

TRANSMITTAL

To:

THE COUNCIL

Date:

FEB 03 2012

From:

THE MAYOR

TRANSMITTED FOR YOUR CONSIDERATION. PLEASE SEE ATTACHED.



(Janelle Erickson)

ANTONIO R. VILLARAIGOSA
Mayor

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CHIEF VETERINARIAN

January 18, 2012

Honorable Antonio R. Villaraigosa
Mayor, City of Los Angeles
Room 303, City Hall
200 North Spring Street
Los Angeles, CA 90012

Subject: Retail Pet Sales and Commercial Breeding Regulations

Dear Mayor Villaraigosa:

At its meeting of January 10, 2012, the Board of Animal Services Commissioners (Board) voted to recommend to the Mayor and City Council that the City of Los Angeles adopt additional regulations pertaining to the operation of retail pet shops and certain types of commercial dog and cat breeding businesses within the City of Los Angeles. These recommendations were developed by the Department of Animal Services (Department) in response to the City Council's instruction adopted on June 8, 2011, (C.F. 11-0754) calling on the Department to produce a report addressing the following proposals:

1. The establishment of ban on the sale of commercial mill-bred dogs, cats, chickens and rabbits within the city limits.
2. The creation of a program whereby LAAS can work with licensed pet stores make shelter animals available for adoption at those stores on a regular or periodic basis.
3. The creation of a program whereby LAAS, as a part of its normal pet store licensing procedures, publicly and visibly identifies stores that excel in meeting rigorous humane requirements and conditions in the kenneling and sale of live animals consistent with all City, state and federal laws, or which do not sell live animals.
4. The prohibition of the establishment and/or operation of puppy, kitten, chicken and rabbit mills within the City of Los Angeles.

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Background

The report delivered to the Board on January 10th (see attached; recommended for attachment to the Council File) reflected nearly two years of research and dialogue with, and/or research on, the animal welfare community, pet shop operators, the veterinary community and breeding and boarding kennel operators that began in 2009, long before the City Council's action.

The Department's research and the Board's discussion determined the following:

- A. Because of jurisdictional and operational complexities, the creation of regulations regarding the sale and/or breeding of rabbits and chickens should receive further study and not be included in the recommendations contained herein.
- B. The ongoing promotion of the sale of shelter and rescue group animals at permitted pet shops on a voluntary basis should be augmented by regulations that mandate an orderly transition away from sales of mass commercially-bred animals on an interim basis to determine the effectiveness and impacts of such an approach. Live animal sales prohibitions are being adopted in other communities across the country at a deliberate pace, but Los Angeles is the largest municipality undertaking the challenge, thus the desirability of adopting them here on an interim basis.
- C. It is both feasible and desirable to create a program (inspired by the County of Los Angeles' widely accepted grading system for eating establishments) that identifies and highlights pet shops whose operations meet or surpass a set of humane standards to be established.
- D. Prohibiting the operation of mass commercial breeding facilities for dogs and cats (i.e. "puppy mills") is desirable but faces major obstacles in the area of precisely defining the types of facilities to be regulated. As a result, as has been found in other jurisdictions, the most workable approach involves the rigorous regulation of such facilities above a certain size (typically measured by the number of breeding animals present).
- E. Any regulations the City might adopt regarding these sales and breeding activities necessarily cannot directly regulate interstate and on-line commerce but the strengthening of regulations covering the activities within the City's purview has the potential to positively impact the City's euthanasia rate, promotes humane behavior, encourage further dialogue amongst stakeholders and sets a potentially useful example for others.

Existing regulations covering pet shops and kennels (both breeding and boarding) primarily are contained in Los Angeles Municipal Code (LAMC) Section 53.50 and in permit implementation guidelines adopted by the Board and/or Department management. Except where proposals would require the creation of new sections or the

modification of others, it is expected that the following proposals would primarily apply to Section 53.50 as well as Department guidelines.

Recommendations of the Board of Animal Services Commissioners

1. Live Animal Sales:

A. Adopt an "Interim Control Ordinance" (ICO) that would establish a three-year prohibition of sales of live dogs, cats and rabbits in retail businesses (ie. pet shops) commencing six months after the effective date of the ordinance, with the exception of those businesses that can show proof that the animals were obtained from animal shelters, humane societies, registered rescue organizations or local breeders that meet all federal, state, and City requirements for the breeding and selling of animals within the City of Los Angeles. Violators could be cited and prosecuted for a misdemeanor and lose their permit to operate a pet shop, at the discretion of the Department. The Department and the animal welfare community will work with operators to effectuate a smooth transition.

B. Require that during this prohibition period the Department monitor the relationship between this action and patterns of impounding and euthanasia rates in City shelters and the economic impact of the action on the affected businesses, including the impact on City revenues, and make recommendations to the Council no later than 90 days before the expiration date of the ICO, on extending the ICO or making the regulation permanent, and on potential modifications to the regulation in either case. The Department will develop a monitoring protocol for this purpose under the guidance of the Board.

