

LEE COUNTY ORDINANCE NO. 23-30

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, PERTAINING TO ESTABLISHING A COUNTY ANIMAL ABUSER REGISTRY; PROVIDING FOR TITLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR ESTABLISHMENT OF AN ABUSER REGISTRY; PROVIDING FOR REGISTRATION REQUIREMENTS INCLUDING REGISTRATION FEES FOR VARIOUS ABUSE OFFENSES; PROVIDING FOR PROHIBITION ON CONTACT WITH ANIMALS UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR PROHIBITION ON ANIMAL SHELTERS, PET SELLERS, PRIVATE CITIZENS, OR OTHERS FROM TRANSFERRING ANIMAL OWNERSHIP TO ABUSERS; PROVIDING FOR REQUIREMENTS FOR ANIMAL SHELTERS, PET SELLERS, PRIVATE CITIZENS, OR OTHERS TO ENSURE PERSON NOT ON REGISTRY PRIOR TO TRANSFER OF OWNERSHIP OF ANIMALS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR APPLICABILITY; PROVIDING FOR FILING OF ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, while the State of Florida has criminalized the cruel treatment of animals, animal abuse and cruelty continues to occur in Lee County and throughout the State of Florida; and

WHEREAS, the Lee County Board of County Commissioners ("BOCC") finds that animal cruelty is a serious problem, resulting in the abuse of many animals each year; and

WHEREAS, the BOCC also finds that a strong correlation has been established linking individuals who abuse animals with incidents of domestic violence and that individuals who abuse animals are statistically more likely to commit violent acts against humans; and

WHEREAS, the BOCC further finds that people who have abused animals in the past are likely to do so in the future and studies show that there is a near 100% recidivism rate for certain types of abuse such as animal hoarding; and

WHEREAS, animal ownership carries with it both rights and responsibilities with respect to the humane treatment, care and control of owned animals; and

WHEREAS, the BOCC recognizes that residents of Lee County and their animals need to be protected and that an online registry that identifies abusers is necessary; and

WHEREAS, in 2012, the Florida legislature attempted, but was unsuccessful in passing Senate Bill 618, creating "Dexter's Law," an act establishing a state-wide animal abuse registry; and

WHEREAS, the BOCC has determined that it is in the best interest of the residents of Lee County and their animals that an online registry be established identifying individuals residing in Lee County convicted of certain abuse crimes that will prevent these individuals from adopting, purchasing, possessing, or otherwise obtaining animals from any animal shelter, pet seller, or other person or entity involved in the exchange of animals by adoption, sale, or other means; and

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed Ordinance on September 13, 2023, and recommended adoption; and

WHEREAS, the BOCC finds that it will serve the public health, safety, and welfare of the citizens and animals of Lee County to create this Animal Abuser Registry for Lee County.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA THAT:

SECTION ONE: TITLE.

This Ordinance shall be known and may be cited as the "Lee County Animal Abuser Registry Ordinance."

SECTION TWO: DEFINITIONS.

The following words, phrases, or terms when used in this Ordinance shall, unless otherwise indicated, have the meanings provided below:

- A. **Animal** shall mean, generally, any living dumb creature, as provided for in Florida Statutes.
- B. **Animal Enjoinment** shall mean any person enjoined by the Court from further possession or custody of other animals under Section 828.073(4)(c)(3), Florida Statutes or otherwise by Court order.
- C. **Abuser** shall mean any persons eighteen (18) years of age or older, including juveniles tried as an adult, who have been convicted of an Abuse Offense.
- D. **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.
- E. **Abuser Registry** shall mean the online Registry established by this Ordinance for registering any person residing in Lee County convicted of an Abuse Offense.
- F. **Animal Shelter** shall mean any public or privately owned organization, including, but not limited to, any incorporated humane society, pound, animal protective association or animal rescue group 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.
- G. **Companion Animal** shall mean a domesticated or tamed animal intended to provide companionship, to be used for personal use or enjoyment, or raised or intended to be raised for non-agricultural purposes; not to include a service animal or other animal or wildlife under the exclusive jurisdiction of the State.
- H. **BOCC** shall mean the Board of County Commissioners of Lee County, Florida.
- I. **Conviction** shall mean an adjudication of guilt, by any Court of competent jurisdiction, whether upon a verdict or plea of guilty or nolo contendere plea of one or more of the applicable Abuse Offenses.
- J. **County** shall mean Lee County or its designated agent.
- K. **Farm Animal** shall mean horses or 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.
- L. **Person** shall mean any individual (eighteen (18) years of age or older, including, when appropriate, juveniles tried as an adult), firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, entity, or any group or combination thereof.
- M. **Pet Seller** shall mean 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.
- N. **Registrant** shall mean any individual or person required by this Ordinance to register with the Sheriff for the Lee County Animal Abuser Registry.
- O. **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).

