

ORDINANCE NO. 1535

AN ORDINANCE AMENDING CHAPTER 6.02 (GENERAL PROVISIONS) BY RENUMBERING AND RELETTERING SECTION 6.02.180 (DEFINITIONS) AND ADDING NEW DEFINITIONS AND AMENDING CHAPTER 6.04 (REGULATION OF DOGS AND CATS) OF TITLE 6 (REGULATION OF ANIMALS), ADDING A NEW SECTION 6.04.090 (UNLAWFUL SALE OR DISPLAY OF DOGS OR CATS IN A PUBLIC PLACE), ADDING A NEW SECTION 6.04.100 (UNLAWFUL SALE OR DISPLAY OF DOGS OR CATS IN PET STORES), AND ADDING A NEW SECTION 6.04.110 PERTAINING TO PENALTIES AND MAKING OTHER RELATED CHANGES

RECITALS

1. State and federal laws that regulate dog and cat breeders and pet stores that sell dogs and cats include: the Colorado Pet Animal Care and Facilities Act, Article 80 of Title 35, C.R.S.; and the Animal Welfare Act (“AWA”) (7 U.S.C. Section 2131 et seq.).
2. The Colorado Pet Animal Care and Facilities Act requires a Pet Animal Facility license for any person operating a Pet Animal Facility as defined in the Act.
3. The Animal Welfare Act (“AWA”) requires, among other things, the licensing of certain breeders of dogs and cats. These breeders are required to maintain minimum health safety and welfare standards for animals in their care. The AWA is enforced by the United States Department of Agriculture.
4. The City Council of the City of Fountain, Colorado (the “City Council”) finds that, in addition to state and federal laws, the City of Fountain, Colorado (the “City”) has a local responsibility to promote animal welfare and encourage best practices in the breeding and purchasing of dogs and cats. The City Council believes that a community that promotes animal welfare will be a healthier community.
5. While the City Council recognizes that not all dogs and cats retailed in pet stores or sold or offered for sale in public places 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.
6. Joe Stafford, Director of Enforcement for the Humane Society of the Pikes Peak Region, has testified that the City Council meeting on May 10, 2011 concerning the sale of dogs and cats in public places and in pet stores. Based in part on his testimony and other testimony received by City Council, City Council bases its determinations as set forth in paragraphs 7, 8, and 9 of these recitals.

7. The City Council finds that the retail sale of dogs and cats in pet stores or sold or offered for sale in public places in the City of Fountain, Colorado is inconsistent with the City's goal to be a community that cares about animal welfare.
8. The City Council finds that a ban on the retail sale of dogs and cats in pet stores or sold or offered for sale in public places will promote community awareness of animal welfare and, in turn, will foster a more humane environment in the City.
9. The City Council finds that a ban on the retail sale of dogs and cats in pet stores or sold or offered for sale in public places in the City will also encourage pet consumers to adopt dogs and cats from shelters, thereby saving animals' lives and reducing the costs to the public of sheltering animals.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Fountain, Colorado:

1. The recitals set forth above are incorporated herein as findings in support of this Ordinance.

2. Section 6.02.180 (Definitions) of Chapter 6.02 (General Provisions) of Title 6 (Regulation of Animals) is hereby amended by the addition of the following definitions of pet store as letter S. and pet store operator as letter T. and existing definitions lettered under S., T., U., V., and W shall be re-lettered as U., V., W., X., and Y. respectively:

S. *Pet Store* means a retail establishment open to the public and engaging in the business of selling dogs or cats at retail. Any person who sells, exchanges, or otherwise transfers only dogs or cats that were bred or raised, or both, by the person, who sells or otherwise transfers only animals kept primarily for reproduction, shall be considered a breeder and not a pet store.

T. *Pet Store Operator* means a person who owns or operates a pet store, or both.”

3. Chapter 6.04 (Regulation of Dogs and Cats) of Title 6 (Regulation of Animals) of the Fountain Municipal Code is hereby amended by the addition of a new Section 6.04.090 to read as follows:

6.04.090 Unlawful Sale or Display of Cats or Dogs in Public Places. It shall be unlawful for any person to display for the purpose of sale, sell, deliver, offer for sale, barter, auction, give away or otherwise dispose of a dog or a cat upon a street, sidewalk, public park, public right-of-way or other public place. The term public place shall include, but is not limited to, streets, highways, areas exterior to shops or businesses, parking lots, carnivals, sidewalks and flea markets. This prohibition does not apply to organizations, such as animal rescue groups, animal shelters, or humane societies licensed by the State of Colorado.

4. Chapter 6.04 (Regulation of Dogs and Cats) of Title 6 (Regulation of Animals) is hereby amended by the addition of a new Section 6.04.100 to read as follows:

“6.04.100 Unlawful Sale or Display of Dogs or Cats by a Pet Store. No pet store operator or pet store shall display, sell, deliver, offer for sale or adoption, barter, auction, give away, a dog or cat in the City of Fountain, Colorado provided that this prohibition does not apply to organizations such as animal rescue groups, animal shelters or humane societies licensed by the State of Colorado who are using the premises of a Pet Store.

5. Chapter 6.04 (Regulation of Dogs and Cats) of Title 6 (Regulation of Animals) of the Fountain Municipal Code is hereby amended by the addition of a new Section 6.04.110 to read as follows:

“6.04.110 Penalties for Violation of Section 6.04.090 and 6.04.100 of this Chapter. Every person convicted of the violation of any provision stated or adopted in section 6.04.090 or section 6.04.100 this Chapter shall be punished by a fine of a minimum of two hundred dollars (\$200) for the first conviction, shall be punished a fine of a minimum of three hundred-fifty dollars (\$ 350) for the second conviction; shall be punished a fine of a minimum of five hundred dollars (\$500) for the third conviction or subsequent conviction; and up to one thousand dollars (\$1,000) and up to one year in jail or both such fine and imprisonment., except for minor offenders as provided in Section 1.08.020 of the Fountain Municipal Code.

6. Severability. The City Council declares that should any provision, section, paragraph, sentence or word of this section be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this section shall remain in full force and effect.

7. This ordinance shall be in full force and effect from and after its passage and publication as provided by the City Charter, except that Section 4 shall be effective on January 1, 2012.

Introduced, read and passed this ____ day of _____, 2011, by the City Council, Fountain, Colorado, signed by the Mayor, and ordered published by title with a summary written by the City Clerk together with a statement that the ordinance is available for public inspection and acquisition in the office of the City Clerk in the El Paso County Advertiser and News, a newspaper of general circulation in the City of Fountain, Colorado.

[SEAL]

CITY OF FOUNTAIN, COLORADO

Attest:

By: _____
City Clerk

By: _____
Mayor

Introduced, read by title, and passed on second and final reading on the _____ day of _____ 2011, and ordered published by title in the El Paso County Advertiser and News, a newspaper of general circulation in the City of Fountain, Colorado, in accordance with the City Charter.

[SEAL]

CITY OF FOUNTAIN, COLORADO

Attest:

By: _____
City Clerk

By: _____
Mayor