2. Standards and Regulations for Pet Shops:

A. Instruct the General Manager to amend existing requirements for obtaining a permit to operate a pet-related retail business to include regulations pertaining to the restrictions in #1 above and conduct annual inspections to ensure compliance.

B. In addition, instruct the General Manager to establish a method by which permitted pet shops and pet supply stores that comply with those restrictions, or which do not engage in any live animal sales, are publicly identified as "Humane L.A. pet shops" by the City, using web sites, other literature and signs or decals that can be displayed at on site at the stores.

3. Standards for and Restrictions on Certain Commercial Animal Breeding Operations:

A. Instruct the General Manager to develop regulations on commercial dog and cat breeding facilities and businesses substantially based on the the most rigorous regulations adopted in other jurisdictions across the country pertaining to breeding facilities, including but not limited to provisions of HR 835 (the federal "Puppy Uniform Protection and Safety Act," aka "PUPS) pending before Congress. These standards of care and maintenance of the animals and facilities that will be developed by the Department and subject to the approval of the Board of Animal Services Commissioners as per 3.B below. Additionally, the facility will be subject to unscheduled inspection at any time by the Department.

Additionally, the location and/or operator must have obtained all required City, state and federal permits for the business and use, including licenses, breeding permits and transfer permits, and make them available for inspection by the Department upon request.

B. Instruct the General Manager to bring a proposed set of guidelines for care and maintenance of the animals and facilities to the Board in a timely manner for discussion and adoption coinciding prior to the effective date of any implementing ordinance approved by the City Council and the Mayor pursuant to this recommendation.

Fiscal Impact

Implementation of the proposed regulations initially is intended to be accomplished within regulatory structures that already exist in the Department and which are included annually in the budget. Thus, initially, it is anticipated that no additional personnel will be added to launch implementation of the ordinances and programs proposed here.

However, the more consistent application of existing licensing (intact animal) and permitting (breeding, kenneling, transfer) regulations to a commercial breeding facility could result in the Department reaping additional revenue. For example, a fully-permitted commercial breeding facility housing, for the sake of simple calculation, 100 licensed intact breeding animals could generate more than \$30,000 a year in revenue that the Department has not heretofore been receiving. (Note: It is not anticipated that any existing facility will necessarily generate that level of revenue, but it remains to be seen.)

At such a time as the City may enjoy better fiscal circumstances, the Department would seek to add Animal Control Officers (ACOs) to its general ranks, and specifically to its permit and inspection team, to facilitate commercial breeding and puppy shop enforcement efforts, as well as the smooth functioning of the "Humane L.A. pet shop" program. At present, the fully-burdened cost associated with an ACO is

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\$100,913. The impact on the Department's future operating budget would be determined based on how many ACOs could be hired for these purposes.

Other costs associated with these recommendations, such as that of printed materials, are expected to be nominal.

If you require additional information regarding this action of the Board, please have your staff contact me at (213) 482-9558 or Ross Pool, Management Analyst II, at (213) 482-9501.

Sincerely,



Brenda F. Barnette, General Manager
Department of Animal Services

BFB:RP

cc: Jim Bickhart, Office of the Mayor
Ross Pool
File

Enclosure

**BOARD OF
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BRENDA F. BARNETTE
GENERAL MANAGER

Report to the Board of Animal Services Commissioners

Brenda F. Barnette, General Manager

COMMISSION MEETING DATE: January 10, 2011

PREPARED BY: Brenda Barnette

REPORT DATE: December 8, 2011

TITLE: General Manager

SUBJECT: Report in response to the instruction of the Los Angeles City Council (C.F. 11-0754) for the Department of Animal Services to study issues relating to potential restrictions on the sale of commercially-bred animals in Los Angeles, enhanced standards and regulations for retail outlets selling live animals, and restrictions on the establishment or operation of certain types of commercial pet breeding businesses within the city.

BOARD ACTION RECOMMENDED:

That the Board:

1. Live Animal Sales:

- A. Recommend to the City Council the adoption of a proposed "Interim Control Ordinance" (ICO) that would phase in a two-year prohibition of sales of live dogs, cats and rabbits in retail businesses (ie. pet shops) that would commence on July 1, 2012, with the exception of those businesses that can show proof that the animals were obtained from animal shelters, humane societies, registered rescue organizations or local breeders that meet all federal, state, and City requirements for the breeding and selling of animals within the City of Los Angeles. Violators may be cited and prosecuted for a misdemeanor and lose their permit to operate a pet shop, at the discretion of the Department.
- B. Further, recommend that during this prohibition period the City will monitor the relationship between this action and euthanasia rates in City shelters and the economic impact of the action on the affected businesses, including the impact on City revenues, and make recommendations to the

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Council no later than March 31, 2014, on extending the ICO or making the regulation permanent, and on potential modifications to the regulation in either case.

