



MEMO FROM COUNCIL OFFICE:

To: Members of the Common Council

From: Ash Kulak, Deputy Administrator / Deputy Attorney

Date: May 31, 2024

Re: Ordinance 2024-14 – To Amend Title 7 of the Bloomington Municipal Code Entitled “Animals” – Re: Amending Chapter 7.16 (Commercial Animal Establishment Permits); Chapter 7.54 (Fees); and Chapter 7.56 (Enforcement Procedure)

Synopsis

This ordinance is sponsored by Councilmembers Piedmont-Smith and Rollo. It comes in the wake of action by the Indiana General Assembly, which has preempted local units from prohibiting the sale of dogs by retail pet shops through passage of House Enrolled Act 1412, which will go into effect July 1, 2024. This ordinance reinstates the requirements, present in the Bloomington Municipal Code before passage of Ordinance 21-45, with which pet shops must comply in order to sell dogs. This ordinance updates those requirements in conformity with the newly-enacted state code. It also clarifies the continued prohibition on the sale of cats and the requirements for the display of shelter or rescue animals by host pet shops; institutes a new permit fee for pet shops that wish to sell dogs; and clarifies the penalties for violations of Title 7, including instituting a uniform penalty for violations in which the permit is free or costs \$0.

Relevant Materials

- Ordinance 2024-14
- Sponsor Memo from Councilmember Piedmont-Smith
- Amendments to Bloomington Municipal Code Title 7 in Context (Redline)

Summary

This ordinance would update Title 7 of the Bloomington Municipal Code in the wake of the Indiana General Assembly’s action, through the passage of [House Enrolled Act \(HEA\) 1412](#), to preempt local units of government from prohibiting the sale of dogs by retail pet shops. HEA 1412 goes into effect on July 1, 2024, making the portions of any ordinance that bans the sale of dogs void and unenforceable on that date.

The sponsors of this legislation, Isabel Piedmont-Smith and Dave Rollo, are two of the same sponsors of Ordinance 21-45, which banned the sale of dogs and cats in retail stores within city limits. Materials for that ordinance are available on the council website for the [December 1, 2021 Common Council Regular Session](#). Both councilmembers are interested in updating this ordinance before HEA 1412 makes portions of current local code unenforceable, as well as regulating the sale of pets to the extent permitted by state law.



Council staff worked with Animal Care and Control (AC&C) Director Virgil Sauder, the councilmember sponsors, and Assistant City Attorney Aleks Pratt to draft this proposed ordinance. The Animal Control Commission reviewed this ordinance on May 13, 2024 and gave it a positive recommendation.

This proposed ordinance would do several things, including:

- Add a new section to local code stating that every commercial animal establishment and nonmunicipal animal shelter/sanctuary permit holder must also comply with the requirements in Indiana Code Title 15.
 - *Reasoning:* This was added because HEA 1412 also adds additional requirements that pet shops must comply with in order to sell dogs, including registration with the state board of animal health, consumer protections and disclosures, microchipping requirements, spay/neuter commitments, refund policies, records creation and retention, and dog acquisition requirements.
- Reinststitute one standard for commercial animal establishments (requiring the name/address of the breeder to be posted on the kennel) that existed before Ordinance 21-45 repealed it.
- Reinststitute, with some changes, the enumerated consumer protection requirements that existed before Ordinance 21-45 repealed those provisions. The changes between the past rules and current ones are as follows:
 - “Major pet shop” has been replaced with “pet shops that sell dogs” to be more clear, as the “major” and “minor” pet shop distinctions were not brought back into local code in this draft.
 - “The date of the animal’s birth” has been replaced with “The dog’s age and date of birth” to match this requirement in state code.
 - For a simpler reading, the requirement to provide a list of vaccinations, record of any known disease/illness/condition, and record of any veterinary treatment/medication has been separated out into different subsections.
 - The “illness or condition with which the dog is or has been afflicted at the time of sale” was changed to “illness or condition with which the dog is or has been afflicted at any point while in possession of the pet shop” to clarify confusion about whether the pet shop needs to disclose any illness the dog has *ever had* at the time of sale or only illnesses that *currently exist in the dog* at the time of sale.
 - A “Disclosure that the dog has been microchipped” was added to match this new requirement in state law.
- Remove the prohibition on sale of dogs but keep the prohibition on the sale of cats, as well as separate the requirements for host pet shops to host dogs and/or cats



from a municipal animal shelter or rescue organization into a different BMC section to remove confusion.

- *Reasoning:* This provision becomes unenforceable as to dogs due to state preemption. However, the sponsors still wish to encourage pet shops to use their spaces to house animals from shelters/rescue organizations. The sponsors suggested putting requirements for the display of shelter/rescue dogs and cats in a different section now that the sale of dogs is permissible. Requirements about not having an ownership interest in any of the rescue/shelter animal's dogs would have been confusing if left in the same section as the prohibition on only the sale of cats.
- Institute a new fee for obtaining a commercial animal establishment in order to sell dogs, which would be \$750, as well as distinguish the fees for a "pet shop that does not sell dogs" from a "pet shop that sells dogs".
 - *Reasoning:* The fee would increase from \$500, which was the price prior to Ordinance 21-45. The reason for this would be to adjust for the AC&C staff time needed to conduct inspections and enforce the applicable BMC provisions. The new fee amount comes on the advice of the AC&C Director.
 - In addition, in order to avoid needing to define "pet shop that sells dogs" throughout the ordinance (as the sponsors hoped to avoid), this chart clearly differentiates between the permits associated with a "pet shop that does not sell dogs" and a "pet shop that sells dogs" to be more clear.
- Delete the \$0 fee for private or nonprofit "nonmunicipal animal shelter/sanctuary" listed in 7.54.030(a) and instead insert the words "nonmunicipal animal shelter/sanctuary" in the next subsection that lists the exceptions to the fee requirement, in order to list the fee exceptions in the same place.
- Clarify the penalties for violations of 7.16.070 (re: the continued prohibition on sale of cats) would only be for unauthorized sales of cats, not cats and dogs.
- Institute a uniform penalty for fines that are "double" or "triple" the permit fee specifically for permits that cost \$0.
 - *Reasoning:* Currently, any of those fines that cost "double" or "triple" the permit fee would cost \$0 for violations where the permit-holder paid \$0 for their permit. This change comes at the request of the AC&C Director.

The Council Office has inquired with ACC Director Sauder about the expected fiscal impact of this ordinance and will supplement these materials with that information once available.

Contact

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