

**ORDINANCE NO. 1686**

**AN ORDINANCE OF THE CITY OF OVIEDO, FLORIDA RELATING TO THE RETAIL SALE OF DOGS AND CATS IN PUBLIC PLACES (“PUPPY MILLS” AND “KITTEN FACTORIES”); PROVIDING FOR DEFINITIONS; PROVIDING FOR CONDITIONS AND RESTRICTIONS AND OTHER REQUIREMENTS; PROVIDING FOR PENALTIES; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AS WELL AS THE CORRECTION OF SCRIVENER'S ERRORS AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the practice of commercial breeding facilities, not including medical research, sometimes referred to as “puppy mills” and “kitten factories” contribute to domestic animal overpopulation; and

**WHEREAS**, these facilities may house animals in overcrowded and unsanitary conditions without adequate veterinary care, food, water and socialization thereby allowing the spread of heritable and congenital disorders, infectious diseases and potentially causing environmental contamination all of which may present immediately after a sale or not until several years later; and

**WHEREAS**, the practices used by these mass-breeders may be cruel, inhumane, or at least considered unreasonable to most pet owners, and detrimental to the pets used for breeding and

**WHEREAS**, the Humane Society of the United States estimates there are over 10,000 puppy mills in the United States selling approximately two million puppies annually; and

**WHEREAS**, an effective tool to eliminate the retail market for domestic dogs and cats bred through “puppy mills” and “kitten factories” is to require that pet shops utilize an adoption-based business model, which ensures that the animals sold by pet shops are sourced from shelters and animal rescue organizations thereby 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 a shelter, or from a reputable breeder where the consumer can directly observe and evaluate the conditions in which the dogs or cats are bred, or where the consumer can confer directly with the reputable local breeder concerning said conditions; and

**WHEREAS**, for these reasons the City Council of the City of Oviedo finds it reasonable and necessary to provide the following minimum standards governing the sale of cats and dogs to protect the health, safety and welfare of both animals and pet owners; that such regulation constitutes a legitimate purpose, and that such regulation 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; and

**WHEREAS**, this Ordinance is enacted pursuant to the home rule powers of the City of Oviedo as set forth at Article VIII, Section 2, of the *Constitution of the State of Florida*; Chapter 166, *Florida Statutes*; and other applicable controlling law; and

**WHEREAS**, the City Council of the City of Oviedo has deemed approval of this Ordinance to be in the best interest of the residents and citizens of the City of Oviedo and to further the public health, safety and welfare; and

**WHEREAS**, the City Council of the City of Oviedo has complied with all procedural and substantive requirements of controlling law in enacting this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OVIEDO, FLORIDA:**

**SECTION 1. LEGISLATIVE FINDINGS AND INTENT.**

(a). The City Council of the City of Oviedo hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) set forth herein as the legislative and administrative findings and intent of the City Council.

(b). The intent of this Ordinance is to prohibit the retail sale of commercially bred dogs and cats from “puppy mills” and “kitten factories.” These facilities often house animals in overcrowded and unsanitary conditions without adequate veterinary care, food, water and socialization, thereby causing or allow allowing heritable and congenital disorders; the spread of infectious diseases; and environmental contamination, any of which may be present immediately after a sale or not until several years later.

(c). The City Council finds it reasonable and necessary to provide the following minimum standards governing the sale of cats and dogs to protect the health, safety, and welfare of both animals and pet owners; that such regulation constitutes a legitimate purpose, and will encourage pet consumers to obtain 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.

(d). It is the intent of the City Council that this Ordinance will conform with and supplement Section 828.29, *Florida Statutes*,<sup>i</sup> as may be amended, relating to the sale of dogs and cats transported into the state for sale, health requirements, and consumer guarantee.

**SECTION 2. RETAIL SALE OF DOGS AND CATS IN PUBLIC PLACES.** The following provisions are added to the *Code of Ordinances of the City of Oviedo (City Code)* as follows:

**Definitions.**

*Animal Rescue Organization* means a duly incorporated nonprofit organization, properly organized under Section 501(c)(3) of the *Internal Revenue Code*, devoted to the rescue, care, humane treatment, and adoption of stray abandoned, or surrendered animals which does not breed

animals; provided, however, that this term does not include an entity which obtains a dog or cat from a breeder or dealer for payment or compensation.

*Animal services* means a direct service provided to a dog or cat, including but not limited to, grooming, bathing, or boarding.

*Animal shelter* means the premises designated by the Board of County Commissioners of Seminole County for the purpose of impounding and caring for animals taken into custody for violation of, or pursuant to, the *County Code*.

*Breeder* means any person or entity that causes dogs or cats to reproduce, either willfully or through failure to exercise due care and control, regardless of the size or number of litters produced. Any person or entity offering male dogs or cats for stud purposes shall be classified as a breeder. 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.

*Cat* means an animal of any age that is a member of the *Felis Catus*, or any genetic hybridization thereof, not under the jurisdiction of the Florida Fish and Wildlife Conservation Commission.

*Certificate of Source* means a document from the source or Seminole County Animal Services Shelter, animal control agency, animal rescue organization, or hobby breeder declaring the source of origin of a dog or cat on the premises offered for retail sale, as defined in this Section. The document shall 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) shall be signed by the Pet Store certifying the accuracy of the certificate; and
- (4) shall be signed by the purchaser or transferee of the dog or cat acknowledging receipt of the certificate of source.