2. Standards and Regulations for Pet Shops:

- A. Instruct the General Manager to amend existing requirements for obtaining a permit to operate a pet-related retail business to include regulations pertaining to the restrictions in #1 above and conduct annual inspections to ensure compliance.
- B. In addition, instruct the General Manager to establish a method by which permitted pet shops and pet supply stores that comply with those restrictions, or which do not engage in any live animal sales, are publicly identified as "humane pet shops" by the City, using web sites, other literature and signs or decals that can be displayed at on site at the stores.

3. Standards for and Restrictions on Certain Commercial Animal Breeding Operations:

- A. Recommend to the City Council regulations on commercial dog and cat breeding facilities and businesses substantially based on the provisions of HR 835 (the federal "Puppy Uniform Protection and Safety Act," aka "PUPS) pending before Congress. These standards of care and maintenance of the animals and facilities that will be developed by the Department and subject to the approval of the Board of Animal Services Commissioners as per 3.B below. Additionally, the facility will be subject to unscheduled inspection at any time by the Department.

Additionally, the location and/or operator must have obtained all required City, state and federal permits for the business and use, including licenses, breeding permits and transfer permits.

- B. Instruct the General Manager to bring a proposed set of guidelines for care and maintenance of the animals and facilities to the Board in time for discussion and adoption coinciding prior to the effective date of any implementing ordinance approved by the City Council and the Mayor pursuant to this recommendation.

4. Transmittal: Instruct the General Manager to transmit these recommendations to the City Council for formal consideration at the earliest possible date.

A. CITY COUNCIL INSTRUCTION

On June 8, 2011, the Los Angeles City Council ("Council") approved a motion by Councilmember Paul Koretz (seconded by Councilmember Tony Cardenas) instructing Los Angeles Animal Services ("LAAS") to study and make recommendations on the following issues:

1. The establishment of ban on the sale of commercial mill-bred dogs, cats, chickens and rabbits within the city limits.
2. The creation of a program whereby LAAS can work with licensed pet stores make shelter animals available for adoption at those stores on a regular or periodic basis.
3. The creation of a program whereby LAAS, as a part of its normal pet store licensing procedures, publicly and visibly identifies stores that excel in meeting rigorous humane requirements and conditions in the kenneling and sale of live animals consistent with all City, state and federal laws, or which do not sell live animals.
4. The prohibition of the establishment and/or operation of puppy, kitten, chicken and rabbit mills within the City of Los Angeles.

B. BACKGROUND:

1. The Issue

Pet shops selling live animals have traditionally been an important sales outlet for young dogs and cats bred in "puppy mills" and "kitten mills," both within the United States and abroad. These commercial breeding facilities are the functional equivalent of medium- and large-sized "factory farms" where professional breeders have been known to produce hundreds or thousands of puppies and kittens annually under conditions that lend themselves to a variety of abuses, from straightforward abuse and cruelty to inbreeding- and abuse-inspired health and personality issues. Chickens and rabbits have also been subjected to comparable circumstances.

The result is a very lucrative interstate and international market in these innocent animals that provides pet shops with very profitable stock. In the case of puppies, they are often desirable purebred breeds which can fetch premium prices. The puppies and kittens that aren't placed with shops or sold to consumers unfortunately all too often end up being dumped in animal shelters where they run the risk of becoming statistics in an ongoing national tragedy. Their overworked, abused parents often suffer similar fates.

There are an estimated 5-10,000 large-scale commercial breeding facilities in the United States (and countless more overseas, particularly Asia, Europe and Latin America). The American heartland of large-scale commercial breeding lies in seven

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states, Missouri, Nebraska, Kansas, Iowa, Arkansas, Oklahoma and Pennsylvania. The puppy mill industry in Missouri is valued at 40 million dollars a year. The puppy industry in one Pennsylvania county - Lancaster - is valued at 4 million dollars a year. In recent years, a commercial breeding industry has been developing in Los Angeles County, primarily in the Antelope Valley, where sufficient open space still exists to accommodate them. Other California locales with commercial breeding mills include the Inland Empire and Central Valley. Department research suggests that there are a very small number of commercial breeding facilities within the Los Angeles city limits.

For the purposes of this discussion commercial breeding facilities are those that produce large numbers of purebred puppies or kittens. They thrive because they exist largely out of the public eye. Though they often comply with applicable statutes in their given locality, they often are breeding factories that allegedly have been the cause of many behavior and medical problems for the animals being marketed.

