



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. **R 19-0065**
MAR 06 2019

REPORT RE:

**DRAFT ORDINANCE AMENDING SECTIONS 12.03, 12.14.A.1(B), 12.17.6.A.2,
AND 12.24.X OF THE LOS ANGELES MUNICIPAL CODE TO EXCLUDE "PET
SHOPS" FROM THE DEFINITION OF "KENNEL" IN THE ZONING CODE AND TO
ESTABLISH DEVELOPMENT AND OPERATIONAL REQUIREMENTS FOR PET
SHOPS IN COMMERCIAL ZONES**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File Nos. 11-0754-S2 and 17-0079

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The draft ordinance amends Sections 12.03, 12.14.A.1(b), 12.17.6.A.2 and 12.24.X of the Los Angeles Municipal Code (LAMC) to add a definition for the term "Pet Shop" and to amend the definition of "Kennel" to clarify that a pet shop is not a kennel. The ordinance also establishes development and operational standards for pet shops in commercial zones, and permits a pet shop to operate in a more restrictive CR, C1 or C1.5 zone by way of a zoning administrator's adjustment.

Legislative Background

In 2013, the City Council adopted LAMC Section 53.73, which prohibits the sale of commercially bred animals in pet shops. Under this law, pet shops may only sell animals acquired from an animal shelter, a humane society, or a non-profit rescue organization (hereafter, “shelter animals”).

Under LAMC Section 53.73, however, pet shops that kept or maintained four or more adult animals would have met the definition of “Kennel” in LAMC Section 53.00 and thus be required to obtain a kennel permit from the Department of Animal Services (Animal Services). To ensure that pet shops selling shelter animals need not obtain kennel permits, the City Council subsequently amended the definition of “Kennel” in LAMC Section 53.00 to exclude pet shops.

In order to make the zoning regulations consistent with LAMC Section 53.00, the Planning Department issued Zoning Administrator Interpretation No. ZA-2013-3104-ZAI (the “ZAI”) on October 30, 2013, to clarify that the definition of “Kennel” in LAMC Section 12.03 did not include pet shops. However, in a subsequent lawsuit that challenged both the amendment to LAMC Section 53.00 and the ZAI (*Daugherty v. City of Los Angeles*, Superior Court Case Number BS147232), the Court upheld the amendments to LAMC Section 53.00 but directed the City to rescind the ZAI because it exceeded the Zoning Administrator’s authority. The Planning Department rescinded the ZAI on May 14, 2015.

On September 2, 2015, a motion (Koretz-Huizar) was introduced directing the Planning Department to develop a methodology, including any necessary Code amendments, to implement the rescinded ZAI. On January 20, 2017, another motion (Blumenfield-Buscaino) was introduced further directing the Planning Department to prepare a draft ordinance that provides a definition of “animal rescue and animal adoption facilities,” and to allow for their operation in commercial zones with “performance standards and community protections.” The Planning Department, thereafter, prepared a proposed ordinance that was responsive to both motions.

On April 12, 2018, the City Planning Commission (CPC) voted to recommend the proposed ordinance’s approval to the City Council with minor revisions. At its January 20, 2018, meeting, the Personnel and Animal Welfare (PAW) Committee considered the Planning Department’s proposed ordinance and voted to recommend adoption of the CPC’s recommendations. On August 21, 2018, the Planning and Land Use Management (PLUM) Committee also considered the proposed ordinance. The PLUM Committee continued the matter and requested that the City Attorney transmit the final ordinance to the City Council.

Summary of Ordinance Provisions

The CPC's May 14, 2018, transmittal report to the City Council (CPC Transmittal Report) includes Planning's staff report, which provides a detailed description of the LAMC amendments effectuated by the draft ordinance. Notably, the ordinance adds a new definition for "Pet Shop" and amends the definition of "Kennel" in the Zoning Code to expressly state that pet shops are not kennels. Further, it specifies that a "Pet Shop" includes the terms "Pet Store" and "Animal Adoption Facility."

The enclosed draft ordinance also adds Section 12.14.A.1(b)(4) to the LAMC, which creates new development and operation standards for pet shops that house four or more adult dogs and are located in C2, C4, C5, and CM commercial zones, where they are otherwise entitled to operate by right. These standards include limits on the number of cats and dogs that may be kept at a pet shop, a limitation on where they may be boarded, a prohibition on outdoor dog runs and training activities, regulations concerning how dogs may be walked and a prohibition against unreasonable noise and odor.

The enclosed draft ordinance also amends LAMC Section 12.17.6.A.2 to specify that any pet shop operating in an M1 or less restrictive zone need not comply with the development and operation standards for pet shops in commercial zones set forth in LAMC Section 12.14.A.1(b)(4).

Finally, the enclosed draft ordinance adds Section 12.24.X.31 to the LAMC, which allows a pet shop to operate in the more restrictive CR, C1, or C1.5 zones or to deviate from the development and operation standards set forth in LAMC Section 12.14.A.1(b)(4) upon obtaining a Zoning Administrator's adjustment pursuant to the procedures already set forth in LAMC Sections 12.28.C.1, 2, and 3.

California Environmental Quality Act (CEQA) Standard of Review

The CPC recommends that the City Council find that, based on the whole of the administrative record, in the independent judgment of the decision maker, the project will not have a significant effect on the environment. The CPC further recommends that the City Council adopt Negative Declaration No. ENV-2017-4076-ND.

Charter Findings Required

Charter Section 558(b)(3) requires the City Council to make the findings required in Subsection (b)(2) of the same section; namely, whether adoption of the proposed ordinance will be in conformity with public necessity, convenience, general welfare, and good zoning practice. Charter Section 558(b)(3)(A) allows the City Council to adopt an ordinance conforming to the CPC's recommendation of approval of the ordinance, if the CPC recommends such approval. Similarly, Charter Section 556 requires the City

Council to make findings showing that the action is in substantial conformance with the purposes, intent and provisions of the General Plan. The City Council can either adopt the CPC's findings and recommendations as set forth in the CPC's Transmittal Report or make its own.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety, and the Department of Animal Services with a request that all comments, if any, be directed to the City Council or its Committee when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Charles D. Sewell at (213) 978-8083. He or another member of this Office will be present when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

DM:CDS:ev
Transmittal