

**TOWN COUNCIL ACTION ITEM
STAFF SUMMARY
November 19, 2019 COUNCIL MEETING**

DATE: November 15, 2019

AGENDA ITEM NUMBER: 5

ACTION TO BE CONSIDERED: Consideration of Ordinance No. 13-19, Series of 2019
Second Reading and Public Hearing

BACKGROUND/TIME FRAME

- At the August 20, 2019 Council meeting, Joyce Cohen presented information on inhumane commercial breeding facilities and requested that Council prohibit such facilities in Dillon.
- Council reviewed the draft ordinance at the October 15 work session and approved the first reading on November 5, 2019.

SUMMARY: This ordinance would prohibit pet stores in Dillon from selling dogs or cats effective immediately. The ordinance does allow for current stores to continue to sell until January 1, 2020. The ordinance has been amended from the draft presented at the October 15 work session in the following areas:

- Definition for Animal Care Facility and Animal Rescue Organization was added which changed the definition of Pet Store
- Definition of Hobby Breeder was added
- Code sections were renumbered to Section 6-13 as Section 6-12 was already used with medical marijuana
- The exceptions were amended to use the new definitions described above so that hobby breeders, animal care facilities and animal rescue organizations and animal shelters are not included in the prohibition.

BUDGET IMPACT: N/A

MOTION FOR APPROVAL: move to approve Ordinance No. 13-19, Series of 2019 amending Chapter 6 of the Dillon Municipal Code concerning the sale of dogs and cats born or raised in inhumane commercial breeding facilities.

ACTION REQUESTED:

Included in consent agenda motion, second and roll call.

SECOND READING AND PUBLIC HEARING

Resolutions require affirmative votes from majority of council members present

Ordinances require four (4) affirmative votes

Emergency ordinances require five (5) affirmative votes

DEPARTMENT HEAD RESPONSIBLE: Carri McDonnell, Acting Town Manager

ORDINANCE NO. 13-19
Series of 2019

**AN ORDINANCE AMENDING CHAPTER 6 OF THE DILLON MUNICIPAL
CODE CONCERNING THE SALE OF DOGS AND CATS BORN OR RAISED
IN INHUMANE COMMERCIAL BREEDING FACILITIES**

WHEREAS, the Town of Dillon has an interest in maintaining the public safety and welfare of the citizens of the Town; and

WHEREAS, Section 31-15-501, C.R.S., authorizes municipalities to prohibit any offensive or unwholesome business practice; and

WHEREAS, the Humane Society of the United States has determined that puppy and kitten mills are inhumane commercial breeding facilities that disregard the animals' physical and emotion health to maximize profits; and

WHEREAS, according to the Humane Society of the United States, puppy and kitten mills produce animals for sale, oftentimes at retail stores; and

WHEREAS, the Town Council finds and determines that the sale of dogs and cats from puppy and kitten mills is an unwholesome business practice and not in the best interest of the public welfare of the Town; and

WHEREAS, the Town Council desires to exercise its authority to address the sale of dogs and cats in retail stores that come from puppy and kitten mills, all as more fully provided in this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DILLON, COLORADO:

Section 1. Chapter 6 of the Dillon Municipal Code is amended by the addition of a new Article XIII, to read as follows:

Article XIII
Sale of Animals from Inhumane Breeding Facilities

- Sec. 6-13-10 – Definitions.
- Sec. 6-13-20 – Prohibition.
- Sec. 6-13-30 – Existing pet stores.
- Sec. 6-13-40 – Exceptions.
- Sec. 6-13-50 – Adoption of shelter and rescue animals.
- Sec. 6-13-60 – Certificate of source required.
- Sec. 6-13-70 – Violations and penalties.

Section 6-13-10 – Definitions.

When used in this Article, the following words shall have the following meanings:

Animal care facility means an animal control center or animal shelter, maintained by or under contract with any state, county or municipality, whose mission and practice is, in whole, or significant part, the rescue and placement of animals in permanent homes.

Animal rescue organization means any not-for-profit organization which 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 animals in permanent homes.

Animal shelter means a municipal or related public animal shelter or duly incorporated nonprofit organization devoted to the rescue, care and adoption of stray, abandoned or surrendered animals, and which does not breed animals.

Cat means any animal of the species *Felis catus* or any hybrid thereof.

Certificate of source means 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.

Dog means any animal of the family *Canidae*, regardless of sex, including, without limitation, those related to the wolf, fox, coyote, or any other domestic canid hybrid thereof.

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 cats or dogs in the Town of Dillon on the effective date of the ordinance codified in this Article, and in compliance with all applicable provisions of the Dillon Municipal Code.

Hobby Breeder means an individual or establishment who delivers, offers for sale, barter, auctions, gives away, or otherwise transfers or disposes directly to the public only animals that were bred and reared on the premises of the person or establishment, on which premises a consumer may view the conditions where the animals were bred and reared, and speak with the breeder directly.

Pet store means a retail establishment not meeting the definitions of animal care facility, animal rescue organization, or animal shelter that delivers, offers for sale, displays, offers for adoption, barter, auctions, gives away, or otherwise transfers cats and dogs to any person.

Pet store operator means a person who owns or operates a pet store.

Section 6-13-20 – Prohibition.

Except as provided in Sections 6-13-30, 6-13-40, and 6-13-50, no person or establishment shall display, sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of dogs or cats in the Town of Dillon on or after the effective date of the ordinance codified in this Article.

Section 6-13-30 – Existing pet stores.

An existing pet store may continue to display, offer for sale, offer for adoption, barter, auction, give away, or otherwise transfer cats and dogs until January 1, 2020.

Section 6-13-40 – Exceptions.

The prohibition in Section 6-13-20 shall not apply to lawfully operated hobby breeders, animal care facilities, animal rescue organizations, and animal shelters.

Section 6-13-50 – Adoption of shelter and rescue animals.

Nothing in this Article shall prevent a pet store or its owner, operator or employees from providing space and appropriate care for dogs and cats owned by a lawfully operated animal care facility, animal rescue organization, or animal shelter for the purpose of adopting those animals to the public, provided that the pet store shall not have any ownership interest in the animals offered for adoption and shall not receive a fee for providing space or appropriate care.

Section 6-13-60 – Certificate of source required.

A pet store that lawfully offers space for the sale or adoption of dogs or cats shall post, in a conspicuous location on the enclosure of each such animal a certificate of source, as such term is defined in this article.

Section 6-13-70 – Violations and penalties.

(a) It is unlawful and a misdemeanor offense for any person to violate any provision of this article. Any person convicted of violating any provision of this Section shall be punished as provided in Article IV of Chapter 1 of this code.

(b) Each violation of this article shall constitute a separate offense.

(c) The operation of a pet store in violation of this article is declared to be a public nuisance and is subject to abatement as provided by law. In any case in

which the Town prevails in a nuisance abatement action initiated pursuant to this article, the Town may recover its reasonable attorney fees plus costs of the proceeding.

Section 2. Severance Clause. If an article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts may be declared invalid or unconstitutional.

Section 3. Effective Date. This Ordinance shall take effect five days after publication following final passage.

INTRODUCED, READ AND ORDERED PUBLISHED BY TITLE ONLY THIS 5th DAY OF NOVEMBER, 2019.

PASSED, ADOPTED AND APPROVED AND ORDERED PUBLISHED BY TITLE ONLY THIS 19th DAY OF NOVEMBER, 2019.

TOWN OF DILLON,
a Colorado municipal corporation

By: _____
Carolyn Skowyra, Mayor

ATTEST:

Adrienne Stuckey, Town Clerk