- Large-scale commercial breeders use the internet and newspaper ads to sell directly to the public, as well as selling their "product" through pet stores.
- According to local, state and national organizations working on the issue, exhaustive documentation on the problems surrounding large-scale commercial breeders include over-breeding, inbreeding, minimal veterinary care, poor quality of food and shelter, lack of human socialization, overcrowded cages and the killing of unwanted animals.
- Buying a dog or cat from a large-scale commercial breeder, either directly or indirectly, may lead to the end owner having an animal that will need urgent veterinary care or caring for whatever genetic diseases the animal may be carrying. These symptoms may not surface for several years into the animal's life.
- The most constant victims of large-scale commercial breeders are the breeding parents, because they often will live their lives in cages and those lives generally end unpleasantly.
- There are up to two hundred thousand dogs in large-scale commercial breeding facilities at any given time in the United States.
- All breeds of dogs are being bred in large-scale commercial breeding facilities, even larger ones like Saint Bernards.
- It's common to see chronic infection in such facilities, such as chronic eye infections, chronic ear infections that lead to blindness and deafness. Dental disease also is a persistent problem.
- Buying an animal (usually a puppy) in a pet store has significant risks for the purchaser and their family. A state funded survey in California found that nearly half of the puppies sold in pet stores were sick or incubating diseases. This doesn't count the ones suffering from genetic diseases. This means there is a

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statistically high chance of bringing a puppy home from a pet store only to have it die from parvo or cost thousands of dollars in veterinary expenses because of genetic problems such as hip dysplasia.

- The State of California has adopted regulations on conditions for live animals being sold in pet shops, along with a pet shop "lemon law" that requires pet shops to either take the animal back for a full refund or subsidize up to 150% of the purchase price in veterinary care for the animal. (The Department has adapted and, in one case, expanded upon the aforementioned regulations for use as part of its pet shop permitting process.)
- While a precise statistic is not available at this time, a sufficient number of popular breed purebred dogs are impounded by City shelters to suggest that animals from large-scale commercial breeding operations can end up in animal shelters. Also, because state laws requiring that animals leaving shelters do not apply to commercial breeders or pet shops, the ongoing sale of unaltered animals just as clearly can contribute to the numbers of animals entering shelters.

Nationally growing sentiment against large-scale commercial breeding has led a number of states and communities to adopt legislation regulating the activities and the stores that provide an outlet for the dogs and cats bred in such questionable conditions and circumstances. On the local level disrupting the market for these animals can also play a role in addressing the problem. In Los Angeles, with tens of thousands of animals still being euthanized in the City's shelters annually, there is an increasing interest in finding ways to break the link between the large-scale commercial breeding facilities and pet shops that could contribute to reducing overall pet overpopulation and, thus, euthanasia rates.

In recent years the City's efforts to strengthen protections for animals have included establishment of the Animal Cruelty Task Force, strengthening laws against various forms of animal abuse and illegal street sales of animals, and more rigorous requirements for the granting of performing animal, kenneling and pet shop permits. Additionally, the City has approved strengthened spay/neuter and microchipping regulations intended to further protect them. Now, with the Council's approval of the Koretz/Cardenas motion, the City is preparing to take important steps toward acknowledging and combating the potential abuses inherent in large-scale commercial breeding as they impact the animals and people of the city.

2. Addressing the Concern

At the urging of the public, jurisdictions in California and across the country have, in the last several years, been grappling with the humane issues associated with pet shop sales of live animals and its common link to large-scale commercial breeding. Activists across the country also have begun working with pet shop proprietors to develop

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alternative models for the sale of animals in retail settings that potentially can mitigate at least some of the alleged concerns.

A. Pet Shops: Over the past several years a growing number of localities have approved ordinances whose goal is stopping the influx of mill-bred animals into pet shops. Typically the stated goal is to specifically ban the mill-bred animals, but the inherent difficulties in proving that the animals come from mills usually leads to the jurisdiction instead implementing a ban on live sales. In California these communities include South Lake Tahoe, West Hollywood, Hermosa Beach and Irvine. Elsewhere they include Toronto, Ontario, Canada and Austin, Texas.

While the laws vary with regard to details, they typically prohibit retail sales of dogs and cats in pet shops unless they can be shown to have been obtained from a limited group of reputable sources (licensed local breeders, rescue groups or animal shelters, for example) and impose various requirements relative to whatever animals that are sold. Violators risk prosecution and losing their operating licenses.

Approximately two dozen permitted pet shops currently sell dogs and cats, with the majority presumably obtaining animals from breeding mills either directly or indirectly, the latter being through commercial brokers who represent those breeders.

A handful of pet shops in Southern California have voluntarily moved to an alternative business model relative to obtaining animals to sell. Instead of working through commercial brokers, they obtain the dogs and cats from local animal shelters, or play host to mobile adoption operations sponsored by animal agencies or rescue groups.

These retailers have found that, when they remain in the pet retailing field, their acquisition costs for the animals are lower (often significantly so), while sales remain both relatively constant and, thus, profitable. Hosting mobile adoptions requires careful vetting of the operators but, when done properly, it also can prove to be an effective way to attract customers.

Local, state and national humane advocacy organizations are running campaigns to promote this alternative model of pet retailing. A focus on customer service, pet-related products and support services and providing reliably healthy pets provide such outlets with a viable alternative to the high mark-up/high risk model associated with selling commercially bred animals. The good will they are able to generate by promoting the alternative approaches to customers and the public supports customer traffic for their other offerings.

