

AN ORDINANCE

of the City Council of the City of Berkley, Michigan, to add new Article XVIII, Retail Pet Store, to Chapter 30, Businesses, of the Berkley City Code to Require an existing Retail Pet Store to Obtain an Annual License From the City; to Prescribe License Requirements and Conditions; and to Repeal Article XVII, Retail Dog and Cat Sales Temporary Moratorium, of Chapter 30 of the Berkley City Code.

THE CITY OF BERKLEY ORDAINS:

SECTION 1: New Article XVIII, Retail Pet Store, is added to Chapter 30 of the Berkley Code of Ordinances, as follows:

ARTICLE XVII. RETAIL PET STORE

Sec. 30-1000. Findings and Purpose.

The City of Berkley prohibits retail pet stores in the City from selling dogs, cats, or rabbits, except for a preexisting retail pet store that was in operation in the City and in compliance and good standing with applicable state laws and city ordinances predating the prohibition. The City Council finds that commercial animal breeding facilities, sometimes known as “pet mills,” may not adequately provide for the health and welfare of the animals. These facilities are notorious for operating and maintaining unsanitary and inhumane conditions resulting in overbreeding and animals with health and behavioral problems that consumers may be unaware of at the time of purchase or which may not manifest until after purchase. This contributes to overpopulation of pets and to placement and euthanization of sick, injured, abused, neglected, unwanted, abandoned, orphaned, lost, or displaced animals at animal protection and animal control shelters. By prohibiting new retail pet stores and by regulating and requiring a preexisting pet store to obtain an annual license, the City Council intends to promote animal welfare, ensure sanitary and humane conditions for dogs being offered for sale, and protect local consumers.

Therefore, the purpose of this Article is to establish an annual license requirement and conditions for the operation of a retail pet store in the City that is not otherwise prohibited.

Sec. 30-1001. Definition.

For purposes of this Article, the following term has the following meaning:

Retail pet store means a commercial establishment that sells or offers for sale dogs on its premises at retail that are not bred at the establishment.

Sec. 30-1002. Annual License Required.

A retail pet store that operates in the City of Berkley and is not prohibited under City Code Chapter 22, Article V must obtain an annual Retail Pet Store license (in addition to any other required license(s)) from the City Clerk. Application for a license must be filed on or before

January 1 every year on a form provided by the City Clerk. At the time of application, the applicant must pay an annual license fee to be established by City Council resolution. A Retail Pet Store license is not transferrable and is conditioned on compliance by the applicant/licensee with the provisions of this Article and all laws, regulations, and rules established by county, state, and federal agencies. Violation of or noncompliance with this Article is a municipal civil infraction and may be grounds for license suspension or revocation.

Sec. 30-1003. License Conditions.

A Retail Pet Store Licensee is subject to the following requirements and conditions:

- (a) Dogs sold or offered for sale or adoption may be sourced only from breeders with a United States Department of Agriculture (USDA) license.
- (b) The retail pet store must file with the City Clerk within 7 days of acquiring a dog to be sold or offered for sale or adoption, all of the following information for any dog offered for sale:
 - (1) Identifying information for the dog, including name, date of birth, sex, breed, color, USDA registration number, and state of origin.
 - (2) All State and USDA license numbers, names, business/kennel names, and location (city/state) of the (i) breeder, (ii) broker (when applicable), and (iii) transporter.
 - (3) Listing and dates of all vaccines, medications, medical procedures, and last veterinary exam that have been administered to or performed on the dog.
 - (4) Michigan Pet Health Certificate issued by a Michigan-licensed veterinarian in the form prescribed by the Michigan Department of Agriculture and Rural Development.
 - (5) Official Interstate or Intrastate Certificate of Veterinary Inspection prepared and signed, in accordance with MCL 287.720, by a U.S. Department of Agriculture-accredited veterinarian licensed to perform veterinary medicine in the dog's state of origin, when applicable.
 - (6) Purchase price of the dog, including all taxes, fees, and charges.
 - (7) Documentation that the dog has been microchipped and the microchip has been enrolled in a nationally searchable database.
 - (8) Written statement of the consumer's warranty, rights, and remedies following the sale of the dog.
- (c) The complete records for the dog must be made available to the consumer upon request, and a summary of that information must be conspicuously displayed on the dog's cage or enclosure. The summary must include:
 - (1) Identifying information for the dog including name, date of birth, sex, breed, color, USDA registration number, and state of origin;
 - (2) State and USDA license number, name, business/kennel name, and location (city and state) of the breeder;
 - (3) Date of last veterinary exam;

