

## TRANSMITTAL

To:

**THE COUNCIL**

Date:

NOV 17 2009

From:

**THE MAYOR**

TRANSMITTED FOR YOUR CONSIDERATION. PLEASE SEE ATTACHED.

A handwritten signature in black ink, appearing to read 'Antonio R. Villaraigosa', is written over the printed name.

ANTONIO R. VILLARAIGOSA  
Mayor

**BOARD OF  
ANIMAL SERVICES  
COMMISSIONERS**

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PRESIDENT

KATHLEEN RIORDAN  
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**City of Los Angeles**  
CALIFORNIA



**ANTONIO R. VILLARAIGOSA**  
MAYOR

DEPARTMENT OF  
**ANIMAL SERVICES**  
221 North Figueroa Street  
5<sup>th</sup> Floor  
Los Angeles, CA 90012  
(888) 452-7381  
FAX (213) 482-9511

KATHLEEN J. DAVIS  
INTERIM GENERAL MANAGER

LINDA J. BARTH  
ASST. GENERAL MANAGER

OFFICE OF THE MAYOR  
RECEIVED  
2009 NOV 10 PM 5:32  
CITY OF LOS ANGELES

October 27, 2009

Honorable Antonio R. Villaraigosa  
Mayor, City of Los Angeles  
City Hall Room 300  
Los Angeles, CA 90012

Dear Mayor Villaraigosa:

At the meeting of October 26, 2009, the Board of Animal Services Commissioners voted to request that the Mayor, and subsequently the City Council, direct the City Attorney to prepare an ordinance amending the Los Angeles Municipal Code (LAMC) Sections 53.18.5 in regard to dog license revocation appeals, Section 53.33 providing regulations for vicious animals on private premises, Section 53.34 in regard to dangerous dog procedures, and Section 53.63 giving definitions for barking dog noise and handling of barking complaints. They further requested that the direction to the City Attorney include integration of these recommended changes with other LAMC changes previously recommended in regard to license revocation hearings (CF 09-1887) to achieve the objectives of their recommendations.

The details and justification for the recommended changes are provided in the attached Report of the General Manager, and an exemplar mark-up of the recommended LAMC changes is also attached. The summary of recommended changes for your consideration and eventual action by City Council are as follows.

Add defining language for barking complaints: Complainant must occupy property in the immediate proximity of the property where the dog or dogs are kept. The noise must be audible continuously for ten (10) minutes or intermittently for thirty (30) minutes within a 3 hour period.

Require two complainants at some stages of the process: At the Second Complaint level, which results in an informal meeting with an officer, and at the Administrative Hearing level, require that written complaints be made by both the original complainant, to state that the barking continues, plus at least one other complainant, both of which

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October 27, 2009

Mayor Antonio R. Villaraigosa

Barking Dog, License Revocation Appeals, and Dangerous Dog Permits

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reside in separate residences (including apartments and/or condominiums) who live within reasonable proximity to the dog(s). Include a provision that the Department may proceed with the meeting or Administrative Hearing on the basis of a complaint of only one person if circumstances are determined to exist where a noise disturbance caused by the dog or dogs affects only one individual.

Hearing Examiner's Report is Final: Designate that the report of the Hearing Examiner represents the findings, decisions, and orders on a case.

General Manager Performs Review: Replace the Board as the body to hear appeals with the General Manager or appropriate designee, whose decision after review shall be final. Remove all details regarding the Board appeal hearing processes but retain the process for filing appeals, notifications, and grounds for appeal. Provide that timely appeals must result in a review of the case within 10 days.

Standards for Hearing Examiner and Reviewer: Require that both the Hearing Examiner and General Manager or designee for review shall have appropriate qualifications to conduct hearings and shall not have been directly involved in the subject action.

Create a Vicious or Dangerous Dog Permit Program: The permit would be the result of a dangerous dog case and could be an alternative for euthanasia that would incorporate all reasonable terms and conditions to protect public safety. The program would conform to State rules including a 36-month maximum term. Initial cost for the Permit should be equal to a two-inspection permit cost recovery fee, or \$150, whichever is greater, paid annually; the fee should be based on the time for two inspections in the year and cost of processing the Permit, and should be assessed annually or as needed by the Board as with other permit and adoption fees. This would be addition to owner obtaining a regular dog license. No dog involved in a fatal injury would be eligible for issuance of a Vicious or Dangerous Dog Permit. The Hearing Examiner or reviewing General Manager would consider if any previous permits were issued for a Vicious or Dangerous Dog within the last five years in deciding if a new Permit should be ordered.

Expand Terms and Conditions for Dangerous Dogs: Specifically include as potential terms and conditions: sterilization of the dog regardless of exemption status under the Spay/Neuter Ordinance; requirements for liability insurance meeting the requirements of the City Risk Manager but no less than \$100,000; installation of warning signs around the property or notification to neighbors; and requirement to obtain a Vicious or Dangerous Dog Permit.

Extra Penalty for Incidents under Vicious or Dangerous Dog Permit: Provide that any recurrence of biting or attack that originally resulted in the order to obtain a Vicious or Dangerous Dog Permit will trigger impoundment, revocation of the Permit, payment of an additional \$250 penalty, and a Dangerous Dog Hearing.

Civil Penalty: Add a Civil Penalty of \$100 to be assessed for reissuance of a dog license upon an initial hearing that results in Terms and Conditions or an order to obtain a Vicious or Dangerous Dog Permit.

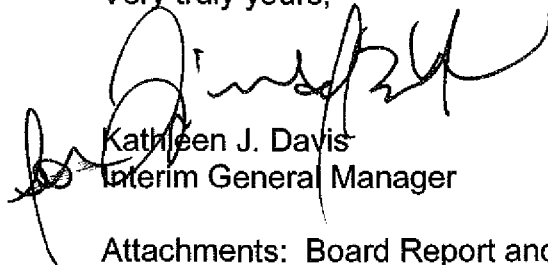
Dog License Revocation is Permanent: In each provision of the LAMC about license revocation, add language to clarify that the dog is permanently prohibited from being housed in the City by the former owner, even after the requisite period of prohibited dog ownership has been concluded.

License Reinstatement Decision Final: The General Manager's decision shall be final with no appeal to the Board.

