

ORDINANCE NO. O2021-002

AN ORDINANCE of the City Council of the City of Tumwater, Washington, relating to dogs and cats and amending Chapter 6.05 of the Tumwater Municipal Code to prohibit the sale of dogs and cats in pet shops as more particularly set forth herein.

WHEREAS, pet stores selling live animals have traditionally been a sales outlet for young dogs and cats bred in "puppy mills" and "kitten mills" both within the United States and abroad. According to the Humane Society of the United States, it is estimated that 10,000 puppy mills produce more than 2,400,000 puppies a year in the United States and that most pet store puppies and many pet store kittens come from puppy mills and kitten mills, respectively. When consumers buy puppies and kittens from pet stores, there is a strong likelihood that consumers are unknowingly supporting the puppy mill or kitten mill industry; and

WHEREAS, the documented abuses of puppy and kitten mills include over-breeding; inbreeding; minimal to non-existent veterinary care; lack of adequate food, water and shelter; lack of socialization; lack of adequate space; and the euthanization of unwanted animals. The inhumane conditions in puppy and kitten mill facilities lead to health and behavioral issues with animals, which many consumers are unaware of when purchasing animals from retailers due to both a lack of education on the issue and misleading tactics of retailers in some cases. These health and behavioral issues, which may not present themselves until years after the purchase of the animals, can impose exorbitant financial and emotional costs on consumers; and

WHEREAS, the lack of enforcement resources at local, state and federal levels allow many inhumane puppy and kitten mills to operate with impunity. According to The Humane Society of the United States, American consumers purchase dogs and cats from pet stores that the consumers believe to be healthy and genetically sound, but in reality, the animals often face an array of health problems including communicable diseases or genetic disorders that present immediately after sale or that do not surface until several years later, all of which lead to costly veterinary bills and distress to the pet owners; and

WHEREAS, the cities of Olympia, Lacey, Tumwater and Thurston County incur significant costs operating and caring for the treatment of animals brought into Joint Animal Services (JAS), including food, supplies, drugs, medicine and chemical materials for said animals. Each year thousands of dogs and cats are euthanized because they are not wanted, many times due to surrenders by pet owners. This Ordinance should reduce the number of unwanted animals brought to

organizations like JAS who may have health or behavioral issues, which would also serve to reduce the financial burden on Tumwater's taxpayers. Further, consumers may be more likely to adopt a dog or a cat if dogs and cats were not readily available for purchase in pet stores. Moreover, there is a large financial benefit to consumers who adopt animals, as the fee charged by JAS is in many cases significantly lower than the cost of purchasing a dog or cat from a pet store; and

WHEREAS, a review of inspection reports by the State of California and the United States Department of Agriculture (USDA) from more than one hundred breeders who sold animals to the nation's largest retail pet store chain revealed that more than sixty percent (60%) of the inspections found serious violations of basic animal care standards, including sick or dead animals in their cages, lack of proper veterinary care, inadequate shelter from weather conditions, and dirty, unkempt cages that were too small; and

WHEREAS, according to The Humane Society of the United States, hundreds of thousands of dogs and cats in the United States have been housed and bred at substandard breeding facilities known as "puppy mill" or "kitten factories," that mass produce animals for sale to the public; and many of these animals are sold at retail in pet stores. Because of the lack of proper animal husbandry practices at these facilities, animals born and raised there are more likely to have genetic disorders and lack adequate socialization, while breeding animals utilized there are subject to inhumane housing conditions are indiscriminately disposed of when they reach the end of their profitable breeding cycle; and

WHEREAS, according to USDA inspection reports, some additional documented problems found at puppy mills include (a) sanitation problems leading to infectious disease, (b) large numbers of animals overcrowded in cages; (c) lack of proper veterinary care for severe illnesses and injuries; (d) lack of protection from harsh weather conditions; and (e) lack of adequate food and water; and

WHEREAS, the homeless pet problem notwithstanding, there are many reputable dog and cat breeders who refuse to sell through pet stores and who work carefully to screen families and ensure good, lifelong matches; and

WHEREAS, responsible dog and cat breeders do not sell their animals to pet stores. The United Kennel Club (UKC), the second oldest all-breed registry of purebred dog pedigrees in the United States and the second largest in the world, asks all of its member breeders to agree to a Code of Ethics which includes a pledge not to sell their puppies to pet stores. Similar pledges are included in Codes of Ethics for many breed clubs for individual breeds; and