- (4) Purchase price of the dog, including all taxes, fees, and charges; and
 - (5) Statement that “The complete records for this dog are available upon request.”
- (d) The retail pet store must not source or obtain dogs from a breeder, broker, or transporter who is charged with or has been convicted or determined to be responsible by any government agency for a violation of a law, regulation, or rule relating to unlawful, inhumane, or improper breeding, selling, handling, or transport practices or conditions.
 - (e) The retail pet store, after sale, exchange, transfer, or death of a dog, must, within 7 days, file with the City Clerk notification of the final disposition of the animal.
 - (f) By applying for and accepting a Retail Pet Store License, the applicant/licensee is deemed to consent to reasonable entry onto the premises by the City’s animal control officer (or other designated officer or agent of the City) during normal business hours for the purpose of inspection for compliance with the conditions and requirements of this Section.

Sec. 30-1004. License Suspension or Revocation.

- (a) Procedure. Upon determining there are grounds for license suspension or revocation, the City Manager or the Manager’s designee will notify the licensee in writing of the reason(s) for license suspension or revocation and provide the licensee an opportunity to be heard. A licensee aggrieved by a license suspension or revocation may appeal to the City Council, who will appoint a hearing officer to hear and evaluate the appeal and make a recommendation to the City Council. The appeal may be taken by filing with the Community Development Department, within 14 days after written notification of the license suspension or revocation decision, a written statement setting forth fully the grounds for the appeal. The City Council will review the report and recommendation of the hearing officer and make a decision on the matter.
- (b) Grounds. Any one or more of the following occurrences or conditions constitute grounds for license suspension or recommendation:
 - (1) Repeat or recurring violation of or noncompliance with a License Condition set forth in Section 30-1003, above, or failure to promptly correct a violation or noncompliance after being notified of same.
 - (2) Making or providing a false, misleading, or fraudulent statement or information in the license application or in any required information to be filed with the City pursuant to Subsection 30-1003(b), above.
 - (3) Refusal, or repeated failure, to timely file with the City the information required in Section 30-1003, above.
 - (4) Failure to obtain and maintain any license or permit required under federal, state, or local law or ordinance to operate a retail pet store.

- (5) Violation of any federal, state, or county law, regulation, or rule applicable to operating a retail pet shop.
- (6) Violation of, and failure to promptly correct, any applicable building, fire, electrical, mechanical, plumbing, property maintenance, or zoning code or public health regulation.
- (7) Mistreatment of dogs, or maintaining unsanitary, unhealthy, or inhumane conditions for dogs kept or offered for sale at the retail pet store.
- (8) Non-payment of taxes or other obligations payable to the City.
- (9) Operation of the retail pet store in a manner determined by the City to be a public nuisance.

SECTION 2: Repealer

Article XVII, Retail Dog and Cat Sales Temporary Moratorium, in Chapter 30, Businesses, of the Berkley City Code is hereby repealed.

SECTION 3: Severability Clause

Should any word, phrase, sentence, paragraph, or section of this Ordinance be held invalid or unconstitutional, the remaining provisions of this ordinance will remain in full force and effect.

SECTION 4: Effective Date

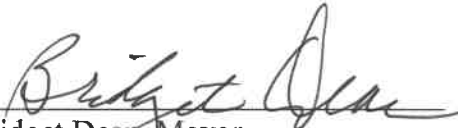
This Ordinance will become effective 30 days following the date of adoption.

SECTION 5: Publication

The City Council directs the City Clerk to publish a summary of this ordinance in compliance with Public Act 182 of 1991, as amended, and Section 6.5 of the Berkley City Charter.

Introduced on the First Reading at the Regular City Council Meeting on *November 20, 2023*.

Adopted on the Second Reading at the Regular City Council Meeting on *December 4, 2023*.


Bridget Dean, Mayor

Attest:


Victoria E. Mitchell, City Clerk