Integrate Current Report with Previous Recommendation about Re-Hearing an Appeal: Subsequent to a decision at the Board meeting of July 13, 2009, the Mayor and Council were requested to consider an amendment that would allow the Board to reopen appeals cases after they are final if new information becomes available. The underlying intent, to make available an alternative action that allows an animal to remain alive while also protecting the public safety, would be met by accepting the recommendation of a Vicious or Dangerous Dog Permit program option. This would not change the aspect of that recommendation which included dealing with Case No. 05331 NC (regarding "Stu") and determining liability and retroactivity of provisions that would impact that case.

Thank you for your consideration of these recommendations. If your staff has any questions, please contact Assistant General Manager Linda Barth at 213-482-9558.

Very truly yours,



Kathleen J. Davis  
Interim General Manager

Attachments: Board Report and LAMC Mark-up

cc: Jim Bickhart  
Dov Lesel  
Doug Tripp  
Linda Barth



**BOARD OF  
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**ANTONIO R. VILLARAIGOSA**  
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KATHLEEN J. DAVIS  
Interim General Manager

**Report to the Board of Animal Services Commissioners**

**KATHLEEN J. DAVIS, Interim General Manager**

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**COMMISSION MEETING DATE:** October 26, 2009 **PREPARED BY:** Linda Barth

**REPORT DATE:** October 22, 2009

**TITLE:** Assistant General  
Manager

**SUBJECT:** Barking Dog Noise Definitions, Appeal Processes, and Dangerous Dog  
Alternatives Relative to Dog License Revocations

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**BOARD ACTION RECOMMENDED:**

That the Board:

1. Request that the Mayor, and subsequently the City Council, direct the City Attorney to prepare an ordinance amending the Los Angeles Municipal Code (LAMC) Sections 53.18.5 in regard to dog license revocation appeals, Section 53.33 providing regulations for vicious animals on private premises, Section 53.34 in regard to dangerous dog procedures, and Section 53.63 giving definitions for barking dog noise and handling of barking complaints, all as described in the body of the report; and,
2. Request that the direction to the City Attorney include integration of these recommended changes with other LAMC changes previously recommended in regard to license revocation hearings to achieve the objectives of this report.

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**SUMMARY:**

Background

The City of Los Angeles has been a leader in legislative efforts to improve the relationships of pets and people for over 100 years. The City enacted LAMC 53.63 in 1978, to provide a means for expeditiously resolving complaints about barking dogs. In

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Subject: Barking Dog Noise Definitions, Appeal Processes, and Dangerous Dog  
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1987, the original legislation was amended to create an adjudication process within the Department rather than referring cases to the City Attorney where they did not have priority. With the determination that the Department would conduct hearings on revocation of licenses, for barking dog as well as dangerous dog cases, the City also explored how to achieve the fairest possible appeal process. In 1989, after first considering the City Council as the body to hear appeals, an ordinance was passed establishing the Board as the appeals body for any dog license revocation hearing, whether resulting in revocation, declaration a dog is dangerous, or an Order of Terms and Conditions.

In the intervening years since 1989, there has not been any major policy review of the definition of barking dog noise, nor of options for a dog deemed dangerous besides euthanasia. Even with adoption of a new City Charter effective 2000 and other changes in the Department management, there has been no review of the appeals process for any appropriate updates or modifications.

However, at the May 12, 2008, meeting, the Board requested a more definitive definition of barking dog noise. Research of the municipal codes of other local counties and cities show that more definitive definitions are utilized in many major cities. At the July 13, 2009, meeting, a motion was introduced requesting that staff work with the Board, the City Attorney, the Mayor's Office and any other appropriate entities to review all aspects of barking and dangerous dog investigatory and hearing and appeal processes and bring to the Board proposals for fine tuning them or accomplishing such modifications that are deemed necessary. Discussion at the meeting of July 13, 2009, in regard to reconsideration of a dangerous dog case also suggests that codifying alternatives other than euthanasia for dogs deemed dangerous should be included in recommendations for the Board's consideration.

A proposed mark-up of the relevant LAMC sections is on file and will be provided to the City Attorney.

Barking Dog Definitions – Modifications to 53.63

The current code section states:

It shall be unlawful for any person to permit any dog or dogs under his or her charge, care, custody or control to emit any excessive noise after the Department has issued a written notice advising the owner or custodian of the alleged noise and the procedures as set forth below have been followed. For purposes of this section, the term "**excessive noise**" shall mean noise which is unreasonably annoying, disturbing, offensive, or which unreasonably interferes with the comfortable enjoyment of life or property of one or more persons occupying property in the community or neighborhood. However, the provisions of this section shall not apply to any commercial animal establishment permitted by zoning law where located.



Subject: Barking Dog Noise Definitions, Appeal Processes, and Dangerous Dog Alternatives Relative to Dog License Revocations

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The LA Municipal Code definition of barking dog noise has been criticized as being too vague and open to interpretation. Other county and city barking dog ordinances, in Southern California and elsewhere, more clearly define what constitutes a barking dog based on the length of the barking, the number of people that are disturbed, and the proximity of the residence of the barking dog to the residences of the disturbed parties.

For example, **Orange County** Codified Ordinance 4-1-59 clearly defines what is deemed to be a barking dog as:

A dog that barks, bays, cries, howls or makes any noise for an extended period of time... Such extended period of time shall consist of incessant barking for 30 minutes or more in any 24-hour period, or intermittent barking for 60 minutes or more during any 24-hour period.

**San Diego** Municipal Code Section 59.5.0502C provides that:

The keeping or maintenance, or the permitting to be kept or maintained upon any premises owned, occupied, or controlled by any person of any animal or animals which by any frequent or long continued noise, shall cause annoyance or discomfort to a reasonable person of normal sensitiveness in the vicinity is unlawful; and

Defines a violation of the noise ordinance as any animal noise that disturbs 2 (two) or more residents residing in separate residences adjacent to any part of the property on which the subject animal or animals are kept or maintained or three or more residents residing in separate residences in close proximity to the property on which the subject animal or animals are kept or maintained.

Research of other municipalities show examples such as:

A dog owner is in violation of the City & County of **Honolulu's** animal nuisance law when their dog barks intermittently for 30 minutes or constantly for 10 minutes to the disturbance of others.

In **Dallas**, noise made by any animal is considered unreasonable if it continues for more than 15 minutes or exceeds the sound pressure level allowed in a residential district.

