
AN ORDINANCE ALLOWING ANIMAL SERVICES WITH TEMPORARY OVERNIGHT BOARDING
AS A CONDITIONAL USE IN B-1 AND B-2 ZONING DISTRICTS

WHEREAS, the City of Berlin Plan Commission has held a public hearing regarding the ordinance as set forth herein, on 30th day of May, 2023; and

WHEREAS, the Plan Commission has recommended to the Common Council to approve the ordinance as set forth herein.

NOW THEREFORE, the Common Council of the City of Berlin do ordain as follows:

Sec. 10-2 of the Code of Ordinances of the City of Berlin shall be amended as follows:

Sec. 10-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

...

Own or Keep shall interchangeably ~~mean~~ means owning, possessing, harboring, maintaining charge of, sheltering or keeping, no matter the duration of owning, possessing, harboring, maintaining charge of, sheltering or keeping.

Owner means any person owning, harboring or keeping a dog or cat on a permanent basis, ~~and the~~ The occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of ten days; such person is shall be presumed to be harboring or keeping the dog or cat on a permanent basis, and thus an owner within the meaning of this definition.

...

Sec. 10-5 of the Code of Ordinances of the City of Berlin shall be amended as follows:

Sec. 10-5. - Number of dogs and cats allowed.

- (a) *Purpose.* The keeping of a large number of dogs or cats within the city, without a kennel license under section 10-7(b) or an animal service facility - temporary overnight boarding license under section 10-7(e), for a considerable period of time detracts from and, in many instances, is detrimental to, a healthful and comfortable life in such areas, and shall constitute a public nuisance. ~~The keeping of a large number of dogs and cats is therefor declared to be a public nuisance.~~

...

- (c) Limitation. Except with a kennel license under section 10-7(b) or an animal service facility - temporary overnight boarding license under section 10-7(e), no ~~No~~ person shall own, harbor or keep in their possession more than three dogs or five cats per dwelling unit on any premises within the city, except that a litter of pups or kittens, or a portion of a litter, may be kept for not more than eight weeks from birth. ~~A person may keep more than three dogs or five cats only if such person has first received a kennel license under section 10-7(b).~~

Sec. 10-7 of the Code of Ordinances of the City of Berlin shall be amended as follows:

Sec. 10-7. - Issuance of licenses.

...

(b) Kennels.

- (1) ~~Any person who may own or keep~~ keeps more than the maximum permitted number of dogs under section 10-5(c) with a kennel license issued pursuant to this section 10-7(b); whereby such person ~~or operates a kennel within the city~~ may, instead of paying the license tax for each dog required by ~~section 10-5(a)~~ subsection (a) of this section, apply for a kennel license for the owning or keeping or operating of the kennel. ~~Such person shall~~ pay for the license year a kennel license tax as specified in the fee schedule on file in the clerk-treasurer's office. Upon payment of the required kennel license tax and, ~~if required by the common council,~~ upon presentation of evidence that all dogs over five months of age are currently immunized against rabies, the clerk-treasurer shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept ~~in pursuant to the kennel license.~~ A kennel license shall only be issued for those premises properly zoned, or subject to a conditional use permit, for such purposes under chapter 82 of this Code.
- (2) The owner or keeper of dogs under a kennel license shall, at all times, keep the kennel license tag attached to the collar of each dog over five months old kept by the owner or keeper under a kennel license, but this requirement shall not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. The kennel license tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached, at all times, to the dog for which it is issued, but this requirement shall not apply to a show dog during competition or to a dog securely confined indoors. No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel licensed premises unless the dog is on a leash or temporarily for the purpose of hunting, breeding, trial, training or competition.

...

(e) Animal service facilities - temporary overnight boarding.

- (1) An operator of an animal service facility on a premises properly zoned, or subject to a conditional use permit for such purposes, under chapter 82 of this Code, may keep more than the maximum permitted number of dogs or cats, of which the operator is not the owner, under section 10-5(c) with an animal service facility - temporary overnight boarding license issued pursuant to this section 10-7(e). An operator of an animal service facility licensed under this section 10-7(e) shall not be required to pay an individual license tax, or a kennel license tax, for dogs or cats kept, of which the operator is not the owner, but such operator shall be required to pay the license fee for an animal service facility - temporary overnight boarding license, as specified in the fee schedule on file in the clerk-treasurer's office. Upon payment of the required license fee, the clerk-treasurer shall issue the animal service facility - temporary overnight boarding license, which shall specify the maximum number of dogs and/or cats, of which the operator is not the owner, that may be kept by the operator on the premises of such animal service facility.

Sec. 82-227 of the Code of Ordinances of the City of Berlin shall be amended as follows:

Sec. 82-227. - Conditional uses.

The following shall be conditional uses in the A-1 agricultural district:

...

- (2) Kennels, as described in section 10-7(b), or animal service facilities, on parcels of no less than 20 acres. Any conditional permit granted for a kennel, or animal service facility, may only be issued if the applicant presents substantial evidence that the physical conditions of the property, or specific improvements to be installed by the applicant, will allow for the applicant to be able to reasonably control smell, noises, or other nuisances in relation to neighboring properties. Further, any conditional use permit granted for a kennel hereunder shall be subject to the mandatory condition that if the parcel upon which such kennel is placed is subdivided, causing the remaining parcel to be less than the required 20 acres, the conditional use permit shall terminate. Further, the permit applicant must consent to a memorandum of such condition being recorded upon the title to the parcel at the applicable county register of deeds office on a form approved by the city attorney.