*Commercial kennel* means any premises or structure of a business, breeder, or animal rescue organization used for housing, boarding, buying, selling, re-homing, or adopting of dogs and cats. This is to include greyhound racing kennels. This term shall will not include animal hospitals or beauty parlors unconnected with boarding.

*Dog* means an animal of any age that is a member of the *Canis Lupus Familiaris*, or any genetic hybridization thereof, not under the jurisdiction of the Florida Fish and Wildlife Conservation Commission.

*Hobby breeder* means any person or entity, that intentionally causes or allows willfully or through failure to exercise due care and control, the breeding or studing of a dog or cat resulting in no more than a total of 1 litter per calendar year per legal residence whether or not the animals in such litter are offered for sale or other transfer.

*Noncommercial kennel* means any premises or structure used to house dogs or cats of a hobby breeder other than inside a person's home, and which is on the same property where the hobby breeder resides.

*Pet shop* means a business entity that has obtained a 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. The Seminole County Animal Services Shelter or an animal rescue organization shall not be considered a pet shop under this Ordinance.

*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; offer for sale; auction; barter; display for sale;; exchange for compensation; or otherwise; trade; deliver; lease; rent; include as part of a package deal; advertise for sale; or otherwise dispose of a dog or dogs or a cat or cats to a person in a pet shop or in association with a pet shop.

### **Retail Sale of Dogs and Cats.**

(a). An adoption-based business model shall be required for the retail sale 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. It also means that pets purchased directly from a commercial breeder or indirectly through some other intermediary such as a broker or wholesaler may not be offered for sale.

(b). It is prohibited and unlawful for a pet shop to offer a dog or dogs or a cat or cats in City, unless each dog or cat was obtained from:

- (1) An animal shelter; or
- (2) An animal rescue organization.

(c). This adoption-based business model for the retail sale of dogs and cats in the City, as set forth in this Ordinance, shall apply to any pet shops opened, transferred, assigned, or sold by owners of existing pet shops after the effective date of this Ordinance.

(d). 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*, as amended from time to time.

(e). Pet shops shall post and maintain a certificate of source on each dog's or cat'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.

(f). 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 3 years following the date of acquisition or in accordance with the required retention time set forth by business standards and practices governing the particular commercial establishment and record, whichever is greater, and maintain a copy of the record for the previous year subject to

inspection by the City or any County official charged with enforcing the provisions of this Ordinance.

(g). Any such records shall be made available by a pet shop immediately upon request by the City, to the City or any County official charged with enforcing the provisions of this Ordinance.

(h). All pet shops shall maintain all records required by this Ordinance in good order and accuracy without any falsification of records.

(i). It is prohibited and unlawful to violate the provisions of this Section which violation shall include, but not be limited, failure to adhere and timely perform any duty required in this Ordinance or to engage in any activity prohibited by this Ordinance.

### **Prohibition on Retail Sale in Public Places.**

It is prohibited and unlawful to engage in the retail sale of dogs or cats on any public thoroughfare, public common areas or other places of public accommodations, flea markets, festivals, yard sales, medians, parks, recreation areas, outdoor markets, parking lots, or other similar locations, regardless of whether such access is authorized by the owner or any other person. This prohibition shall not apply to the retail sale of dogs or cats by an Animal Shelter or Animal Rescue Organization.

### **Civil penalties.**

(a). The provisions of this Ordinance shall be enforced and penalties may be imposed in accordance with the provisions of Section 1-13 of the *City Code* relating to a general penalty and recoupment of costs incurred by the City or by asserting any remedy available under controlling law.

(b). Each dog or cat produced, reared, bred, kept, sold, or released in violation of this Ordinance shall be deemed a separate offense, and a separate offense will be deemed committed on each day during on or which a violation occurs or continues.

(c). The City Attorney, as agreed upon by the City Manager, may initiate a civil action in any court of competent jurisdiction to enjoin any violation of this Ordinance.

(d). 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.

**SECTION 3. IMPLEMENTING ADMINISTRATIVE ACTIONS.** The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to bring into effect the provisions of this Ordinance including, but not limited to, the promulgation and adoption of rules and forms. Without limiting the generality of the foregoing, the City Manager shall engage in such agreements and related actions and matters as may be needed to coordinate enforcement of this Ordinance and animal control matters between the City and Seminole County government.

**SECTION 4. SAVINGS.** The prior actions of the City of Oviedo relating to the code enforcement and animal control activities of the City are hereby ratified and affirmed.

**SECTION 5. CONFLICTS.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

**SECTION 6. SEVERABILITY.** If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

**SECTION 7. CODIFICATION; SCRIVENER'S ERRORS.** The provisions of this Ordinance shall not become and be made a part of the *City Code of the City of Oviedo, Florida*.

**SECTION 8. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon enactment.

**FIRST READING:** \_\_\_\_\_ August 19, 2019 \_\_\_\_\_

**SECOND READING:** \_\_\_\_\_ September 5, 2019 \_\_\_\_\_

**PASSED AND ADOPTED** this 5<sup>th</sup> day of September, 2019.

\_\_\_\_\_  
**DOMINIC PERSAMPIERE**  
**MAYOR of the City of Oviedo, Florida**

**ATTEST:**

\_\_\_\_\_  
**BARBARA J. BARBOUR**  
**CITY CLERK**