In **Atlanta**, barking dogs shall include a dog that barks, bays, cries, howls or makes any other noise continuously for a period of ten minutes, or barks intermittently for one-half hour or more to the disturbance at any time of day or night regardless of whether the dog is physically situated in or upon private property.

In addition to reviewing the definitions used in other cities, Department staff who have experience conducting and reviewing hearings discussed alternatives and based on their years of experience recommended the following changes.



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- Add defining language: Complainant must occupy property in the immediate proximity of the property where the dog or dogs are kept. The noise must be audible continuously for ten (10) minutes or intermittently for thirty (30) minutes within a 3 hour period.
- Require two complainants at some stages of the process: At the Second Complaint level, which results in an informal meeting with an officer, and at the Administrative Hearing level, require that written complaints be made by both the original complainant, to state that the barking continues, plus at least one other complainant, both of which reside in separate residences (including apartments and/or condominiums) who live within reasonable proximity to the dog(s). Include a provision that the Department may proceed with the meeting or Administrative hearing on the basis of a complaint of only one person if circumstances are determined to exist where a noise disturbance caused by the dog or dogs affects only one individual. Circumstances may be determined through review of documents provided by the complainant, information from an animal control officer working on another case, or other persuasive means.

Revision of LAMC 53.63 to more clearly define what constitutes barking dog noise would result in fewer barking dog noise cases as the criteria would be clear to both dog owners and complainants. The addition of administrative penalties would likely compel better cooperation on the part of dog owners with barking dog problems. The revision would also allow speed resolution of cases as the Hearing Examiners would spend less time per case deciding whether or not the level of barking is a nuisance as the parameters will be more clearly defined and less open to interpretation.

#### Re-Aligning the Appeals Process with State Law

California Food and Agricultural Code Sections 31621-31626 provide regulations for due process for a probable dangerous dog, specifically, that the Department or appropriate representative of the Department should petition the Superior Court for a hearing on the matter. Los Angeles County conforms to this process in handling dangerous dog cases.

However, the Food and Agricultural Code also allows that a city or county may establish an administrative hearing procedure to hear and dispose of petitions regarding dangerous dogs. Most major California jurisdictions have established such an administrative hearing procedure, including the City and County of San Francisco, Orange County, Riverside County, San Diego County, and San Jose. Under State Code, an animal owner wishing to appeal a decision in an administrative hearing program must petition the Superior Court for a Writ of Mandate. Most of the jurisdictions reviewed do provide some internal review process for persons who wish to appeal an administrative decision, which consists of an executive-level manager



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reviewing the case, the hearing report, and the decision for consistency with procedure and appropriateness under the law.

The City of Los Angeles also has established an administrative hearing process. The LAMC provisions for the conduct of the hearings, notification of participants, presentation of evidence and testimony, and other elements is in conformance with State Code. The City has also chosen to use the same administrative hearing process to adjudicate barking dog cases when initial steps to mitigate complaints fail to resolve the problems. What deviates from State requirements, however, is the appeal process. Other animal control legislation in California, if an administrative hearing process is established in place of going straight to court, offers a secondary administrative review at a higher level, if any review is provided for at all. From the language of the various local ordinances, it appears the focus of both the administrative hearing process and any review process is to provide timely and expert review of the case for the best and most prompt resolution of circumstances for the safety of the public, to identify the most humane alternatives for the animal, and to provide the wisest instructions to owners.

Summary of Complaints and Cases in the City of LA						
Fiscal Year	Barking Complaint Letters	Barking Informal Hearings	Barking Administrative Hearings	Barking Appeals	Dangerous Dog Administrative Hearings	Dangerous Dog Appeals
2006-07	1393	247	110	14	87	4
2007-08	1692	295	86	22	62	2
2008-09	1761	275	56	10	60	8

*Less than 20% of initial barking dog complaints are not resolved by a letter and go to an informal hearing; only about 5% of the initial complaints end up at a formal administrative hearing, and less than 1% of original complaints proceed all the way to appeal. Less than one-half of the appeals are license revocations. No death warrants were issued or signed by the General Manager in the last three fiscal years, therefore all appeals in dangerous dog cases were for terms and conditions or license revocation for dogs deemed "not dangerous."*

Over twenty years ago, the current Board appeal process was considered and ultimately made law. The step was taken in the context of adding barking dog cases to the existing administrative hearing process, at which time the public expressed concern about the possibility that large numbers of dogs' licenses would be revoked on the basis of barking accusation, with Superior Court the only recourse if excess occurred.

Among the concerns described in the 1987-1989 hearings about adding the Commission as an appeal body was timeliness of action, that is, the length of time a dog that had shown vicious behavior or may have been barking excessively was out in the community without specialized conditions or other mitigating actions. This was in contrast to the procedure at the time, which referred barking dog revocation cases to the City Attorney, or to the option of awaiting City Council to act as an appeal body. Another concern was that the Department supervisors or managers would be unduly



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partial to their own staff's decision-making. This latter concern was strongly contested by the Department and its Commission at the time, who felt that expertise in dog training, behavior, and legal issues was needed by persons who conducted hearings and who reviewed decisions on appeal. The final decision, to supersede the process delineated in State law and add a judicial responsibility to a Board otherwise appointed for policy reasons, has not improved the appeal process.

In actual practice over the last twenty years, the appeal process has seen significant delays awaiting scheduling by the Board, which focuses primarily on other humane-related business in accordance with their responsibility in setting policies and direction for the Department and the General Manager.<sup>1</sup> Appointees to the Board are generally business professionals, managers, or citizens interested in serving the residents of the City. No animal experience is required or expected from Commissioners, although some Commissioners have personal experience with rescue organizations, with animals, or as volunteers. Members of the Board are not trained and experienced to handle the adjudication of a situation of a barking or potentially vicious dog, so therefore the Board often struggles with reviewing the decision of the Hearing Officer.

As a result the Board is compelled to delve deeply into the case, as opposed to evaluating if in the original hearing the evidence that was presented supported the case or if there was any technical mishandling of the case, as provided in the LAMC. After exhaustive re-analysis of the case information, often featuring extensive conversations with dog owners, complainants, and even witnesses, and the attendant delays that are creating, the Board can still deadlock, because they are not in all cases equipped to determine the veracity or likelihood of what they are told in testimony. Cases can be held over from meeting to meeting or back-logged because only one or two cases can be scheduled for a Board meeting where policy matters necessarily take priority on the agenda.