2. Large-Scale Commercial Breeding: Currently in most states, law enforcement can only help dogs in puppy mills through anti-cruelty laws. That means conditions have to deteriorate to the point of being identifiable as animal cruelty, and animals have to be subjected to considerable suffering before anything can be done in terms of law enforcement to help them.

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Advocates assert that, at the very least, agencies should have the ability to proactively visit commercial breeding facilities to check on the conditions of dogs and require improvements be made before it reaches the point of legal cruelty.

Because large-scale commercial breeding facilities are a strong part of the business landscape in some locales, passing strong regulation has proven difficult. It tends to be accomplished most often in states or areas where there aren't a significant number of puppy mills. But, in general, the number of states adopting laws is proliferating.

3. Puppy Mill Laws By State*:

(Source: Protected Paws.org website and staff research)

Alabama – none

Alaska – none

Arizona – If a kennel has five or more dogs, it must be licensed and pay a \$75 fee. Inspections are mandatory if there are more than 20 dogs. The regulatory agency is the Board of Supervisors of the County in which the kennel is located.

Arkansas – none

California – A breeder is defined as a person or business that has bred and sold all or part of 3 or more litters or 20 or more dogs during the past year. Breeders are not required to be licensed and there are no mandatory inspections.

Colorado – A "Pet animal facility" is defined as any place that keeps pet animals for adoption, breeding, boarding, grooming, handling, selling, sheltering, trading, etc. These facilities must be licensed and are subject to fees up to \$350. Inspections are conducted every 3 years for low-risk facilities, every 18 months for medium-risk, and every 6 months for high-risk. They are regulated by the State Agricultural Commission

Connecticut – Kennel owners are required to obtain a license if they breed more than 2 litters of dogs per year. The fee is \$100 for a commercial kennel. There are no regular inspections required. The town clerks regulate breeding kennels.

Delaware – Kennels must be licensed and must pay a fee (determined by the number of dogs). Inspections may be conducted, and the Department of Natural Resources and Environmental Control regulates commercial kennels.

Florida – none

Georgia – Kennels must be licensed and have to pay a fee of \$25 to \$200. There are mandatory inspections conducted, and they are regulated by the Commissioner of Agriculture.

Hawaii – none

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Idaho – none

Illinois – Kennels must be licensed and pay a \$25 fee. Inspections are conducted, and kennels are regulated by the Illinois Department of Agriculture.

Indiana – A “commercial dog breeder” is defined as a person who maintains more than 20 unaltered female dogs that are at least 12 months old. A “commercial dog broker” is a person who has a Class “B” license under 9 CFR 1.1 and who sells at least 500 dogs per calendar year. Those who meet the criteria for one of these definitions must be licensed and pay the appropriate fee, but no inspections are conducted.

Iowa – Commercial breeders must be licensed and pay \$40. Inspections are conducted for new facilities and annually upon license renewal. The regulatory agency is Iowa Department of Agriculture, Animal Welfare Bureau.

Kansas – If a facility is federally-licensed, they only need to follow USDA rules on animal care. Other kennels must be licensed and pay the appropriate fees. The Kansas Animal Health Department regulates commercial breeders, and inspections are conducted.

Kentucky – none

Louisiana – Any individual or business that breeds and sells five or more dogs must obtain a kennel license and pay the required fee. No facility can have more than 75 dogs over the age of 1 year at any time for breeding purposes. The governing bodies of each municipality regulate facilities, and no inspections are conducted.

Maine – A “breeding kennel” is defined as a location where 5 or more dogs capable of breeding are kept, and offspring are sold or exchanged for value. These kennels must be licensed and pay a \$75 fee. Inspections are supposed to be conducted; the regulatory agency is the Commissioner of Agriculture, Food and Rural Resources.

Maryland – Kennels are not required to be licensed or pay any fees. Local law enforcement can conduct an announced inspection for investigation of inhumane treatment of dogs by an authorized director of a humane society, accompanied by a sheriff or deputy sheriff.

Massachusetts – Kennels must be licensed and pay an appropriate fee. Inspections may be conducted. The regulatory agency is the Police Commissioner of Boston, or the clerk of other towns.

Michigan – Commercial breeders can obtain a kennel license rather than individual licenses for each dog they own. Kennels with more than 10 dogs must pay a \$25 fee. New facilities are inspected. Local authorities regulate these facilities.

Minnesota – Kennels and commercial breeders must be licensed and facilities are subject to inspection.

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Mississippi – none

Missouri – Kennels are required to obtain a license and pay a fee from \$100 to \$500. Facilities are inspected when they are first licensed and once per year after that. The regulatory agency is the Animal Welfare Official / State Veterinarian.

