this section may be enforced by any person having
the authority to enforce county ordinances. Any pet store found to be in
114 violation of the provisions of this section may be subject to any applicable
enforcement mechanism available to Orange County, including but not limited
116 to prosecution in the same manner as a misdemeanor as provided in Section
125.69, Florida Statutes. It shall be a violation of this section to fail to comply
118 with any of the requirements or restrictions contained in this section.

(g) *Penalties.* Each dog, cat, or rabbit sold or offered for sale made in violation of
120 this section shall constitute a separate violation. Each day a pet store is in
violation of this section shall constitute a separate offense.

122 a. Consistent with Florida Law, any violation of this Ordinance is a civil
infraction punishable by a maximum civil penalty not to exceed

124. \$500.00. A violation of this section shall be classified as a Category II
offense as described in this Article. The amount of any penalties shall
126 be established in the Animal Services Resolution.

b. The county may initiate a civil action in any court of competent
128 jurisdiction to enjoin any violation of this section.

c. Imposition of a penalty for a violation does not excuse the violation nor
130 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
132 violation immediately.

Section 2. Effective Date. This ordinance shall take effect upon its passage and as
134 provided by law.

ADOPTED this ___ Day of _____ 2021.

136 ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

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140 By: _____
Jerry L. Demings
Orange County Mayor

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144 DATE: _____

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148 ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

150 By: _____
Deputy Clerk

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