Revising the appeals process to align with State Code and typical practice in California will allow the Board to focus all energies on program and policy matters as required. The changes recommended will provide more timely and expert review of appealed decisions, which in tandem with the additional recommendations in the next section,

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<sup>1</sup> The Department and the Board were established by ordinance (Los Angeles Administrative Code; Article 2, Section 22.4). The Department operates "under the control and management of a general manager" who "administer[s] the affairs of the department" (Charter Section 509. Powers of Chief Administrative Officer of Department Under the Control of a Board of Commissioners). Created by ordinance after passage of the Charter which was effective July 1, 2000, the Department and its General Manager are subject to the "Board of Animal Services Commissioners who shall be appointed, removed, and organized in accordance with Charter Sections 501 and 503, who shall have the power to make and enforce all rules and regulations necessary for the exercise of powers and the performance of the duties conferred upon that board..." (Charter Section 506. Powers of the Board and the Head of the Department).



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benefits the community in terms of safety and nuisance mitigations as well as expediting matters for the dog and the dog owners.

- Hearing Examiner's Report is Final: Designate that the report of the Hearing Examiner represents the findings, decisions, and orders on a case.
- General Manager Performs Review: Replace the Board as the body to hear appeals with the General Manager or appropriate designee, whose decision after review shall be final. Remove all details regarding the Board appeal hearing processes but retain the process for filing appeals, notifications, and grounds for appeal. Provide that timely appeals must result in a review of the case within 10 days.
- Standards for Hearing Examiner and Reviewer: Require that both the Hearing Examiner and General Manager or designee for review shall have appropriate qualifications to conduct hearings and shall not have been directly involved in the subject action.

Alternatives for Dogs Deemed Dangerous

California Food and Agricultural Code Section 31641-31646 provides special rules for dogs that are potential dangerous or vicious, including a provision that they be uniquely registered and that the city or county may charge an additional fee to offset the increased costs of maintaining the records of the dog. The special registration requirement can be released at the end of or at any time within a 36-month period if no additional instances of vicious behavior occur. A dog determined to be vicious can be destroyed, subsequent to the findings of a hearing process, but an option exists for the dog to not be destroyed, so long as conditions are imposed on the owner to insure the public health, safety, and welfare.

Again, most major jurisdictions in California have a dangerous dog or vicious dog registration or permit program. In contrast, in the City of Los Angeles, either a dog is dangerous and the only option is euthanasia, or the dog is found not dangerous, but to have committed a bite, attack, or injury that was the result of improper or negligent training, handling or maintenance. In the latter case, the dog license can be reissued with terms and conditions, which would include steps to safeguard the public, or the license can be revoked and the dog owner required to remove his dog from the City.

The City does not accommodate a dangerous dog registration or vicious dog permit program, which lessens the effectiveness of the City in protecting the public safety. Because a dog found dangerous must be destroyed under the current LAMC, the tendency therefore on the part of the Hearing Examiner, any reviewer of the Hearing Examiner report, and the Board on appeal, is to seek all interpretations of the dog's



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behavior and the biting or attacking event to justify a decision to avoid euthanasia. Nearly all dangerous dog cases resolve to a finding that the dog "not dangerous." If Terms and Conditions are ordered, since the City has no special permitting process or extra fee, there is little that can be done to compel compliance, and important conditions such as additional liability insurance are virtually impossible to apply. If revocation is ordered, a dog that has exhibited vicious behavior or engaged in biting or attacking is merely sent packing to another jurisdiction, where another attack must occur or some other notification provided, so that the receiving jurisdiction can require dangerous dog registration. This unnecessarily burdens other communities and may place others outside the City at risk.

An improvement for the safety of the public, and humane treatment of the animal and the owner, would be to implement a Vicious or Dangerous Dog Permit Program that enveloped all appropriate Terms and Conditions and operated in accordance with State Code, and allowed dogs who have been involved in biting or attacking to stay with their owners and to be closely monitored by the Department.

- Create a Vicious or Dangerous Dog Permit Program: The permit would be the result of a dangerous dog case and could be an alternative for euthanasia that would incorporate all reasonable terms and conditions to protect public safety. The program would conform to State rules including a 36-month maximum term. Initial cost for the Permit should be \$120 annually based on the time for at least one inspection in the year and cost of processing the Permit, but should be assessed annually or as needed by the Board as with other permit and adoption fees. This would be addition to owner obtaining a regular dog license.
- Expand Terms and Conditions for Dangerous Dogs: Specifically include as potential terms and conditions sterilization of the dog regardless of exemption status under the Spay/Neuter Ordinance, requirements for liability insurance meeting the requirements of the City Risk Manager but no less than \$100,000, and requirement to obtain a Vicious or Dangerous Dog Permit.
- Extra Penalty for Incidents under Vicious or Dangerous Dog Permit: Provide that any recurrence of biting or attack that originally resulted in the order to obtain a Vicious or Dangerous Dog Permit will trigger impoundment, revocation of the Permit, payment of an additional \$250 penalty, and a Dangerous Dog Hearing.

The July 13, 2009, discussion by the Board in connection with determining an outcome other than euthanasia for a dog declared dangerous in 2006 resulted in a recommendation to the Mayor and Council that the LAMC be amended to allow the Board to reopen appeals cases after they are final if new information becomes available. The underlying intent, to make available an alternative action that allows an animal to remain alive while also protecting the public safety, would be met by accepting



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the recommendation of a Vicious or Dangerous Dog Permit program option. Further, aligning the Hearing and Appeal process with State law and other major jurisdictions relieves a current sitting Board from debating whether actions of previous Boards should be re-visited. Staff recommends that the Department request the Mayor and City Council to instruct the City Attorney to integrate the previous recommendations on the hearing and appeal processes with the recommendations of this report. This would not change the aspect of that recommendation which included dealing with Case No. 05331 NC (regarding "Stu") and determining liability and retroactivity of provisions that would impact that case.

Additional Modifications Affecting the Hearing or Appeal Process

Another provision found uniformly among other jurisdictions and supported by staff with hearing experience is the addition of a reasonable civil penalty assessment when the Hearing Examiner finds that the allegations of either excessive barking, as defined, or dangerous or vicious behavior, are sustained. The civil penalty would partially offset the cost of conducting necessary investigation, pre-hearing, and hearing activities.

- Civil Penalty: Add a Civil Penalty of \$100 to be assessed for reissuance of a dog license upon an initial hearing that results in Terms and Conditions or an order to obtain a Vicious or Dangerous Dog Permit.