Montana – none

Nebraska – Commercial breeders must be licensed and pay the appropriate fees. Facilities are inspected when they are new and then at least once every 2 years. The regulatory agency is the State Veterinarian of Bureau of Animal Industry of the Department of Agriculture.

Nevada – Kennels, catteries or commercial establishments engaged in selling animals are defined and animal-keeping conditions regulated.

New Hampshire – Commercial kennels must be licensed and pay a \$200 fee. Facilities are inspected when they are new and again at least every 6 months. The regulatory agency is the Department of Agriculture, Markets, and Food.

New Jersey – Kennels must be licensed and pay the appropriate fees. Licenses are issued by the municipality where the kennel is located. Inspections may be conducted. The regulatory agency is the State Department of Health & Senior Services or local board of health.

New Mexico – none

New York – A “pet dealer” is defined as any person or business that sells more than 9 animals per year for profit to the public. Pet dealers must obtain a license and pay a \$100 fee. They are subjected to annual inspections. The regulatory agency is the Commissioner of Agriculture and Markets.

North Carolina – Commercial breeders must be licensed and pay a \$50 fee. Regular inspections are not conducted. The regulatory agency is the Animal Health Division of the North Carolina Department of Agriculture and Consumer Services.

North Dakota – none

Ohio – Kennels are required to register for a license and pay a \$10 fee. There are no regular inspections, and the County Auditors regulate the facilities.

Oklahoma – Commercial breeders are defined, must be licensed and meet animal-keeping requirements.

Oregon – Commercial breeders and kennels are defined and animal-keeping requirements established.

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Pennsylvania – Kennels must obtain a license and pay the appropriate fees. Facilities are inspected when they are new and at least once per year thereafter. The Department of Agriculture regulates the facilities.

Rhode Island – A “Dealer” is defined as anyone who breeds dogs for the purpose of selling them. Dealers are required to get a license and pay a \$100 fee. There are no regular inspections. The Environmental Management Office regulates the facilities.

South Carolina – none

South Dakota – none

Tennessee – Commercial breeders must obtain a license and pay the appropriate fees. Facilities are inspected when they are new and upon renewal or complaint. The regulatory agency is the Department of Health.

Texas – none

Utah – none

Vermont – Breeders must obtain a license and pay a \$10 fee. Inspections may be conducted. The regulatory agency is the Secretary of Agriculture, Food and Markets, Division of Food Safety and Consumer Protection, and municipal clerks.

Virginia – Commercial dog breeders must have a valid business license issued by the locality where the dogs are maintained. The fees are no more than \$50 and are determined by individual counties, cities, or towns. Inspections are completed at least twice annually and any time there is a complaint. The regulatory agency is the State Veterinarian for the Department of Agriculture and Consumer Services, or any animal control officer, or any public health or safety official.

Washington – Commercial breeders are defined as anyone who keeps 10 or more intact dogs, limits the number to no more than 50, and prescribes acceptable conditions.

West Virginia – Commercial breeders must register and pay a \$10 fee. No regular inspections are conducted; the Assessor of each County regulates the facilities.

Wisconsin – Commercial breeders are defined and must obtain licenses, standards of care are set forth and bi-annual inspections required.

Wyoming – none

**Some laws and regulations may have changed since this information was gathered.*

4. Other Legislative Activity:

In 2009, AB 241 (Nava), a bill which limited the number of breeding animals in commercial breeding facilities to 50 and imposed other regulations, won passage in California but was vetoed by then-Governor Schwarzenegger. His veto message claimed the bill wouldn't stop inhumane practices but would inhibit lawful businesses. The bill's opposition included both commercial breeding interests and other dog breeders, the same coalition that has fought proposed state spay-neuter bills and unsuccessfully sued the City of LA over the 2008 spay-neuter ordinance.

In 2010, Missouri voters approved Proposition B, which imposed basic regulations for standards and care on the state's 3,000+ commercial breeding operations. In 2011, under pressure from those breeders, the state legislature repealed the measure. The legislature then responded to activist and voter outrage over the move by modestly strengthening commercial breeding regulations and boosting the funding for enforcement of those regulations.

In 2011, the County of Los Angeles approved an ordinance imposing modest regulations on conditions in commercial breeding facilities.

Because the sale of mill-bred animals tends to be a matter of interstate commerce, certain aspects of these activities are subject to federal pre-emption. Under the Animal Welfare Act, basic standards for the breeding operations themselves are under the jurisdiction of the United States Department of Agriculture ("USDA") and there now is legislation pending in Congress to strengthen USDA oversight of commercial breeding as it applies to dogs. HR 835 (Gerlach, R-PA), the Puppy Uniform Protection and Safety Act ("PUPS"), would mandate improved conditions and USDA licensing and annual inspections for virtually every commercial breeder in the country. As of this writing, the bill is in the House Agriculture Committee awaiting consideration.

