

ORDINANCE NO. 7,539-N.S

ADDING CHAPTER 9.22 TO THE BERKELEY MUNICIPAL CODE TO PROHIBIT THE
SALE OF FUR PRODUCTS WITHIN THE CITY OF BERKELEY

BE IT ORDAINED by the Council of the City of Berkeley as follows:

SECTION 1. That a new Chapter 9.22 is hereby added to the Berkeley Municipal Code to read as follows.

Chapter 9.22
SALE OF FUR PRODUCTS

Sections:

- 9.22.010 Findings**
9.22.020 Sale of Fur Products

Section 9.22.010 Findings.

A. Existing federal and state laws regulate the sale of dog and cat fur products. This includes the Dog and Cat Protection Act of 2000 (19 U.S.C. § 1308) and California Penal Code § 598a.

B. The Federal Dog and Cat Protection Act of 2000 makes it unlawful to import into, or export from, the United States any dog or cat fur product; or to engage in interstate commerce, sell, offer to sell, trade, advertise, transport, or distribute in interstate commerce any dog or cat fur product. Any person who violates this Act may be assessed a civil penalty up to \$10,000 per violation.

C. The Federal Fur Products Labeling Act (15 U.S.C. §§ 69, *et seq.*) makes it unlawful to introduce, or manufacture for introduction, into commerce, sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product which is misbranded or falsely or deceptively advertised or invoiced.

D. California Penal Code section 598a makes it a misdemeanor to possess, import into the state, sell, buy, give away or accept any pelt of a dog or cat with the sole intent of selling or giving away the pelt of the dog or cat. Also, Title 14, Part 1 of the California Penal Code criminalizes a variety of other offenses against animals, including willfully administering poison to any animal (Cal. Penal Code §596), cruelty to animals (Cal. Penal Code §597), failure to care for animals (Cal. Penal Code § 597f) and abandonment of animals (Cal. Penal Code § 597s).

E. The state Legislature has also considered other animal protection measures, including prohibiting the sale of products that result from the force feeding of a bird for the purpose of enlarging the bird's liver beyond normal size (Senate Bill 1520); and prohibiting the possession, sale, trade or distribution of shark fin (Assembly Bill 376).¹

F. Neither the federal government nor the state legislature has endeavored to regulate the sale of fur products, excluding the sale of dog or cat fur products. Until the federal government or the state legislature decides to regulate the sale of fur products from other animals, local governments are free to limit the types of procedures that may be performed within their jurisdictions for the protection of the public health, safety and general welfare.

G. The City Council finds that animals who are slaughtered for their fur, whether they are raised on a fur farm or trapped in the wild, endure tremendous suffering. Animals raised on fur farms typically spend their entire lives in cramped and filthy cages. Fur farmers typically use the cheapest killing methods available, including suffocation, electrocution, gas and poison.

H. More than 50 million animals are violently killed for use in fashion every year. Methods used to kill animals for their fur include gassing, electrocution, and neck-breaking. Fur-bearing animals are also caught and killed in barbaric body-grilling traps.

I. According to the Humane Society of the United States, the fur industry kills more than 50 million animals a year. On fur factory farms around the world, millions of raccoon dogs, rabbits, foxes, mink, chinchillas and other animals spend their lives in wire cages, only to be killed by anal electrocution, by neck-breaking or in gas chambers. Raccoon dogs suffer and die for their fur in intensive confinement operations, and their fur is widely misrepresented as fake fur or as a different species. Fur products are commonly not labeled at all.

J. Considering the wide array of alternatives for fashion and apparel, the City Council finds that the demand for fur products does not justify the torture and confinement of animals.

K. The City Council believes that eliminating the sale of fur products will promote community awareness of animal welfare and, in turn, will foster a consciousness about the way we live in the world and create a more humane environment in the City of Berkeley.

L. The City Council finds that the sale of fur products in the City of Berkeley is inconsistent with the City's goal of being a community that cares about animal welfare.

M. The City Council believes that eliminating the sale of fur products will promote community awareness of animal welfare and, in turn, will foster a more humane environment in the City.

N. The City Council enacts this ordinance pursuant to the authority vested in the City by Article XI, Section 7 of the California Constitution allowing a city to make and enforce within its limits all local police, sanitary and other regulations not in conflict with general laws.

Section 9.22.020 Sale of Fur Products.

A. Definitions. For purposes of this chapter, the following definitions shall apply:

1. "Fur" means any animal skin or part thereof with hair, fleece or fur fibers attached thereto, either in its raw or processed state, but shall not include such skins as are to be converted into leather, which in processing shall have the hair, fleece or fur fiber completely removed, cowhide with hair attached thereto, or lambskin or sheepskin with fleece attached thereto.
2. "Fur product" means any article of wearing apparel made in whole or in part of fur, excluding dog or cat fur product to which section 308 of the Tariff Act of 1930 applies.
3. "Non-profit organization" means any corporation that is organized under 26 U.S.C. § 501(c)(3) for charitable, religious, philanthropic, educational or similar purposes.
4. "Taxidermy" means the practice of preparing and preserving the skin of an animal who is deceased and stuffing and mounting it in lifelike form.
5. "Used fur" means fur in any form that has been worn or used by an ultimate consumer.
6. "Wearing apparel," as used in the definition of a fur product in subsection 3 above, means any article of clothing or covering for any part of the body.

B. Prohibition. IT shall be unlawful to sell, import, trade or distribute any fur product by any means anywhere within the City of Berkeley.

C. Exemption. This Section shall not apply to the sale, importation, exportation, trade or distribution of:

1. The pelt or skin of an animal preserved through taxidermy or for the purpose of taxidermy; or
2. Used fur products by a private party (excluding a retail transaction), non-profit organization or second-hand store, including a pawn shop.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on March 28, 2017, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Hahn, Maio, Wengraf and Arreguin.

Noes: Droste, Harrison and Worthington.

Absent: None.