Dog owners who have had the license revoked of a dog or dogs for barking or because of dangerous behavior generally lose the privilege of owning, possessing, or controlling a dog (an exemption is possible by request to the General Manager). For a barking dog revocation case, the period in which a dog cannot be owned in the City is one year, for a dangerous dog revocation case, the period is three years. Staff finds that the intent of removing a barking or dangerous dog permanently is circumvented because the LAMC does not clarify that the dog or dogs with revoked licenses cannot be returned to the City after the one year or three years, or cannot be licensed by another person residing in the City who received the dog from the former owner.

- Dog License Revocation is Permanent: In each provision of the LAMC about license revocation, add language to clarify that the dog is permanently prohibited from being housed in the City by the former owner, even after the requisite period of prohibited dog ownership has been concluded.

The Board has also been allowed to hear appeals of persons requesting reconsideration if the General Manager refused to grant any request to reinstate licensing privileges. In at least the last three years, no reinstatement requests have been denied which then lead to a request to appeal. Since the LAMC already provides a hearing and appeal process for cases that may result in license revocation, the later consideration of reinstatement is a discretionary decision and should not be subject to appeal.

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- License Reinstatement Decision Final: The General Manager's decision shall be final with no appeal to the Board.
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**FISCAL IMPACT:**

The activities described above are existing continuing programs of the Department and the changes should bring improved clarity and efficiency to the process resulting in faster resolution and better safety for the public. With an average of 120 hearings per year, and about one-half of them for dangerous dog cases, the recommended penalties and Vicious or Dangerous Dog Permit fees would at most yield about \$15,000 to \$18,000 per year.

Approved:

  
**Kathleen J. Davis, Interim General Manager**

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**BOARD ACTION:**

3-0 Passed

Disapproved \_\_\_\_\_

\_\_\_\_\_ Passed with noted modifications

Continued \_\_\_\_\_

\_\_\_\_\_ Tabled

New Date \_\_\_\_\_



**SEC. 53.18.5. REVOCATION OF LICENSE – HEARING PROCEDURES.**

**(Added by Ord. No. 162,538, Eff. 8/27/87.)**

This section shall govern the revocation of dog licenses. For purposes of this section the term “dog” includes the plural and the term “owner” means the owner or person having charge, care or custody of a dog.

(a) **Revocation of License.** A license revocation hearing shall be held whenever it is found that the owner of any dog whose license has been reissued upon terms, conditions or restrictions pursuant to this section or Section 53.34.4(e)2 has either failed to comply with the terms, conditions or restrictions imposed when the license was reissued, or that the violation continues to exist or reoccurs.

(b) **Hearing Examiner.** A Hearing Examiner appointed by the General Manager shall exercise all powers relating to the conduct of the hearing, including but not limited to, the administration of oaths and affirmations and to certify to official acts. The Hearing Examiner shall issue a decision based on the evidence presented and the testimony at the hearing. The Hearing Examiner in all cases shall be a staff member with appropriate training and experience who shall not have been directly involved in the subject action.

(c) **Notice of Hearing.** The Department shall commence a hearing by issuing to and the serving of a written notice upon the owner of the dog. Notice shall be served at least ten (10) days prior to the date set for the hearing. The notice shall state in clear and concise language:

1. the purpose and reason for holding the hearing and the requested remedy or penalty, and
2. the time and place where the hearing is to be held.

(d) **Subpoena Power.** (Amended by Ord. No. 173,273, Eff. 6/25/00, Oper. 7/1/00.) The General Manager or his authorized representative is authorized and empowered to summon witnesses for the hearing by requesting the City Clerk, pursuant to Section 217 of the Charter of the City of Los Angeles, to issue subpoenas requiring the attendance of such witnesses at the time and place specified.

(e) **Witnesses.** At the hearing, the owner of the dog, the complainant or complainants, if any, and the Department shall be given an opportunity to present evidence, and call and cross-examine witnesses.

(f) **Continuances.** The Hearing Examiner may continue the hearing from time to time upon good cause being shown.

(g) **Notice.** Any written notice provided for in this section shall be served upon the owner of the dog in the manner provided for giving of notice in Section 11.00 (i) of this Code, or by posting upon property occupied by the owner, or both. Service by posting is complete upon posting.

(h) **Evidence.** Hearings need not be conducted according to technical rules relating to evidence or witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a



finding unless it would be admissible over objection in civil actions. Oral evidence shall be taken only on oath or affirmation.

(i) **Reporting.** A recording or transcript of the hearing shall be taken.

(j) **Burden of Proof.** The burden is on the Department to show by a preponderance of the evidence that the allegations made are true.

(k) **Hearing Examiner - Report.** The Hearing Examiner shall, within 15 days of the conclusion of any hearing, ~~complete~~, a report ~~containing~~ a summary of the evidence, including oral testimony, and ~~stating~~ the Hearing Examiner's findings, ~~decisions, and orders if applicable~~. The report shall be a public record and shall be served upon the owner of the dog in accordance with the provision of (g) above.

(l) **Hearings. (Amended by Ord. No. 165,507, Eff. 3/25/90.)**

1. If, at the initial hearing the Hearing Examiner determines that the allegations are true, the Hearing Examiner shall ~~order~~ that the license be reissued upon reasonable terms, conditions or restrictions for the training, handling or maintenance of the dog to abate the condition which gave rise to the hearing, ~~or shall order that a Vicious Dog Permit with terms, conditions, and restrictions shall be issued to the licensee in addition to the dog license, and in either case the licensee shall immediately pay a civil penalty of \$100 for reissuance of the dog license.~~

Terms, conditions, or restrictions may include but are not limited to:

- A. selection of locations within the owner's property or premises where a dog shall not be kept;
- B. requirements as to size, construction or design of an enclosure where a dog may be kept;
- C. specialized training from a trainer or training program approved by the Department to correct any of the dog's behavioral problems;
- D. removal of one or more dogs from the premises to another location or prohibiting the addition of any new dog at the premises;
- E. types and method of restraint, or muzzling, or both;
- F. photo identification or permanent marking, or both, for purposes of identification;

~~G. order that the dog be sterilized, even if exempt from mandatory sterilization under Section 53.15.2(b);~~

~~H. obtaining and maintaining liability insurance as determined by the City's Risk Manager, but in no event to be less than the amount of one hundred thousand dollars (\$100,000) with a certificate or proof of insurance furnished by which the Department shall be notified at least ten (10) days prior to cancellation or non-renewal;~~

~~I. requirement to obtain a Permit for Vicious or Dangerous Dog in addition to a dog license required under Section 53.15;~~

~~J. install warning signage at all property entrances and notification to proximate property owners.~~

2. A hearing or subsequent hearing shall be held wherein the license may be revoked if the owner has either failed to comply with the terms, conditions or restrictions imposed pursuant to clause (1), above, or Subdivision (r) or if the violation continues to exist.