Sec. 82-361 of the Code of Ordinances of the City of Berlin shall be amended as follows:

Sec. 82-361. - Conditional uses.

In the B-1 district, conditional uses shall be as follows:

...

- (4) Animal service facilities. For conditional use applications for animal service facilities hereunder, the board of appeals shall, pursuant to and in addition to any other standards or conditions imposed under Sec. 82-641(b), impose the following standards and conditions:
- a. Hours of operation may be limited by the board of appeals, and operation of the facility shall in no case be allowed between 10:00 p.m and 5:00 a.m.
 - b. No overnight boarding of animals, ~~not owned by of which~~ the operator is not the owner, shall be allowed, except for dogs or cats kept pursuant to an animal service facility – temporary overnight boarding license issued pursuant to section 10-7(e). All animals must be kept inside an enclosed building between 10:00 p.m. and 5:00 a.m.
 - c. The facility must contain a sufficiently sized outdoor exercise, urination, and defecation area for dogs based on the maximum number of dogs able to be kept or serviced in the facility.
 - d. All animals outside of an enclosed building shall be directly supervised by at least one human being, age 16 or older, who is present with the animal(s) at all times.
 - e. All outside areas where dogs or cats are present without a leash shall be fenced with a physical barrier that is at least 5 feet in height and all exits from such outside areas (except exits leading into a building) shall be double gated to prevent escape.
 - f. Each dog or cat serviced at the facility must have been vaccinated by a veterinarian against rabies, if so required pursuant to Sec. 10-4, prior to service, and the operator of the facility must keep on premises at all times during service of that dog or cat a copy of that dog's or cat's rabies vaccination certificate accordingly. Also, each dog or cat required to be vaccinated must have its rabies vaccination tag or a substitute tag attached to a collar on the dog or cat at all times during service pursuant to Sec. 10-4(f).
 - g. All other applicable requirements set forth in Chapter 10 regarding the keeping and care of animals shall be complied with as a condition of any conditional use permit issued hereunder.
 - h. Any conditional permit granted for an animal service facility may only be issued if the applicant presents substantial evidence that the physical conditions of the property, or specific improvements to be installed by the applicant, will allow for the applicant to be able to reasonably control smell, noises, or other nuisances in relation to neighboring properties.

...

Sec. 82-387 of the Code of Ordinances of the City of Berlin shall be amended as follows:

Sec. 82-387. - Conditional uses.

In the B-2 district, conditional uses shall be as follows:

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- (4) Retail pet sale shops and animal service facilities. For conditional use applications for retail pet sale shops or animal service facilities hereunder, the board of appeals shall, pursuant to and in addition to any other standards or conditions imposed under Sec. 82-641(b), impose the following standards and conditions:
- a. Hours of operation may be limited by the board of appeals, and operation of the facility (i.e. when the facility is open to the public) shall in no case be allowed between 10:00 p.m. and 5:00 a.m.
 - b. No overnight boarding of animals, ~~not owned by~~ of which the operator is not the owner, shall be allowed, except for dogs or cats kept pursuant to an animal service facility – temporary overnight boarding license issued pursuant to section 10-7(e). All animals ~~Animals owned by the operator~~ must be kept inside an enclosed building between 10:00 p.m. and 5:00 a.m.
 - c. The facility must contain a sufficiently sized outdoor exercise, urination, and defecation area for dogs based on the maximum number of dogs able to be kept or serviced in the facility.
 - d. All animals outside of an enclosed building shall be directly supervised by at least one human being, age 16 or older, who is present with the animal(s) at all times.
 - e. All outside areas where dogs or cats are present without a leash shall be fenced with a physical barrier that is at least 5 feet in height and all exits from such outside areas (except exits leading into a building) shall be double gated to prevent escape.
 - f. Each dog or cat serviced at the facility must have been vaccinated by a veterinarian against rabies, if so required pursuant to Sec. 10-4, prior to service, and the operator of the facility must keep on premises at all times during service of that dog or cat a copy of that dog's or cat's rabies vaccination certificate accordingly. Also, each dog or cat required to be vaccinated must have its rabies vaccination tag or a substitute tag attached to a collar on the dog or cat at all times during service pursuant to Sec. 10-4(f).
 - g. Retail pet sale shops for dogs must be in compliance with all licensing requirements imposed by the state of Wisconsin.

- h. All other applicable requirements set forth in Chapter 10 regarding the keeping and care of animals shall be complied with as a condition of any conditional use permit issued hereunder.
- i. Any conditional permit granted for a retail pet sale shop for dogs or an animal service facility may only be issued if the applicant presents substantial evidence that the physical conditions of the property, or specific improvements to be installed by the applicant, will allow for the applicant to be able to reasonably control smell, noises, or other nuisances in relation to neighboring properties.

...

This ordinance shall take effect the day after publication.

The numeric section numbers and headings of any portions of the Code of Ordinances affected by this Ordinance shall be subject to modification in the discretion of the codifier, and the approval of the City Attorney, during codification into the City's current Code of Ordinances.

Passed, approved and adopted this 13th day of June, 2023.

ROLL CALL VOTE:

CITY OF BERLIN

4	AYES
0	NAYS
2	ABSENT

BY: _____
 Joel E. Brussel,
 Mayor

APPROVED AS TO FORM:

ATTEST: _____
 Sara L. Rutkowski,
 City Administrator/City Clerk

 Matthew G. Chier,
 City Attorney