SECTION THREE: ESTABLISHING AN ABUSER REGISTRY.

The Lee County Sheriff's Office ("Sheriff") shall establish an online Abuser Registry ("Registry") that shall contain the names, residence, photo, and other related information of certain Abusers living in the County who are convicted of an Abuse Offense on or after the effective date of this Ordinance. The online Registry will be maintained by the Sheriff, shall be listed on the Sheriff's official website, (available to be posted on the website of other public agencies) and may contain links to other Abuser Registries that are available, or as they become available in the future, to be used as informational resources by Animal Shelters, Pet Sellers, or other persons or entities located in Lee County when they sell, exchange or otherwise transfer the ownership of an animal. The Sheriff and/or any other affiliated agencies may promulgate internal policies and procedures, as may be amended from time to time, necessary for the implementation of this Ordinance.

The Registry shall contain the required information about each particular Abuser, following his or her release from incarceration or, if not incarcerated, from the date of the judgment of conviction:

- A. For a period of three (3) years for a first conviction of a misdemeanor Abuse Offense;
- B. For a period of five (5) years for a first conviction of a felony Abuse Offense; and
- C. For a period of ten (10) years for a second or subsequent conviction of either a misdemeanor or felony Abuse Offense.

The page where the Registry is housed will also include a list of people who are enjoined from custody of animals either in a civil case under Section 828.073(4)(c)(3), Florida Statutes, or otherwise under Court order or as a condition of their sentencing in a criminal case. The enjoinder list will include people enjoined from custody of animals regardless of whether the Court ordered enjoinder occurred before or after the effective date of this Ordinance.

The Sheriff will attempt to ensure that the information in the Registry is accurate and complete. However, the Sheriff relies on other sources for the information. As a result, the Sheriff makes no express or implied guarantee concerning the accuracy or completeness of any of the data in the Registry.

The information in this Registry must be used responsibly. Anyone who uses this information to knowingly harass or interfere with lawful commerce shall commit a violation of this Ordinance punishable as provided in Section Seven (B).

Upon notification to the Sheriff that the criminal records of a person have been expunged by the Court or of a successful appeal of a conviction of an Abuse Offense by a person required to register pursuant to this Ordinance, the registration information for that person shall be removed from the Abuser Registry within ten (10) business days following notification.

SECTION FOUR: ABUSER REGISTRATION REQUIREMENTS.

- A. All Abusers who reside in the County and who are convicted of an Abuse Offense, on or after the effective date of this Ordinance, must personally appear at the designated Sheriff's office to register with the Lee County Abuser Registry within ten (10) business days after their release from incarceration or, if not incarcerated, from the date of the conviction judgment.

In the event an Abuser fails to timely register, the Sheriff may elect to seek the required information and to post such information on the Registry.

- B. Notwithstanding the foregoing, a person who establishes residency in the County and who was convicted of an Abuse Offense in another Florida jurisdiction, on or after the effective date of this Ordinance, must, within ten (10) business days of establishing residency in the County, personally appear at the designated Sheriff's office to register with the Lee County Abuser Registry.
- C. Every person required to register with the Abuser Registry shall personally appear at the designated Sheriff's office to submit the following:
1. Name and any aliases they may be known by;
 2. Current residence address or expected place of residence;
 3. Date of birth;
 4. A photograph of the front of their head and shoulders;
 5. Copy of judgment(s) to confirm offense(s), the date of conviction, and the sentence imposed;
 6. Any other documentation/information as the Sheriff may deem necessary to verify the information provided by the registrant.
- D. Every person required to register with the Abuser Registry shall pay an initial registration fee of \$15.00 to the Sheriff's Office.
- E. Every person registered with the Abuser Registry shall personally appear at the designated Sheriff's office to update their Registry information within ten (10) business days of any change in residential address and/or upon any official name change and shall pay a change fee of \$5.00 to the Sheriff's Office.
- F. Every person registered with the Abuser Registry shall personally appear at the designated Sheriff's office to renew their registration information annually (on the anniversary date of the initial registration or by the first business day following, or on some other date to be determined by the Sheriff). At such time, the registrant's photograph and information shall be reviewed in order to verify the continuing accuracy of what was previously provided by the registrant. The registrant shall pay a renewal fee of \$5.00 to the Sheriff's Office.