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If the license is again reissued, in addition to any other term, condition or restriction recommended by the Hearing Examiner, the licensee shall agree to pay a civil penalty in the amount of two hundred fifty dollars (\$250) as a condition of the re-issuance of the license. The General Manager shall establish such rules and regulations as are reasonably necessary to prevent the imposition of the civil penalty from becoming an economic hardship on the licensee. Such rules and regulations shall include, but are not limited to, criteria to reduce the amount of penalty to be imposed and provisions for time payments.

3. If the owner fails to appear at a hearing or absents himself from a hearing, the Hearing Examiner may continue the matter or proceed with the hearing as the Hearing Examiner deems appropriate. Notwithstanding any other provision of this section, the Hearing Examiner may recommend that the license of any owner who fails to attend a hearing or absents himself from a hearing be revoked if the evidence establishes that the allegations are true.

**(m) Decision of Hearing Examiner is Final.**

The decision of the Hearing Examiner is final and effective when served upon the owner, unless there is an appeal filed within 15 days of said service.

**(n) Revoked License - Removal of Animal from City.** If a dog license is revoked as a result of the Hearing, the owner or custodian shall surrender the dog to the Department or permanently remove the dog or cause the dog to be permanently removed from the City within five (5) calendar days after either the time for appeal, as provided herein, has passed without an appeal being filed, or the decision of the Board revoking a dog license has been served upon the General Manager and appellant. The dog shall be impounded by the Department if found within the City after the said five-day period. Failure to remove a dog from the City or surrender it to the Department, as provided herein, is a misdemeanor. **(Amended by Ord. No. 164,477, Eff. 3/27/89.)** The dog or dogs whose license was revoked is permanently prohibited from being owned, possessed, or licensed in the City after the revocation.

**(o) Subsequent Disposition of Dog.** Notwithstanding any other provision of law, the Department shall hold for sale any dog surrendered or impounded pursuant to this section for a period of forty-five (45) days. The dog must be transferred to and sold from a district animal shelter different from the district animal shelter where the complaint arose. The General Manager or his duly authorized representative may impose appropriate terms, conditions or restrictions as a condition to the issuance of a new license to a new owner.

**(p) Notice to the Department of the Removal of a Dog from the City.** An owner of any dog whose license has been revoked pursuant to this section shall inform the Department in writing upon the dog's removal from the City the name, address, and telephone number of the new owner, the location where the dog will be kept and the name and description of the dog. The owner shall, in addition, notify the new owner in writing of the details of any and all complaints concerning the dog, and any terms, conditions or restrictions previously imposed by the Department. The owner shall provide the Department with a copy of the notification to the new owner as well as an acknowledgment by the new owner the receipt thereof.

**(q) Appeal Procedures. (Amended by Ord. No. 164,477, Eff. 3/27/89.)**

1. The decision of the Hearing Examiner, to revoke a dog license, to declare a dog to be a dangerous animal, or to issue or re-issue a dog license upon terms, conditions or restrictions may be appealed to the General Manager by the owner of the dog as provided herein. **(Amended by Ord. No. 165,507, Eff. 3/25/90.)**

**Deleted:** General Manager – Review

**Deleted:** 1. The General Manager shall review the findings and recommendations of the Hearing Examiner and may adopt or reject the Hearing Examiner's findings, or may adopt or modify the recommendations of the Hearing Examiner, or may return the matter to the Hearing Examiner for further evidence or for additional findings and recommendations. The General Manager's decision shall be finalized in writing within 15 days of the receipt of the Hearing Examiner's findings and recommendations, and shall be served upon the owner in accordance with the provisions of (g) above.¶  
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**Deleted:** Board of Animal Services Commissioners



2. The appeal shall be in writing and shall be on an appeal form provided by the Department. The appellant shall set forth specifically on the form wherein the appellant believes that the decision of the Hearing Examiner is not supported by the evidence or where any hearing before a Hearing Examiner was not conducted in accordance with the provisions of this section for the conduct of hearings. No appeal shall be considered if filed or postmarked later than 15 days after the decision of the Hearing Examiner is served upon the owner or if the owner has failed to appear at the hearing before the Hearing Examiner.

3A review of the Hearing Examiner's decision, shall consistence of review of

- (i) the record before the Hearing Examiner,
- (ii) the report of the Hearing Examiner, and
- iii the appeal form.

4. Within 10 days from the date of a timely filed appeal, the General Manager or designee who shall not have been directly involved in the subject action shall review the Hearing Examiner's report. The General Manager or designee shall review the findings, decisions, and orders of the Hearing Examiner and may adopt or reject the Hearing Examiner's findings, or may adopt or modify the decision and orders of the Hearing Examiner, or may return the matter to the Hearing Examiner for further evidence or for additional findings and recommendations. The General Manager's or designee's decision shall be finalized in writing within 15 days of the receipt of the Appeal and shall be served upon the owner in accordance with the provisions of (g) above.

5. The decision of the General Manager or designee is final and effective when served upon the owner.

(r) Reinstatement of License Privileges. (Added by Ord. No. 165,507, Eff. 3/25/90.) Upon the written request of the person whose privilege to own, possess, control or be in charge of any dogs has been terminated pursuant to Sections 53.34.4(h) or 53.63(c), the General Manager may reinstate the privilege as to other dogs and authorize the Department to issue a new license. In addition to any other requirement of law, the General Manager may impose such terms, conditions or restrictions as he believes are necessary to protect the public health, safety and welfare, and which may be in addition to any term, condition or restriction authorized by Clause (1) of Subdivision (l), above, or Section 53.34.4(e)(2).

