

INTRODUCED: 2/6/2023

REFERRED TO: Community Affairs Committee

SPONSOR: Councillors Barth, Adamson, Boots, Larrison and Brown

DIGEST: amends Chapter 836 of the Revised Code to add prohibitions on the retail sale of dogs, cats, or rabbits by pet shops

SOURCE:

Initiated by: Councillors Barth and Adamson

Drafted by: City-County Council Staff

LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL: _____ Date: February 2, 2023

CITY-COUNTY GENERAL ORDINANCE NO. _____, 2023

A PROPOSAL FOR A GENERAL ORDINANCE to amend Chapter 836 of the Revised Code to add prohibitions on the retail sale of dogs, cats, or rabbits by pet shops.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Sec. 836-1 of the "Revised Code of the Consolidated City and County," is hereby amended by adding the language that is underlined to read as follows:

Sec. 836-1. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section:

Animal rescue organization means a not-for-profit organization having tax-exempt status under 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 into permanent homes. The term animal rescue organization does not include any person that: (1) breeds animals for profit; (2) is located on the same premises as a person that breeds animals for profit; (3) has any personnel in common with a person that breeds animals for profit; (4) obtains, in exchange for payment or compensation, dogs or cats from a person that breeds animals for profit; or (5) facilitates the sale of dogs or cats that were obtained, in exchange for payment or compensation, from a person that breeds animals for profit.

Cat means any member of the species *Felis catus*.

Dog means any member of the species *Canis familiaris*.

Kennel means a facility operated commercially and principally for the purpose of boarding, housing, grooming, breeding or training dogs or cats, or both; a kennel, for purposes of this chapter, shall not include a facility in or adjoining a private residence where dogs are kept for the hobby of the householder using them for hunting, practice tracking, exhibiting in shows or field or obedience trials or for the guarding or protecting of the householder's property, and an occasional sale of puppies or kittens by the owner, lessee or other occupant of such property shall not make that property a kennel for the purposes of this chapter.

Offer for sale means to proffer for acceptance by another person.

Person shall mean an individual, corporation, partnership, association, or any other entity.

Pet shop means: (1) a facility operated commercially and principally for the purpose of selling animals which, in the hands of their immediate purchasers, will be pets; or (2) any retail store where animals are kept, sold, or offered for sale on the premises. An animal care services shelter, as described in section 226-512 of this Code, or an animal rescue organization, as defined in this section, shall not be considered a pet shop.

Rabbit means any member of the species *Oryctolagus cuniculus domesticus*.

Sell means to exchange for consideration, adopt out, barter, auction, trade, lease, or otherwise transfer an animal.

Stable means a facility operated commercially and principally for the purpose of lodging and feeding domestic animals.

SECTION 2. Chapter 836 of the "Revised Code of the Consolidated City and County" is hereby amended to add Sec. 836-6, "Prohibition on the Retail Sale of Dogs, Cats, or Rabbits by Pet Shops," reading as follows:

Sec. 836-6. - Prohibition on the Retail Sale of Dogs, Cats, or Rabbits by Pet Shops

(a) It shall be unlawful for a pet shop to sell or offer for sale a dog, cat, or rabbit unless the animal was obtained by the pet shop from either an animal services shelter described in section 226-512 of this Code or an animal rescue organization, as defined in section 836-1 and all of the following conditions are met:

- (1) All fees or other charges for the sale of a dog, cat or rabbit shall not exceed \$500 per animal; and
- (2) The pet shop posts in a conspicuous location affixed to the enclosure of each dog, cat or rabbit available for sale: the name of and city and state for the animal services shelter or animal rescue organization from which the pet store obtained the dog, cat or rabbit.

(b) Maintenance of Records.

- (1) A pet shop shall maintain records documenting from which animal services shelter or animal rescue organization the pet shop obtained each dog, cat or rabbit in the possession of the pet store for not less than one year following the date the pet store takes possession of the dog, cat or rabbit.
- (2) A pet shop shall make the records maintained under this section available for inspection upon request by the department of business and neighborhood services or its designee.

(c) Enforcement and penalties.

- (1) This chapter shall be enforced by the department of business and neighborhood services or its designee.
- (2) A pet shop that sells or offers for sale a dog, cat, or rabbit in violation of subsection 836-6(a) is subject to admission of violation and payment of a civil penalty in an amount provided in [section 103-52](#) of the Code for the pet shop's first violation in a twelve-month period. All second and subsequent violations in any twelve-month period are subject to the enforcement procedures and penalties provided in [section 103-3](#) of this Code, and the fine imposed for any subsequent violation in any twelve-month period shall not be less than seven hundred fifty dollars (\$750.00).
- (3) A pet shop that fails to maintain and provide records in violation of subsection 836-6(b) is subject to admission of violation and payment of a civil penalty in an amount provided in section 103-52 of the Code for the pet shop's first violation in a twelve-month period. All second and subsequent violations in any twelve-month period are subject to the enforcement procedures and penalties provided in [section 103-3](#) of this Code, and the fine imposed for any subsequent violation in any twelve-month period shall not be less than seven hundred fifty dollars (\$750.00).

(4) Any violation under this chapter shall be reported to the license administrator and subject to action under Chapter 801 of this Code.

(d) Effective date. Section 836-6 shall take effect on the following dates:

(1) For pet shops in operation after September 1, 2021, Sec. 836-6 shall take effect on May 1, 2023.

(2) For pet shops in operation before September 1, 2021, Sec. 836-6 shall take effect on May 1, 2025.

SECTION 3. Section 103-52 of the "Revised Code of the Consolidated City and County" is amended by the addition of the language that is underscored, to read as follows:

The following Code (or ordinance) provisions and their respective civil penalties are designated for enforcement through the ordinance violations bureau:

Code Section	Subject Matter	Civil Penalty
<u>836-6(a)</u>	<u>Sale or offer for sale a dog, cat or rabbit – First offense in a 12-month period</u>	<u>500.00</u>
<u>836-6(b)</u>	<u>Failure to maintain and provide records – First offense in a 12-month period</u>	<u>500.00</u>

SECTION 4. Should any provision (section, paragraph, sentence, clause or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 5. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

The foregoing was passed by the City-County Council this _____ day of _____, 2023, at _____ p.m.

ATTEST:

Vop Osili
President, City-County Council

Yulonda Winfield
Clerk, City-County Council

Presented by me to the Mayor this _____ day of _____, 2023.

Yulonda Winfield
Clerk, City-County Council

Approved and signed by me this _____ day of _____, 2023.

Joseph H. Hogsett, Mayor