

**RESOLUTION NO. 2019-\_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, CREATING CHAPTER 319 OF THE CODE OF INDIAN RIVER COUNTY, FLORIDA, ENTITLED “RETAIL SALE OF DOGS AND CATS”; AND PROVIDING FOR CODIFICATION, SEVERABILITY, A GENERAL REPEALER AND AN EFFECTIVE DATE.**

**WHEREAS**, "puppy mills" and "kitten factories" are facilities that often house animals in overcrowded and unsanitary conditions without adequate veterinary care, food, water, and socialization; and

**WHEREAS**, conditions in “puppy mills” and “kitten factories” can allow for 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; and

**WHEREAS**, the Indian River County Board of County Commissioners (the “Board”) finds it reasonable and necessary to provide minimum standards governing the sale of cats and dogs to protect the health, safety, and welfare of both animals and pet owners; and

**WHEREAS**, the Board also finds that such regulation constitutes a legitimate purpose, and will encourage pet consumers to obtain dogs and cats from shelters, animal rescue organizations, or hobby breeders thereby saving the lives of animals and reducing the cost to the public of sheltering and euthanizing animals,

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA THAT:**

**Section 1. Enactment Authority.**

Article VIII, section 1 of the Florida Constitution and chapter 125, Florida Statutes vest broad home rule powers in counties to enact ordinances, not inconsistent with general or special law, for the purpose of protecting the public health, safety and welfare of the residents of the county. The Board specifically determines that the enactment of this ordinance is necessary to protect the health, safety and welfare of the residents of Indian River County.

**Section 2. Legislative Findings.**

The Board finds that the “Whereas” clauses above are true and correct, and hereby incorporates such clauses as the legislative findings of the Board.

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### **Section 3. Creation of New Chapter.**

Chapter 319 of the Code of Indian River County, Florida is hereby created to read as follows:

### **CHAPTER 317. RETAIL SALE OF DOGS AND CATS**

#### **Section 319.01. – Definitions.**

When used in this chapter, the following terms shall have the following meanings:

*Animal control authority.* Refers to one (1) or more or all of those offices, departments, agencies, groups or individuals, designated by the board to provide a function or service relating to animal control or regulation under the terms of this chapter.

*Animal control division.* The animal control division of Indian River County, Florida.

*Animal control officer.* An individual employed, contracted with, or appointed by the board or the animal control authority to: investigate, on public or private property, civil infractions relating to animal control or cruelty; issue citations as provided in this chapter; seize and impound animals; and aid in the enforcement of this chapter or any other law or ordinance relating to the licensure, control, or seizure and impoundment of animals; provided, however, that no employee of the humane society shall be deemed to be an animal control officer; and further provided that where the animal control officer is employed or appointed by the board, the animal control officer shall meet all of the requirements of the provisions of Section 828.29, Florida Statutes, in effect at the time the animal control officer was hired. The term "animal control officer" includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

*Animal Rescue Organization.* 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 that does not breed animals.

*Certificate of Source.* A document from the source or Indian River 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 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 Shop certifying the

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accuracy of the Certificate of Source; and (4) the signature of the purchaser or transferee of the dog or cat acknowledging receipt of the Certificate of Source.

*Hobby breeder.* 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 one (1) litter per calendar year per legal residence whether or not the animals in such litter are offered for sale or other transfer.

*Indian River County Animal Services Shelter.* The premises designated by the Board of County Commissioners for the purpose of impounding and caring for animals taken into custody for violation of, or pursuant to, this Chapter or Chapter 302 of the Indian River County Code of Ordinances.

*Pet shop.* 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. Indian River County Animal Services Shelter and animal rescue organizations are not considered a pet shop under this Chapter.

### **Section 319.02. - 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) No pet shop shall offer dogs or cats in Indian River County, unless the dog or cat was obtained from:
  - (1) An animal shelter;
  - (2) An animal rescue organization.
- (c) This adoption-based business model for the retail sale 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 Chapter.
- (d) An official certificate of veterinary inspection must accompany the sale of any dog or cat transported into the state, in compliance with Section 828.29(3), Florida Statutes, as this statute may be amended from time to time.
- (e) Pet shops shall post and maintain a certificate of source, as defined in section 319.01, on each animal's cage, kennel, or enclosure, within clear view, and shall

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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 address 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 time set forth by business standards and practices governing the particular commercial establishment and records, whichever is greater, 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.
- (g) Any such records shall be made available, immediately upon request, to the County's animal control officers and any other County officials charged with enforcing the provisions of this Section.
- (h) Falsification of records by pet shops is hereby deemed unlawful and subject to the penalties of this Chapter.

### **Section 319.03. - Prohibition on retail sale in public places.**

- (a) There shall be no 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.
- (b) This Section shall not apply to the retail sale of dogs or cats by an Animal Shelter or Animal Rescue Organization.

### **Section. 319.04. - Enforcement and penalties.**

- (a) Any Pet Shop found to be in violation of the provisions of this Chapter 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, as this statute may be amended from time to time. It shall be a violation of this Chapter to fail to comply with any of the requirements or restrictions contained in this Chapter.
- (b) Each animal produced, reared, bred, kept, sold, or released in violation of this Chapter will be deemed a separate offense, and a separate offense will be deemed committed on each day on which a violation occurs or continues.
- (c) Violations of this Chapter are classified as a civil infraction in accordance with Section 828.27(2), Florida Statutes, as this statute may be amended from time to time.

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- (d) The County may initiate a civil action in any court of competent jurisdiction to enjoin any violation of this Chapter.
- (e) 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. 319.05. - Applicability.**

This Chapter shall apply to the unincorporated areas of Indian River County.

**Section 4. Codification.** It is the intention of the Board of County Commissioners that the provision of this ordinance shall become and be made part of the Indian River County Code, and that the sections of this ordinance may be renumbered or re-lettered and the word ordinance may be changed to section, article or such other appropriate word or phrase in order to accomplish such intention.

**Section 5. Severability.** If any part of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected by such holding and shall remain in full force and effect.

**Section 6. Conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 7. Effective Date.** This ordinance shall become effective upon adoption by the Board of County Commissioners and filing with the Department of State.

This ordinance was advertised in the Indian River Press Journal on the \_\_\_\_ day of \_\_\_\_\_, 2019, for a public hearing to be held on the \_\_ day of \_\_\_\_\_, 2019, at which time it was moved for adoption by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and adopted by the following vote:

Chairman Bob Solari	_____
Vice-Chairman Susan Adams	_____
Commissioner Joseph E. Flescher	_____
Commissioner Tim Zorc	_____
Commissioner Peter D. O'Bryan	_____

The Chairman thereupon declared the ordinance duly passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 2019.

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**BOARD OF COUNTY  
COMMISSIONERS OF INDIAN RIVER  
COUNTY, FLORIDA**

By: \_\_\_\_\_  
Bob Solari, Chairman

**ATTEST: Jeffrey R. Smith, Clerk  
and Comptroller**

By: \_\_\_\_\_  
Deputy Clerk

EFFECTIVE DATE: This Ordinance was filed with the Department of State on the \_\_\_\_  
day of \_\_\_\_\_, 2019.