WHEREAS, across the country, thousands of independent pet stores as well as large chains operate profitably with a business model focused on the sale of pet services and supplies and not on the sale of dogs and cats. Many of these stores collaborate with local animal sheltering and rescue organizations to offer space and support for showcasing adoptable homeless pets on their premises; and

WHEREAS, the Tumwater City Council recognizes that not all dogs and cats retained in pet stores are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to pet stores as a "puppy mill" or "kitten factory," it is the City Council's belief that puppy mills and kitten factories continue to exist in part because of public demand and the sale of dogs and cats in pet stores; and

WHEREAS, the Tumwater City Council finds that the current state of retail sale of dogs and cats in pet stores in the City of Tumwater is inconsistent with the City's goal to be a community that cares about animal welfare; and

WHEREAS, the Tumwater City Council believes that eliminating the retail sale of dogs and cats in pet stores in the City will promote community awareness of animal welfare and, in turn, will foster a more humane environment in the City; and

WHEREAS, the Tumwater City Council also believes that elimination of the retail sale of dogs and cats in pet stores in the City will also encourage pet consumers to adopt dogs and cats from shelters, thereby saving animals' lives and reducing the cost to the public of sheltering animals; and

WHEREAS, this Ordinance will not affect a consumer's ability to obtain a dog or cat of his or her choice directly from a breeder, a breed-specific rescue or a shelter; and

WHEREAS, in the United States and Canada alone, over forty (40) cities have enacted ordinances addressing the sale of puppy and kitten mill dogs and cats, including Chicago, Illinois; Los Angeles, California; San Diego, California; Albuquerque, New Mexico; Austin, Texas; Brick, New Jersey; Poulsbo, Washington; Olympia, Washington, and Toronto, Canada, to name but a few; and

WHEREAS, current federal and state laws and City ordinances do not properly address the sale of puppy and kitten mill dogs and cats in City business establishments; and

WHEREAS, the Tumwater City Council believes it is in the best interests of the City to adopt reasonable regulations to reduce costs to the City and its

residents, protect the residents of the City who may purchase cats or dogs from a pet store or other business establishment, help prevent these inhumane conditions, promote community awareness of animal welfare, and foster a more humane environment in the City; and

WHEREAS, the Tumwater City Council desires to amend Chapter 6.04 of the Tumwater Municipal Code to prohibit the retail sale of dogs and cats in the City of Tumwater by adding the language shown below;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUMWATER, STATE OF WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Findings. The above recitals are incorporated herein by reference and adopted as the findings of the Tumwater City Council.

Section 2. Section 6.05.010, Definitions, of Chapter 6.05 of the Tumwater Municipal Code is hereby amended to read as follows:

6.05.010 Definitions.

The following words and phrases shall have the following meanings for purposes of this chapter:

A. “Animal shelter” means a municipal or related public agency animal shelter devoted to the rescue, care and adoption of stray, abandoned or surrendered animals, and which does not breed animals.

B. “Dog” means an animal of the Canidae family of the order Carnivora.

C. “Cat” means an animal of the Felidae family of the order Carnivora.

D. “Certificate of source” shall mean a document declaring the source of the dog or cat sold or transferred by the pet store. The certificate shall include the name and address of the source of the dog or cat,

E. “Existing pet store” means any pet store or pet store operator that displayed, sold, delivered, offered for sale offered for adoption, bartered, auctioned, gave away, or otherwise transferred dogs or cats in the City of Tumwater prior to March 6, 2021, and complied with all applicable provisions of the Tumwater Municipal Code.

A.F. “Pet animal” means dogs, cats, monkeys and primates, rabbits, birds, guinea pigs, hamsters, mice, snakes, iguanas, turtles, fish and any other species of animal sold or retained for the purpose of being kept as a household pet.

B.G. “Pet shop” or “Pet store” means any store, place or establishment within the city of Tumwater where pet animals, including dogs and cats, are held for sale either at wholesale or retail with the intent of making a profit. The term shall not include kennels as defined by this code.

H. “Pet store operator” means a person or legal entity who owns or operates a retail pet store, or both.

I. “Rescue organization” means any nonprofit 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 part, the rescue and placement of dogs and cats.

(Ord. O2017-022, Amended, 12/05/2017; Ord. 1263, Added, 05/19/1992)

Section 3. A new Section 6.05.012, Prohibition on Retail Sale of Dogs and Cats, is hereby added to Chapter 6.05 of the Tumwater Municipal Code to read follows:

6.05.012 Prohibition on Retail Sale of Dogs and Cats.

A. Notwithstanding any provision in the Tumwater Municipal Code to the contrary, no pet store shall display, sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of dogs or cats in the City of Tumwater on or after March 6, 2021.

