



Ban on Sale of Puppies and Kittens

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October 2, 2023

Agenda

Current C3 Regulations

Surrounding Municipality Regulations

Legal Considerations

Draft Ordinance

Questions

Current C3 Regulations

No outright ban on sale of puppies and kittens in pet stores

Hobby Breeder License (Sec. 4-3003)

Annual license

No more than 6 dogs or cats over 6mo old

1 cattery licensed in Commerce City

State Pet Animal Care and Facilities Act (PACFA)

CO. Dept. of Agriculture issues annual PACFA license

Federal Animal Welfare Act (AWA)

U.S. Dept. of Agriculture issues AWA license

Surrounding Municipality Regulations

Aurora passed ordinance

Lafayette considered, but then continued to a workshop

Durango ordinance failed

Breckenridge, Dillon, Eagle, Fairplay, Fountain, Silverthorne, Superior, Vail, and other CO cities have passed ordinances banning sale of puppies and kittens

Draft ordinance borrows from the above cities in an attempt to keep language consistent

Legal Considerations

There are two ways to create legislation for this issue

1. A regulation style ordinance that would create a set of defined regulations that pet stores and affiliated operations are required to comply with, in an effort to guarantee the humane treatment of the animals involved in the industry.
2. A complete ban of the sale of dogs and cats in pet stores, altogether without creating any regulations

Narrowly tailored ordinances (option 1) tend to draw less objections, however, they can be difficult to enforce and thus can be seen as less effective.

Legal Considerations

Animal rights activists complain that regulations required under the AWA are more about survival rather than any sort of animal comfort and thus do not comprehensively guarantee animal welfare.

There is also concern about the opportunity for loopholes when there are too many definitions and specifications because it can become convoluted.

Entities who have started with a regulatory structure and ultimately moved to a total ban, cited these issues as their reason for the amendment.

Legal Considerations

The biggest concern of the local pet stores is that a ban will cause them to go out of business.

The larger groups whose business would also be affected are the brokers and breeders across the country, who facilitate the local stores' acquisition of the animals.

Opposing groups have also claimed that forcing people to go to the breeder's location for purchase may be cost prohibitive for some families, and it could force people to the internet which could potentially be much more dangerous.

Legal Considerations

7 states and 14 Colorado cities have enacted similar legislation.

The complaints that bans are discriminatory against commercial breeders and favor small breeders and the rescue industry.

Some statements made by Courts in support of the legislation in question:

- The AWA is a licensing system and does not preempt other laws regarding animal welfare.
 - The goals are legitimate governmental concerns and it is rational to think the ordinance would serve those goals.
 - There is no direct discrimination that is in violation of the Dormant Commerce Clause.
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Draft Ordinance

Defines pet store vs animal care facilities, rescues, shelters, hobby breeders, or commercial kennels

Bans the sale of dogs and cats in pet stores

Pet stores may offer space for adoptions, but must list the name of the care or rescue facility where the animal was acquired, and cannot own the pet or acquire a fee for the space

Violations issued according to Commerce City Revised Municipal Code - Animal Code



Questions?

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