

TOWN OF JOHNSTOWN, COLORADO
ORDINANCE NO. 2023-255

AN ORDINANCE AMENDING ARTICLE VII OF CHAPTER 7 OF THE JOHNSTOWN MUNICIPAL CODE CONCERNING THE SALE OR DISPOSITION OF DOGS OR CATS FROM A PET SHOP AND CONCERNING NUISANCE, NOISY AND VICIOUS ANIMALS

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, Article VII of Chapter 7 of the Johnstown Municipal Code regulates animal control and animal offenses; and

WHEREAS, due to concerns about the conditions associated with the sale or disposition of dogs and cats that originate from puppy and kitten mills and are sold at pet shops, members of the public made a presentation to the Town Council requesting that the Town Council prohibit the sale or disposition of dogs and cats from pet shops; and

WHEREAS, the Humane Society of the United States has similarly found that puppy and kitten mills constitute inhumane commercial breeding facilities that disregard the animals’ physical and emotional health to maximize profits; and

WHEREAS, based upon the concerns raised by the members of the public along with data generated by the Humane Society of the United States, the Town Council finds that the sale or disposition of dogs or cats that originate from puppy or kitten mills and are sold at pet shops is an unwholesome business practice and desires to prohibit the sale or disposition of dogs or cats from a pet shop; and

WHEREAS, the Town Council further desires to amend certain other provisions of Article VII of Chapter 7 to update Section 7-121 related to definitions, revise and supplement Section 7-135 relating to nuisance animals and Section 7-136 related to noisy animals and clarify Section 7-139 related to vicious animals; and

WHEREAS, to effectuate the foregoing, the Town Council finds, determines and declares that this Ordinance is promulgated under the general police power of the Town and is in the best interests of the Town of Johnstown.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:

Section 1. Section 7-121 of Article VII of Chapter 7 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 7-121. Definitions.

As used in this Article, the following words have the following meanings:

- (1) *Animal* means any live, vertebrate creature, domestic or wild, except human primate.
- (2) *Animal care facility* means an animal control center or animal shelter maintained by or under contract with any state, county or municipality, with a mission and practice of, in whole or significant part, to rescue and place animals in permanent homes.
- (3) *Animal rescue organization* means a nonprofit organization with tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, with a mission or practice, in whole or significant part, to rescue or place animals in permanent homes.
- (4) *Animal shelter* or *impoundment facility* means a facility that, in addition to other activities, provides care for animals impounded pursuant to this Article.
- (5) *At large* means off the premises of the owner and not under the control of the owner.
- (6) *Cat* means any animal of the species *Felis catus* or any hybrid thereof.
- (7) *Code enforcement officer* means a peace officer so designated by law, the ordinances of the Town or by written order of the Chief of Police to enforce the provisions of this Article.
- (8) *Dog* means any canine animal, including those related to the wolf, fox, coyote, or jackal.
- (9) *Exotic animal* means nonhuman primate, skunk, fox, raccoon, wild/exotic cat and similar animals.
- (10) *Farm animal* means horse, mule, ass, sheep, goat (excluding pygmy goat), llama, swine (excluding pot belly pig), cow or other cloven hoofed animals commonly known as livestock.
- (11) *Fowl animal* means chicken, turkey, goose, duck, guinea, household bird, pigeon and similar animals provided they are for the enjoyment of the occupants of the lot and are not kept primarily for the purpose of sale or commercial endeavor. Commercial activities must comply with all other ordinances and zoning regulations.
- (12) *Household* means a dwelling unit and surrounding property customarily used by a single family for living purposes.
- (13) *Livestock* means any bovine animal, horse, mule, ass, sheep or goat (except pygmy goat).
- (14) *Owner* means any person, partnership or corporation owning any animal or animals, or having the same in his or her or its care, custody or control, or who causes, encourages or suffers the same to remain upon their premises for a period of three (3) consecutive days or more.
- (15) *Pet animals* means domestic dog, domestic cat, rabbit, guinea pig, hamster, mouse, snake, iguana, turtle, pot belly pig, pygmy goat, ferret and similar animals provided they are for the enjoyment of the occupants of the lot and are not kept primarily for the purpose of sale or commercial endeavor.
- (16) *Pet shop* means a retail establishment where animals are sold, exchanged, bartered, or offered for sale as pets to the general public at retail, but excluding an animal care facility or animal rescue organization.
- (17) *Premises* means real property owned, rented, leased, used, kept or occupied by a person or persons, a partnership, a corporation or governmental unit, howsoever described.
- (18) *Raptor* means any migratory bird that is a member of falconiformes or strigiformes and, specifically, but not by way of limitation, means falcons, hawks, owls and eagles.