- G. Disposition of the fee: Fees collected pursuant to this Ordinance shall be deposited by the Sheriff's Office into the Sheriff's operating account to be used to help pay the administrative and maintenance costs of maintaining the Registry.

SECTION FIVE: PROHIBITION ON CONTACT WITH ANIMALS.

- A. A registrant shall not be allowed to own and/or possess and/or live in the same home with or on the same property as an animal while on the Registry unless otherwise provided in a Court order.
- B. A registrant shall not be allowed to work with a companion animal, with or without compensation or otherwise, while on the Registry unless otherwise provided in a Court order.
- C. A registrant who has been determined by a Court to be unfit to have custody of animals pursuant to Section 828.073, Florida Statutes shall also be bound by the determinations of the Court if that determination was made pursuant to the same underlying facts resulting in the criminal conviction that requires them to register with the Lee County Abuser Registry.
- D. The County and the Sheriff reserve the right and may exercise their right at any time they deem necessary to enforce or, notwithstanding any other Court order, obtain a Court order enjoining a registrant from owning and/or possessing and/or living with an animal and/or working with a companion animal while on the Registry.
- E. This section shall not apply to farm animals or service animals unless there is an enjoinder order and/or an Abuse Offense pertaining directly to farm animals or service animals.

SECTION SIX: ANIMAL SHELTERS, PET SELLERS, PRIVATE CITIZENS, OR OTHER ENTITIES PROHIBITED FROM TRANSFERRING ANIMAL OWNERSHIP TO ABUSERS.

- A. No Animal Shelter, Pet Seller, person, or entity located in the County shall sell, exchange or otherwise transfer the ownership of an animal to any person listed as an Abuser on the Abuser Registry.
- B. Prior to sale, exchange, or other transfer of ownership of any animal, the Animal Shelter, Pet Seller, or other commercial entity shall take whatever steps necessary to ensure that an animal is not being transferred to a person listed on the Registry.
- C. Such steps shall include, but may not be limited to, posting, when possible, current signage displaying registrants in well-trafficked, highly visible areas for public viewing and in stock/break areas of employees; notifying law enforcement upon the recognition of a registrant who has obtained an animal while on the Registry; and requiring the person to sign an affidavit attesting that they are not listed on the Registry.
- D. The Animal Shelter, Pet Seller, or other commercial entity shall be required to maintain the required affidavits and other adequate records and supporting documentation for three (3) years 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, to assure compliance with this Ordinance. The County or the Sheriff and its authorized agents shall have the right to examine all such records and documents relating to compliance with this Ordinance, and the Animal Shelter, Pet Seller, or other commercial entity may be required to cooperate and permit the County or the Sheriff to examine all such records and documents relating to compliance with this Ordinance.

- E. It shall not be a violation if the Animal Shelter, Pet Seller, private citizen or commercial entity checked with the Abuser Registry and the name of the Abuser did not appear thereon as required.
- F. This section shall not apply to farm animals or to service animals.

SECTION SEVEN: PENALTIES.

- A. Any Abuser required to initially register with the Lee County Abuser Registry, update changes in address or name, annually renew their Registry information, pay any required fees, comply with the prohibition on contact with certain animals, and/or comply with any Court-issued injunction order under this Ordinance, and fails to do so, may be prosecuted in any or all of the following manners:
 - 1. Pursuant to the provisions of Section 125.69, Florida Statutes, any person violating these provisions may be subject to prosecution in the name of the State in the same manner as misdemeanors are prosecuted; and, upon conviction, such person shall be punished by a fine not to exceed \$500.00, or by imprisonment in the County jail not to exceed 60 days, or by both such fine and imprisonment;
 - 2. Nothing contained herein shall prevent the County or Sheriff from taking such other lawful action in law and equity as may be necessary to remedy any violation of, or refusal to comply with, any part of this Ordinance, including, but not limited to, pursuit of injunctive and/or declaratory relief and/or injunction, or other equitable relief in a Court of competent jurisdiction, or initiating an action to recover any and all damages that may result from a violation of, or refusal to comply with, any part of this Ordinance;
 - 3. Each day of a continuing violation shall constitute a separate violation.
- B. Any individual or entity that sells, exchanges or otherwise transfers the ownership of an animal to any person listed as an Abuser on the Abuser Registry, in violation of Section 6 of this Ordinance, shall be penalized in the following manner:
 - 1. For the first offense, a warning notice shall be issued by the County or Sheriff;
 - 2. For a second offense, a fine may be imposed pursuant to the provisions of Section 125.69, Florida Statutes;
 - 3. For a third or subsequent violation, the individual or entity may be prosecuted in any or all of the following manners set forth above for Abusers.

