

AN ORDINANCE

of the City Council of the City of Berkley, Michigan
Amending Article I and Adding New Article IV to Chapter 22, Animals,
of the City of Berkley Code of Ordinances to
Permit, Regulate, and Establish Requirements Relating to the Keeping of Chickens.

THE CITY OF BERKLEY ORDAINS:

SECTION 1: Article I of Chapter 22 of the Berkley City Code shall be amended, as follows:

ARTICLE I. - In General

Sec. 22-1. - Qualification of animal control officers.

Persons who enforce this Chapter shall have the qualifications provided in Section 29b of the Dog Law of 1919 (MCL 287.289b).

Sec. 22-2. - Cruelty.

No person shall cruelly treat or abuse any animal or bird.

Sec. 22-3. - Poisoning.

No person shall throw or deposit any poisonous substance on any exposed public or private place where it endangers, or is likely to endanger, any animal or bird.

Sec. 22-4. - Birds and birds' nests.

No person, except a public officer acting in his official capacity, shall molest, injure, kill or capture any wild bird, or molest or disturb any wild bird's nest or the contents thereof.

Sec. 22-5. - Keeping of domestic animals and fowl.

No person shall harbor or house any animals or domestic fowl within the city except dogs, cats, birds, fowl or animals commonly classified as pets, or chickens in accordance with Article IV of this Chapter.

Sec. 22-6. - Animals deemed public nuisances.

Any animal which shall, by loud or frequent or habitual barking, yelping or howling, or other noises, cause serious annoyance to the neighborhood, or which shall injure or destroy real or personal property of persons other than its owner, or molest or injure any person, or shall cause unsanitary conditions because of droppings, uneaten food, or any other thing to cause odor or attraction of flies and vermin, shall be deemed a public nuisance per se, and the owner deemed in violation of the provisions of this Section.

Sec. 22-7. - Violations.

Violations of this chapter are misdemeanors except for the following Sections and Articles which are municipal civil infractions: Sections 22-42, 22-44, 22-71 and 22-74, and Article IV.

SECTION 2: Article IV shall be added to Chapter 22 of the Berkley City Code, as follows:

ARTICLE IV. – Chickens

Sec. 22-90. - Generally.

- (a) Any person residing in a single family detached dwelling on residential zoned district property (R-1A, R-1B, R-1C, or R-1D), after obtaining an annual permit from the city, may keep on the property not more than three (3) hen (female) chickens for personal use only and not for any business or commercial use.
- (b) Chickens may be kept as family pets or to lay eggs for personal consumption only.
- (c) Slaughtering of any chickens on the property is prohibited.

Sec. 22-91. - Licensing and inspections.

- (a) Completed permit applications shall be submitted to the Building and Code Enforcement Department along with the fee which shall be established by City Council resolution. Approved permit holders shall schedule an inspection within thirty (30) days of permit issuance. Failure to schedule an inspection shall result in an automatic suspension of the permit. If an inspection identifies noncompliance with any of the requirements set forth in this Article, the permit holder shall have fourteen (14) days after being served with written notice of noncompliance to achieve compliance with the requirements, or the Building Official may revoke the permit or cite the violation as a municipal civil infraction.
- (b) Permits shall be valid for up to one (1) year, shall be non-transferable, site-specific and shall expire on March 31 of the next calendar year. A person who wants to continue keeping chickens must obtain a new permit prior to expiration of the previous permit.
- (c) ~~In addition to the~~ After an initial inspection, permitted coops shall be inspected at least one additional time ~~for a total of two inspections per twelve (12) month period~~ during the permit term.

Sec. 22-92. - Number limit.

A person who keeps chickens shall comply with the following requirements:

- (a) Keep no more than three (3) hen chickens at any time; and
- (b) Roosters or male chickens or any other type or class of fowl or poultry are prohibited.
- ~~(c) Chickens shall collectively constitute a flock and shall be counted as one (1) animal per number standards outlined in this chapter.~~

Sec. 22-93. – Enclosure.