- (19) *Rodent pest* means any prairie dog, ground squirrel, pocket gopher, jackrabbit or other rodent not commonly kept within the home.
- (20) *Trap* means any device used to contain or capture an animal.
- a. *Humane trap* means any trap which does not cause injury to the animal trapped.
 - b. *Inhumane trap* means any trap which causes injury to the animal trapped.
- (21) *Wild animal* means any monkey (nonhuman primate), raccoon, skunk, poisonous snake or reptile, jaguar, cheetah, mountain lion, wildcat, panther, margay or any other species of cats other than ordinarily domesticated house cats, any bear, any nonpoisonous snake longer than six (6) feet, any crocodile or alligator longer than one (1) foot, any badger, prairie dog, beaver, muskrat or bat, or any wolf, coyote, fox or other species of canine other than ordinarily domesticated dogs.

Section 2. Section 7-125 of Article VII of Chapter 7 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 7-125. License exemptions.

A license shall not be required for:

- (a) A dog or cat under the age of six (6) months;
- (b) A seeing-eye dog; or
- (c) A dog or cat brought into the Town for less than a thirty (30) day period if licensed by another municipality.

Section 3. Section 7-135 of Article VII of Chapter 7 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 7-135. Nuisance animals prohibited.

- (a) The following animal behaviors constitute a public nuisance. Any animal that:
 1. Menaces, attacks or bites persons or vehicles;
 2. Menaces, attacks or bites other animals;
 3. Goes upon school premises without the permission of the person in charge thereof;
 4. Is at large;
 5. Damages or destroys private or public property;
 6. Barks, howls, yelps, bawls or makes other loud, persistent noise in a manner which, under nonmitigating circumstances, could be considered by reasonable persons of ordinary sensibilities as excessive or continuous;
 7. Being a female in heat, because of the nature of its confinement, or lack of the same, has attracted other animals and caused them to congregate or remain on or about any premises; or
 8. Any other act or condition in this Article designated as a nuisance.
- (b) Public nuisances created by animals are prohibited in the Town, and the owner shall be deemed responsible for the actions of the animal.

- (c) Areas in which animals are kept shall be maintained in a manner that does not create odors, dust, noise or drainage offensive to the use or enjoyment of adjoining properties based on the senses of smell, hearing or sight of reasonable persons with ordinary sensibilities. For purposes of this section, a code enforcement officer, police officer or other designated officer of the Town may make a prima facie determination as to whether odor, dust, noise or drainage is offensive to the use or enjoyment of adjoining properties. The failure to maintain areas in which animals are kept in the manner provided herein constitutes a public nuisance and is prohibited.

Section 4. Subsection 7-136(a) of Article VII of Chapter 7 of the Johnstown Municipal Code shall repealed and readopted to read as follows:

Sec. 7-136. Noisy animals.

- (a) It is unlawful for the owner, keeper, harbinger or any other person who has assumed the responsibility for an animal to permit such animal kept in any yard, house or other place to bark, howl, yelp, bawl or make other loud and persistent noise in a manner which, under nonmitigating circumstances, could be considered by reasonable persons of ordinary sensibilities as excessive or continuous. For purposes of this section, a code enforcement officer, police officer or other designated officer of the Town may make a prima facie determination as to whether the noise is excessive or continuous.

Section 5. The opening clause of Subsection 7-139(b) of Article VII of Chapter 7 of the Johnstown Municipal Code shall be amended to read as follows:

Sec. 7-139. Vicious animals.

...

- (b) No person shall own, keep, harbor or possess any vicious animal in the Town except as provided herein; provided, however, that an animal shall not be deemed a vicious animal because it has attacked or bitten any of the following persons:

....

Section 6. Section 7-149 of Article VII of Chapter 7 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 7-149. Restrictions on the Sale of Cats and Dogs.

No pet shop shall sell, deliver, offer for sale, barter, auction or otherwise transfer or dispose of dogs or cats. Notwithstanding the foregoing, a pet shop may collaborate with animal care facilities or animal rescue organizations to offer space for such entities to showcase adoptable dogs or cats provided that the pet shop does not have an ownership interest in the dogs or cats offered for adoption and posts a sign with the name of the animal care facility or animal rescue organization from which the pet shop acquired each dog or cat.

Section 7. Section 7-154 of Article VII of Chapter 7 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 7-154. Violation; cumulative remedies.

- (a) Any person who violates any provision of this Article may be punished in accordance with the provisions of Article IV of Chapter 1 of the Code.
- (b) No remedy provided herein shall be exclusive, but the same shall be cumulative. The taking of any action permitted by this Article shall not preclude or prevent the taking of other action, including the filing a charge or conviction of a violation of this Article in the Municipal Court.

Section 8. Severability. If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

Section 9. Publication; Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Home Rule Charter of the Town of Johnstown, Colorado (“Charter”) and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk. This Ordinance shall become effective upon final passage as provided by the Charter. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED, AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2023.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____ By: _____
Hannah Hill, Town Clerk Troy D. Mellon, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2023.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____ By: _____
Hannah Hill, Town Clerk Troy D. Mellon, Mayor