SECTION EIGHT: SEVERABILITY.

If any clause, sentence, paragraph, subdivision or other part of this Ordinance or applications shall be adjudged by a Court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or otherwise invalidate the remainder of this Ordinance which shall remain in full force and effect except as limited by such order or judgment.

SECTION NINE: INCLUSION IN THE CODE OF LAWS AND ORDINANCES.

The provision of this Ordinance shall be included and incorporated in the Lee County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Lee County Code, once established. The recitations contained in the "WHEREAS" clauses are incorporated herein by reference, but are not required to be reproduced and included in the Code.

SECTION TEN: APPLICABILITY.

All provisions of this Ordinance shall be applicable throughout the incorporated and unincorporated areas of the Lee County where there is no existing conflict of law, municipal ordinances concerning this matter, or unless any municipality determines to opt-out of this Ordinance's provisions.

SECTION ELEVEN: FILING OF ORDINANCE.

In accordance with the provisions of Section 125.66, Florida Statutes, governing ordinances, a certified copy of this Ordinance shall be filed with the Florida Department of State by the Clerk of the Board of County Commissioners.

SECTION TWELVE: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon receipt of the official acknowledgment from the office of the Secretary of State of Florida that this Ordinance has been filed with that office.

The foregoing Ordinance was offered by Commissioner Pendergrass who moved its adoption. The motion was seconded by Commissioner Hamman and being put to a vote, the vote was as follows:


| | |
|---------------------|--------|
| Kevin Ruane | Absent |
| Cecil L Pendergrass | Aye |
| Raymond Sandelli | Aye |
| Brian Hamman | Aye |
| Mike Greenwell | Aye |

DULY PASSED AND ADOPTED this 5th day of December 2023.

ATTEST:
KEVIN C. KARNES
CLERK OF CIRCUIT COURT

BY: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Mike Greenwell, Chair



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY


County Attorney's Office



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

December 12, 2023

Honorable Kevin Karnes
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Dear Kevin Karnes:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Lee County Ordinance No. 23-30, which was filed in this office on December 6, 2023.

Sincerely,

Anya Owens
Administrative Code and Register Director

ACO/wlh

RECEIVED

By Melissa Butler at 1:36 pm, Dec 12, 2023

FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM
CODRS CODING FORM

COUNTY: Lee

COUNTY ORDINANCE #: 23-30

(e.g., 93-001)

PRIMARY KEYFIELD

DESCRIPTOR: Animals

SECONDARY KEYFIELD

DESCRIPTOR: _____

OTHER KEYFIELD

DESCRIPTOR: _____

ORDINANCE DESCRIPTION: Animal Abuser Registry

(25 Characters Maximum Including Spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT #1: _____ AMENDMENT #2: _____

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL #1: _____ ; REPEAL #3: _____

REPEAL #2: _____ ; REPEAL #4: _____

(Others Repealed: List All That Apply): _____

(FOR OFFICE USE ONLY):

COUNTY CODE NUMBER: _____

KEYFIELD 1 CODE: _____

KEYFIELD 2 CODE: _____

KEYFIELD 3 CODE: _____

**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**


VIA HAND DELIVERY

DATE: December 5, 2023

TO: Commissioner Mike Greenwell

Chair, Board of County
Commissioners

FROM:


Joseph A. Adams
Assistant County Attorney

RE: **Ordinance No. 23-30
Lee County Animal Abuser Registry Ordinance
Agenda Item Public Hearing #1, December 5, 2023**

Attached, approved as to form, please find the original of the above-referenced ordinance adopted by the Board of County Commissioners on December 5, 2023.

The original ordinance is attached to the memorandum for execution. Kindly execute the ordinance at your earliest convenience and then forward to the Minutes Department for filing and transmittal to Tallahassee.

By copy of this memorandum to Eileen Gabrick, I request that a clerk attest to the Chair's signature on the attached ordinance and return the fully executed copy with all exhibits to my attention via email.