C. PROPOSALS IN RESPONSE TO THE KORETZ/CARDENAS MOTION:

1. **Live Animal Sales:** The Department recommends the use of an "Interim Control Ordinance" (ICO), an ordinance form more familiarly used by the Department of City Planning over the past 25 years to impose interim land use regulations while it develops permanent regulations for a given area. As such, it's a legislative format whose purpose is familiar to the City Council.

The ICO would phase-in a two-year prohibition of sales of live dogs, cats and rabbits in retail businesses (ie. pet shops), with the prohibition becoming effective on July 1, 2012. An exception is made for those retailers that can provide definitive proof that the for-sale animals are obtained from animal shelters, humane societies, registered rescue organizations or licensed local breeders that meet all federal, state, and City requirements for the breeding and selling of animals within the City of Los Angeles.

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Also excepted are retailers who allow adoption programs operated by the Department or registered, 501c3 rescue organizations to function on the premises in compliance with the provisions of this ordinance and all applicable federal, state and City regulations.

All permitted sellers of pets under the provisions of this ordinance must disclose to buyers accurate information based on the requirements of the California Pet Protection Act, plus information on City spay/neuter, license and microchip status, and on any other applicable City and state laws pertinent to the ownership of the animal. All information relative to each transaction must be provided both orally and in writing, the latter certified by the signatures of both the seller and buyer. This document must be kept on file by the seller for not less than two years and be available for inspection by the Department upon request.

Violators may be cited and prosecuted for an administrative citation or a misdemeanor consistent with existing City procedures and standards for such violations and, at the discretion of the Department, may lose their permit to operate a pet shop. However, any operator failing to cure the initial violation within a defined period of time would be subject to mandatory revocation of its pet shop permit, as would a separate second violation issued to the same establishment after the first violation has been cured.

During the proposed prohibition period the Department, with the assistance of appropriate other City departments, will monitor the functionality and effectiveness of the regulations, the relationship between this action and euthanasia rates in City shelters, and the economic impact of the action on the affected businesses, including the impact on City revenues. The Department will then make recommendations to the City Council no later than March 31, 2014, regarding the possible extension of the ICO or making the regulation permanent, and on potential modifications to the regulation in either case.

Development of the Proposal: Over the course of 2011, the Department consulted with pet shop proprietors, the local veterinary community and the local humane community in development of this proposal. Additionally, national experts on the topic were consulted and extensive research conducted. The form and content of ordinances adopted by other jurisdictions were reviewed, as was the Department's history and methodology of permitting and regulating pet shops. Arguments both for and against the concept behind this proposed regulation were taken into consideration.

Key information, questions and issues coming to light during this process include:

- In the late fall of 2009 approximately 100 City-permitted pet shops were selling various species of live animals. A follow-up survey in spring 2011 determined that approximately two dozen of these were selling dogs and/or cats.

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- A typical "wholesale" price from a commercial breeding facility or broker to a pet shop for a desirable small purebred dog (such as a Maltese) ranges between \$150 and \$500. The typical sale price for such a dog can range from \$1,000-2,000. When available, the same dog can be adopted from a City shelter for less than \$150 or from a private rescuer or breeder for less than \$500.
- Pet shop proprietors obtaining animals to sell from commercial breeding facilities (or brokers who represent them) have established what they feel is from a business standpoint a viable retail model. Advocates for an alternative that finds retailers obtaining animals from shelters or other arguably more humane sources feel it can be comparably successful, especially if they also emphasize sales of pet supplies and providing services such as grooming, and the operation is accompanied by marketing and advertising that effectively communicates to the public the humane values associated with the business.
- Many animals bred in commercial facilities are imported from overseas or across borders with forged documentation that misrepresents their age and state of health (or, alternatively, with no documentation), or from commercial breeding mills located outside the City or outside of California. Some feel that addressing these issues also could prove to be an effective way to address problems associated with live animal sales.
- The California Pet Protection Act requires pet shops to pay for veterinary care for pets they sell up to 150% of the sale price, provide a full refund or exchange, or a full refund plus sales tax if the animal should die. A veterinarian must certify that the condition developed within 15 days of purchase for these regulations to apply. However, many such animals can carry or develop physical infirmities that won't manifest themselves until their second or third year of life, and some pet shops resist ready compliance, so the requirement has proven only intermittently effective.
- Advocates for pet shop animal sales feel that only a small percentage of animals sold suffer from such serious health problems and that veterinary care provided to the animals before sale addresses many of the issues. Members of the Southern California Veterinary Medical Association have asserted that there's no statistically significant difference in terms of health issues between pet shop-sold animals and those obtained elsewhere.
- They likewise argue that the Pet Protection Act is the strongest in the nation and already has driven most of the unscrupulous pet shops out of the live animal sales business. Those who disagree argue that such outlets still exist and they regularly falsify or conceal information they feel might taint the marketability of animals obtained from certain sources.