- (a) Chickens shall be contained and kept in a fully enclosed structure, known as a “coop,” or a fenced enclosure, known as a “pen,” at all times. Fenced enclosures shall conform to the requirements of Chapter 138, Article III, Division 2 of the Zoning Code, except that the fence material may be

wire mesh with openings no larger than ¼ inch. A chicken coop shall be constructed of durable materials and shall be properly maintained in accordance with the Property Maintenance Code adopted in Section 26-276 of the City Code, as amended.

- (b) A chicken “coop” will be considered to be an accessory structure and must meet all requirements of Chapter 138, Article III, Division 1, of the Zoning Code, except that the structure need not have a concrete foundation slab. Prior to construction, an approved Accessory Structure Permit must be obtained from the Building and Code Enforcement Department.
- (c) A coop or pen shall be designed to provide safe and humane living conditions for the chickens while minimizing adverse impacts (including, but not limited to, odor, noise, insects and dust) on neighbors, and shall meet all of the following additional requirements:
 - (1) A coop or pen shall be detached from the residential dwelling and shall not be located closer than thirty (30) feet to the nearest point of any residential dwelling on an adjacent parcel;
 - (2) A coop or pen shall not be located within any required side or rear yard setback area;
 - (3) A coop or pen shall not exceed six (6) feet in height and eighty (80) square feet in floor area;
 - (4) The use of corrugated metal/fiberglass, sheet metal, plastic tarps, scrap lumber or similar materials is prohibited; and
 - (5) A coop or pen must be completely enclosed with a top or cover.
- (d) A coop or pen shall be constructed and maintained with a rat wall or similar block foundation to prevent rats, mice, and other rodents or burrowing animals from harboring beneath or entering the coop or pen. Noncompliance with this requirement shall be considered to be a nuisance subject to Chapter 78 of the City Code.
- (e) All feed and other items associated with the keeping of chickens likely to attract rats, mice, or other rodents or vermin shall be secured and protected in sealed, rodent-proof containers.

Sec. 22-94. - Care of chickens.

- (a) Chickens shall be kept in compliance with the current Michigan Department of Agriculture Generally Accepted Agricultural and Management Practices for the Care of Farm Animals, as it relates to Laying Chickens, except as otherwise provided in this Section.
- (b) Chickens shall not be kept in any location on the property other than the ~~backyard~~ rear yard. For purposes of this Section, “~~backyard~~ rear yard” means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family structure and extending to the side lot lines.

Sec. 22-95. – Private restrictions.

The provisions of this Article are independent of, and are not intended to supersede or affect any private restriction, covenant or bylaw that may apply to the property.

Sec. 22-96. – Violations.

A violation of any provision of this Article shall be deemed a municipal civil infraction subject to the procedures, sanctions, and remedies prescribed in Article IX of Chapter 82 of the City Code.

Sec. 22-97. – Pilot Program.

A Pilot Program is hereby established which shall continue for a pilot period of ~~twelve (12)~~ ~~months~~ one (1) year from the effective date of this ordinance. Unless the City Council takes legislative action to ~~discontinue the pilot program~~ amend or extend this article before the end of the pilot period, the provisions of this article shall be automatically repealed on July 5, 2018. ~~shall become permanent.~~ During the pilot period, the City will limit the number of annual permits issued and outstanding to a maximum of five (5), and permits will be available on a first-come-first-served basis.

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 shall remain in full force and effect.

SECTION 4: Effective Date

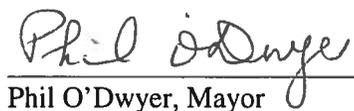
This Ordinance shall become effective 30 days following the date of adoption.

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 Monday, May 15, 2017.

Passed on the Second Reading at the Regular City Council Meeting on Monday, June 5, 2017.



Phil O'Dwyer, Mayor

Attest:


Phommady A. Boucher
City Clerk