B. Exemptions. This Section does not apply to:

1. A person or establishment that sells, delivers, offers for sale, barter, auctions, gives away, or otherwise transfers or disposes of animals that were bred and reared on the premises of the retail establishment;
2. A publicly operated animal control facility or animal shelter;
3. A charitable, nonprofit animal humane society or animal rescue organization which does not acquire or sell dogs or cats for profit;
4. A publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue organization that operates out of or in connection with a pet shop.

C. **Adoption of Shelter and Rescue Animals.** Nothing in this Section shall prevent a pet shop or its owner or employees from providing space and appropriate care for animals owned by a publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue organization and maintained at the pet shop for the purposes of adopting those animals to the public.

Section 4. A new Section 6.05.014, Existing Pet Stores, is hereby added to Chapter 6.05 of the Tumwater Municipal Code to read as follows:

6.05.014 Existing Pet Stores.

An existing pet store may continue to display, offer for sale, offer for adoption, barter, auction, give away, or otherwise transfer dogs and cats until June 30, 2021.

Section 5. A new Section 6.05.065, Record Keeping and Disclosure, is hereby added to Chapter 6.05 of the Tumwater Municipal Code to read as follows:

6.05.065 Record Keeping and Disclosure.

A pet shop shall maintain records stating the name and address of the publicly operated animal shelter, nonprofit animal humane society or animal rescue organization that each dog or cat was obtained from for at least three (3) years following the date of acquisition. Such records shall be made available upon request to a City code enforcement officer or animal control authority. Each pet shop shall display on each cage or pen containing a dog or cat, a label stating the certificate of source, including the name and address of the animal shelter or nonprofit humane society or animal rescue organization which is the source for each dog or cat in the cage or pen.

Section 6. Section 6.05.070, Inspection, of the Tumwater Municipal Code is hereby amended to read as follows:

6.05.070 Right of Entry for Inspection and Enforcement.

It shall be a condition of the issuance of a license that the City or its animal services officers shall have the right of entry into any pet shop as allowed by any law, code, constitutional provision, common law, or any other legal authority for the purposes of ~~be permitted to inspection of~~ all animals and the premises where the animals are kept, at reasonable intervals to protect the health and safety of the animals and the community and enforcement of this Chapter. Such right of inspection shall extend not only to the pet shop, but to any place where pet animals held for sale through said pet shop are located or kept. If permission for such inspection is refused, the license may be revoked or denied.

(Ord. 1263, Added, 05/19/1992)

Section 7. Section 6.05.090, Violation, of Chapter 6.05 of the Tumwater Municipal Code is hereby amended to read as follows:

6.05.090 Violation.

~~Any person, firm or corporation who violates any provision of this chapter shall, upon conviction, be deemed guilty of a misdemeanor and subject to punishment in accordance with the provisions of this code. It shall be a civil infraction for any~~

person or corporation to violate or fail to comply with any of the provisions of this Chapter. Each day shall be a separate infraction. A person or corporation found to have committed a civil infraction shall be assessed a monetary penalty as provided in TMC Chapter 1.10.

A. First offense: Class 3 civil infraction.

B. Second offense arising out of the same facts as the first offense: Class 2 civil infraction.

C. Third offense arising out of the same facts as the first offense and all further offenses arising out of the same facts as the first offense: Class 1 civil infraction.

(Ord. 1263, Added, 05/19/1992)

Section 8. A new Section 6.05.110, Abatement of Nuisance, is hereby added to Chapter 6.05 or the Tumwater Municipal Code to read as follows:

6.05.110 Abatement of Nuisance.

The City retains the right to enforce the provision of this Chapter in superior court by any and all legal means in its sole discretion, including but not limited to pursuing abatement of any nuisance through injunctive relief and warrant of abatement.

Section 9. Corrections. The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 10. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 11. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

Section 12. Effective Date. This ordinance shall become effective thirty (30) days after passage, approval and publication as provided by law.

ADOPTED this _____ day of _____, 2021.

CITY OF TUMWATER

Pete Kmet, Mayor

ATTEST:

Melody Valiant, City Clerk

APPROVED AS TO FORM:

Karen Kirkpatrick, City Attorney

Published:_____

Effective Date:_____