The General Manager's decision shall be in writing and state the reasons for issuing or refusing to issue the license or imposing terms, conditions or restrictions and shall be served upon the owner in accordance with the provisions of Subdivision (g). The General Manager's decision shall be final. No license shall be issued until written acceptance by the owner of any terms, conditions or restrictions finally imposed. If the owner fails to comply with the terms, conditions or restrictions imposed herein, any license revocation hearing shall be held pursuant to Clause (2) of Subdivision (l) this section.

**Deleted:** Board may establish such rules and procedures consistent with this section as it deems necessary for the conduct of the hearing of appeals, including, but not limited to, the filing and presentation of written and oral statements.¶

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**Deleted:** Within 10 days from the date of a timely filed appeal, the General Manager shall transmit to the Board copies of the Hearing Examiner's file and report, the General Manager's written decision and the appeal form for consideration.¶

The grounds or reasons stated on the appeal form by the appellant will be the only grounds or reasons considered by the Board.

**Deleted:** General Manager

**Deleted:** 4. The Board shall fix the time, date and place of the hearing and shall serve a notice of the hearing upon all parties at least five days prior to the hearing. The Board shall conduct its hearing at the time, date and place specified in the notice unless, upon the written request of the appellant and upon good cause being shown, it agrees to continue the hearing once to a date certain no later than 14 days after the original date set for the hearing.¶

5. The Board, after notice and hearing, may affirm, modify, or reverse the decision of the General Manager and deny or grant appeal accordingly.¶

**Deleted:** 6. The Board shall not consider any new evidence

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**Deleted:** (iii) the written decision of the General Manager, ¶

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(v) a consideration of statements, if any, presented to the Board orally or in writing at the hearing.¶

**Deleted:** 7. The Board shall make its decision within 75 days from the date the General Manager transmits to the Board the materials described in Subdivi... [1]

**Deleted:** 9. The decision of the Board to reverse or to modify the decision of the General Manager shall be in writi... [2]

**Deleted:** owner may appeal to the Board the refusal to issue a license or the imposition of terms, conditions or... [3]

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**SEC. 53.33. VICIOUS ANIMALS – PRIVATE PREMISES.**

**(Amended by Ord. No. 148,943, Eff. 11/25/76.)**

(a) No person shall own, or have custody or control of any dog known by such person to be vicious or dangerous, other than a sentry dog, ~~without having a Permit for a Vicious Dog.~~ For the purposes of this section "sentry dog" shall mean a dog trained to work without supervision in a fenced facility to deter or to detain persons found within the facility.

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~~(b) The Department may summarily abate any such public nuisance independently of any criminal prosecution or the results thereof by means of issuing a Permit for a Vicious Dog which includes imposition of specific reasonable conditions and restrictions for the maintenance of the dog or dog(s) and/or the animal premises as determined subsequent to a hearing as provided in Section 53.18.5. No Permit may be issued to the owner of a dog who has fatally injured a human being.~~

~~(c) No person owning or having custody of~~ any other animal known by such person to be vicious or dangerous, shall permit it to run at large, or permit it to run loose on or within the premises of such person in such a manner as to endanger the life or limb of any person lawfully entering such premises.

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(d) Notwithstanding any other provisions of this Code, no owner or person charged with custody or control of a sentry dog shall assign or work such dog on a premises, unless said premises is posted to warn of sentry dog activity. Said warning shall consist of signs placed at 50-foot intervals around the perimeter of the area guarded by the sentry dog and at all entrances and exits to said area. Such signs shall measure 10" x 14" and shall contain black lettering on a white background stating "WARNING - SENTRY DOG ON DUTY," and shall also depict the head of a dog with bared fangs. In addition the sign shall set forth the name, address and telephone number of the sentry dog company furnishing the dog for hire. The telephone number shall be a telephone which is manned by a person 24 hours a day every day of the year.

Deleted: For the purposes of this section "sentry dog" shall mean a dog trained to work without supervision in a fenced facility to deter or to detain persons found within the facility.  
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**SEC. 53.34. ANIMALS AT LARGE.**

**(Title amended by Ord. No. 162,537, Eff. 8/8/87.) (Section amended by Ord. No. 162,748, Eff. 9/24/87.)**

A person who owns or is in charge of or controls or who possesses a dog or other animal who permits, allows or causes the dog or other animal to run, stray, be uncontrolled or in any manner be in, upon, or at large upon a public street, sidewalk, park or other public property or in or upon the premises or private property of another person is guilty of a misdemeanor if said dog or other animal bites, attacks or causes injury to any human being or other animal.

Any person convicted under this section or Section 53.33 shall not own, possess, control or be in charge of any animal of the species which caused the bite, attack or injury for a period of three (3) years from the date of conviction. The Department shall not issue or renew any license or permit for said species of animal, except that upon the written request of the person so convicted, the General Manager may authorize the issuance of a dog license pursuant to the provisions of Section 53.15(b).



**SEC. 53.34.1. MENACING DOGS.**

**(Added by Ord. No. 168,864, Eff. 7/7/93.)**

No person, owning or having custody or control of any dog, whether or not restrained by a substantial chain or leash, shall permit the dog to unlawfully assault, threaten or menace any human being or other animal upon any public street, sidewalk, park or other public property, or in or upon the premises or private property of another.

**SEC. 53.34.2. IMPOUNDMENT – BITING OR ATTACKING ANIMAL.**

**(Added by Ord. No. 162,537, Eff. 8/8/87.)**

(a) The Department shall have the power to summarily and immediately impound a dog or other animal where there is evidence it has attacked, bitten or injured any human being or other animal pending any court or dog license or animal permit revocation proceeding arising from the attack, bite or injury; or to undertake a hearing pursuant to Section [53.34.4](#). A duly authorized Department employee may enter and inspect private property to enforce the provisions of this section as provided by Section [53.03](#) of this article.

Failure to surrender to the Department upon demand a dog or other animal which is subject to being impounded pursuant to this section is a misdemeanor.

A dog or other animal, impounded pursuant to the authority of this section, shall be returned to the owner or custodian as provided by Section [53.34.4](#) or when it is no longer required as evidence, or if a notice of a hearing pursuant to Section [53.34.4](#) to declare the dog or other animal a dangerous animal has not been served on the owner or custodian within seven days after the impoundment.

(b) In lieu of impound, the General Manager may permit the dog or other animal to be confined at the owner's or custodian's expense in a Department approved dog kennel or veterinary facility within the City or at the owner's or custodian's residence provided that the owner or custodian:

1. Shall not remove the dog or other animal from the kennel, veterinary facility or residence without the prior written approval of the General Manager or his authorized representative; and
2. Shall make the dog or other animal available for observation and inspection by Department personnel or members of law enforcement or their authorized representatives.