Insofar as State Statute mandates that the ordinance reach Tallahassee within ten (10) days of the adoption, please expedite the above request so that the ordinance arrives in Tallahassee no later than December 15, 2023.

Also attached please find the Data Retrieval form. Kindly include this ordinance in the Lee County Ordinance History.

Thank you for your prompt attention to this matter.

JAA/les

Attachment

VIA EMAIL ONLY:

Laurel Chick, Manager, Internal Services
Samantha Westen, Executive Assistant
Rose Bahena, Administrative Specialist, Senior
Eileen Gabrick, Office Manager, Minutes Department
Erica Temerario, Legal Administrative Specialist (for ordinance history)

2023 DEC -5 - 2:58 PM
RECEIVED
MINUTES OFFICE
JAA



AGENDA ITEM REPORT

DATE: December 5, 2023
DEPARTMENT: County Attorney
REQUESTER: Joseph Adams
TITLE: Conduct Public Hearing to Adopt Lee County Animal Abuser Registry Ordinance

I. MOTION REQUESTED

Conduct Public Hearing to adopt the Lee County Animal Abuser Registry Ordinance.

II. ITEM SUMMARY

The proposed Ordinance is designed to protect animals in Lee County from animal abuse crimes. By creating the Registry, sellers of pets and animal shelters can easily identify individuals who have been convicted of animal abuse crimes or have been enjoined from animal possession by court order, and who cannot purchase or adopt animals by virtue of court order or by being listed on the Registry. The Lee County Sheriff's Office will be charged with implementing the program and updating the Registry.

III. BACKGROUND AND IMPLICATIONS OF ACTION

A) Board Action and Other History

The Lee County Sheriff's Office requested that the County adopt this Ordinance designed to protect animals in Lee County. The Lee County Sheriff's Office will be charged with implementing the program and updating the Registry.

People who have abused animals in the past are likely to do so in the future and studies show that there is a near 100% recidivism rate for certain types of abuse crimes. The Ordinance creates a Registry for individuals convicted of animal abuse crimes and prohibits their contact with animals for a period of time, depending upon the crime(s). The Registry also lists individuals who are prohibited from contact with animals by virtue of a court order. Registrants are required to pay the Sheriff's Office a registration fee and keep information on the Registry updated. Pets sellers and animal shelters are required to check the Registry before selling or adopting animals to confirm that buyers and adopters are not on the Registry.

Similar ordinances have been adopted in several counties around the state including Miami-Dade, Hillsborough, Marion, Volusia, Pasco and more. County staff and the Lee County Sheriff's Office met with representatives from Hillsborough County who stated that the ordinance was effective in their County and relatively simple to implement.

The Executive Regulatory Oversight Committee reviewed the proposed Ordinance on September 13, 2023, and recommended adoption.

B) Policy Issues

C) BoCC Goals

D) Analysis

E) Options

IV. FINANCIAL INFORMATION

| | | |
|----|--|----------------------|
| A) | Current year dollar amount of item: | No funding required. |
| B) | Is this item approved in the current budget? | N/A |
| C) | Is this a revenue or expense item? | N/A |
| D) | Is this Discretionary or Mandatory? | N/A |
| E) | Will this item impact future budgets? If yes, please include reasons in III(D) above. | No |
| F) | Fund: Program: Project: Account Strings: | |
| G) | Fund Type? | N/A |
| H) | Comments: | |

V. RECOMMENDATION
Approve

VI. TIMING/IMPLEMENTATION

VII. FOLLOW UP

ATTACHMENTS:

| Description | Upload Date | Type |
|---------------------------------|-------------|-----------------|
| <u>Ordinance (Proposed)</u> | 11/7/2023 | Ordinance |
| <u>FAIS Form</u> | 11/7/2023 | Backup Material |
| <u>Business Impact Estimate</u> | 11/15/2023 | Backup Material |

REVIEWERS:

| Department | Reviewer | Action | Date |
|-----------------|--------------------|----------|----------------------|
| County Attorney | Wesch, Richard Wm. | Approved | 11/27/2023 - 8:27 AM |
| Budget Services | Henkel, Anne | Approved | 11/27/2023 - 1:01 PM |
| Budget Services | Winton, Peter | Approved | 11/27/2023 - 1:32 PM |
| County Attorney | Jacob, Michael D. | Approved | 11/27/2023 - 2:17 PM |
| County Manager | Mora, Marc | Approved | 11/28/2023 - 3:39 PM |