(c) The General Manager or his designated representative may have a dog or other animal, impounded or confined as provided in (a) or (b) above, permanently identified by means of photo identification prior to release from impound or confinement.

**SEC. 53.34.4. DANGEROUS ANIMAL – PROCEDURES.**

**(Added by Ord. No. 162,537, Eff. 8/8/87.)**

(a) **Hearing.** The Department shall conduct a hearing to determine whether or not a dog or other animal confined or impounded pursuant to Section [53.34.2](#) is a dangerous animal. The hearing shall be conducted in accordance with the procedures provided by Section [53.18.5](#).



(b) **Dangerous Animal – Declared.** The Department, after a hearing, may declare any dog or other animal to be a dangerous animal whenever it has bitten, attacked or caused injury to any human being or other animal.

(c) **Determination of Dangerous Animal – Evidence.** In making a determination that a dog or other animal is or is not dangerous, evidence of the following shall be considered:

1. Any previous history of the dog or other animal attacking, biting or causing injury to a human being or other animal;
2. The nature and extent of injuries inflicted and the number of victims involved;
3. The place where the bite, attack or injury occurred;
4. The presence or absence of any provocation for the bite, attack or injury;
5. The extent to which property has been damaged or destroyed;
6. Whether the dog or other animal exhibits any characteristics of being trained for fighting or attack or other evidence to show such training or fighting;
7. Whether the dog or other animal exhibits characteristics of aggressive or unpredictable temperament or behavior in the presence of human beings or dogs or other animals;
8. Whether the dog or other animal can be effectively trained or retrained to change its temperament or behavior;
9. The manner in which the dog or other animal had been maintained by its owner or custodian;
10. Any other relevant evidence concerning the maintenance of the dog or other animal;
11. Any other relevant evidence regarding the ability of the owner or custodian, or the Department, to protect the public safety in the future if the dog or other animal is permitted to remain in the City.

(d) **Dangerous Animal – Disposition.**

1. It shall be unlawful for any person to own, possess, harbor or keep any dog or other animal declared by the Department, after a hearing, to be dangerous, unless a Permit for a Vicious Dog is authorized by order of the Hearing Examiner and maintained by the person owning or having custody of the dog.

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2. Any dog or other animal declared by the Department to be dangerous and for which a Permit for a Vicious Dog is not ordered and authorized, if not already impounded by the Department, shall be immediately surrendered to the Department, and it is the duty of the Department to take up and impound any such dog or other animal.

3. (Amended by Ord. No. 164,477, Eff. 3/27/89.) Any dog, or other animal, declared to be a dangerous animal and not subject to order and authorization for a Permit for a Vicious Dog shall be humanely destroyed. The General Manager shall sign an order authorizing the destruction of the dog or other animal within two (2) days after the time for appeal as provided in Section 53.18.5(q)3 has passed without an appeal being filed.

4. A Permit for a Vicious Dog shall extend for 36 months, if there are no additional instances of the behavior which was the subject of the Dangerous Dog Hearing. The dog may, but is not required to be, removed from the list of potentially dangerous dogs prior to the expiration of the 36-month period if the owner or keeper of the dog demonstrates to the Department that changes

Deleted: In the event the Board has received and heard an appeal and made a determination that the dog or other animal is a dangerous animal, copies of that Board action shall be served upon the General Manager and appellant. Upon expiration of five days after completion of said service, the General Manager shall sign an order authorizing destruction of said dog or other animal.¶



in circumstances or measures taken by the owner or keeper, such as training of the dog, have mitigated the risk to the public safety. The fee for a Permit for a Vicious Dog is \$120 per year and is to recover the costs of the Department in verifying compliance and enforcing the provisions of this section. The annual fee shall be subject to assessment and modification in accordance with Section 53.12(a). If there is a recurrence of biting, attacking, or injury by the dog during the 36-month period, the Department may immediately impound the animal and revoke the Permit, assessing a civil penalty of \$250, and then proceed with a Hearing pursuant to this Section.

**(e) Dog or Other Animal – Not Dangerous – Procedure. (Amended by Ord. No. 162,748, Eff. 9/24/87.)** If it is determined that the dog or other animal is not dangerous, but that the bite, attack or injury was the result of improper or negligent training, handling or maintenance, the dog license or animal permit may:

1. Be revoked if it is determined that the owner or custodian is unable or unwilling to properly train, handle or maintain the dog or other animal and a similar incident is likely to occur in the future without proper training, handling or maintenance, or
2. Be reissued with reasonable terms, conditions or restrictions imposed for the training, handling or maintenance of the dog or other animal to protect the public health, safety and welfare if it is determined that the owner or custodian is able and willing to properly train, handle or maintain the dog or other animal and a similar incident is not likely to occur in the future with proper training, handling or maintenance.

**(f) Revoked License – Previously Impounded or Confined.**

1. If a dog or other animal has been impounded or confined pursuant to Section 53.34.2 and it has been ordered to be subject to a Vicious Dog Permit pursuant to (d)4 or its license or permit has been revoked pursuant to (e)1 above and the owner or custodian wishes to reclaim and remove it from the City of Los Angeles, the Department shall release it provided that the notice provisions of Section 53.18.5(p) are complied with prior to its release and further provided that the Vicious Dog Permit is purchased and necessary conditions are met or that the dog or other animal is taken to its new location immediately and directly upon its release from impound or confinement. Failure to remove the dog or other animal immediately and directly from the City upon release from impound or confinement is a misdemeanor.

2. Any dog or other animal which has previously been impounded or otherwise confined and which has not been claimed within five (5) calendar days of service of an order to obtain a Vicious Dog Permit or a notice of revocation of its license or permit shall be deemed abandoned and shall be disposed of by the Department in accordance with this article. Notwithstanding the above, the owner may enter into a written agreement with the Department to take additional time to remove, or to cause the dog or other animal to be removed, to a new location outside the City. Such additional time shall not exceed ten (10) days. For each additional day agreed to, the pound fees required by Section 53.12 shall be paid prior to the release of the dog or other animal.

**(g) Animal Identification.** Any dog or other animal subject to this section must be permanently identified by the Department by the use of photographs or permanent marking, or both, prior to its release from impound or confinement.