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- Advocates on all sides of the issue are concerned about the unintended consequences that could derive from prohibiting pet shops from selling mill-bred animals. There already is ample opportunity for commercial breeders and brokers to market those animals directly to would-be owners via the internet, where there currently are few legal protections for animals or consumers of the sort being discussed here and elsewhere.
- They also appear to agree that a "cooling off," or waiting, period between committing to an animal purchase and taking possession of the animal could prove to be helpful. The goal would be to reduce the so-called "impulse buying" that many feel helps to fuel the market for cute, commercially-bred purebreds who may have serious health issues and whose purchase helps the breeders to thrive. It is less clear whether such a policy must be statutory or can effectively be instituted as a policy by individual sellers.
- Others argue that the inability to solve all problems associated with sales of large-scale commercially-bred animals at once should not deter jurisdictions from addressing those that are within their purview, accompanied by earnest efforts to educate the public on the issues associated with large-scale commercial breeding operations. They argue that such education could also serve to alert the public to the similar detriments and risks that accompany purchasing pets via the web.
- Advocates of further regulation note that efforts to persuade retailers to change business models are proceeding slowly. They argue that the purpose of statutes on the topic should be to more speedily expand protections for breeding animals as well as for consumers. Addressing the question of where the animals are being bred ensures that issues associated with the conditions of mass commercial breeding are at least being addressed indirectly. Further improvement of those conditions is up to local and state jurisdictions where the activities are taking place, as well as to the federal government, which can best address the interstate commerce activity integrally associated with commercial breeding.
- There is a range of other concerns expressed by the various advocates for and against such regulations, and attempting to address all of these concerns in response to Koretz/Cardenas could paralyze the already difficult task of determining a viable path forward, thus making progress virtually impossible.
- The Department has determined that, all things considered (including the efforts of other jurisdictions to address the same issues), viable regulation is possible and that the current proposal establishes a framework that could be instructive and possibly definitive for all concerned.

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2. Standards and Regulations for Pet Shops: The Department proposes to amend existing requirements and guidelines for obtaining a pet shop permit to include elements necessary to implement the regulations set forth above and conduct annual inspections to ensure compliance.

In addition, the Department proposes to establish a program by which permitted pet shops and pet supply stores that comply with those regulations, or which do not engage in any live animal sales, will by January 1, 2013, be publicly identified as "Humane L.A. pet shops." This program can use web sites, printed literature and window signs and/or decals that can be displayed on-site at the stores.

These "Humane L.A." retailers would be encouraged to use their compliance as a vehicle for educating the public about the program and the large-scale commercial breeding issues it is intended to address.

Development of the Proposal: The successful Los Angeles County Department of Public Health restaurant rating program is the inspiration for this concept. That program has proven to be both an effective motivator for restaurateurs to operate in a clean and healthful manner and a useful guide for would-be customers.

The Department has used the "Humane L.A." tag since 2008 as one of its signature symbols identifying its broad set of beneficial goals on behalf of animals in the City.

3. Standards for Commercial Animal Breeding Operations: The Department proposes that the provisions of HR 835, the "Puppy Uniform Protection and Safety Act" currently pending before Congress, be the model for a set of regulations for commercial breeders in Los Angeles. Such regulations would be developed by the Department and formally adopted by the Board before the effective date of any implementing ordinance approved by the City Council and signed by the Mayor.

The facility and/or operator also would be required to have all required City, state and federal permits for the business and use, including business and animal licenses, breeding permits and transfer permits. The operator would be required to provide valid documentation on the ownership of any animal represented as not being domiciled on-site. Additionally, the facility would continue to be subject to unscheduled inspection at any time by the Department at least once per calendar year utilizing, at a minimum, all applicable Department and United States Department of Agriculture guidelines for such inspections.

Development of the Proposal: While there appears to be a notable amount of non-permitted "backyard breeding" going on, the City of Los Angeles is not considered a hotbed of mass commercial animal breeding. However, the Department has issued kennel permits to a number of commercial breeding operations within the city limits.

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Additionally, anecdotal reports from members of the activist community suggest that there may be additional activity deserving of more scrutiny.

Along with the goal of preventing the further development of such an industry in Los Angeles in a manner that jeopardizes the health and well-being of animals, the fact that some of these operations already exist serves as a key motivation for establishing a baseline standard for what the City considers an acceptable commercial breeding facility as opposed to an objectionable one. In addition to taking steps to prohibit the latter, establishing protections for animals in legal commercial breeding operations also is an important undertaking. The Board's meetings constitute an appropriate venue for discussing and finalizing those standards.

Since the Department does not seek to penalize law-abiding breeders that operate in a manner that does not exacerbate pet overpopulation and shelter euthanasia rates, official records of current kennel and breeding permits have been reviewed, and site visits undertaken, to gauge what could be considered "responsible" commercial breeding in Los Angeles. That information has been used to determine what might be considered appropriate in this context.

FISCAL IMPACT:

Implementation of the proposed regulations initially is intended to be accomplished within regulatory structures that already exist in the Department and which are included annually in the budget. Thus, initially, it is anticipated that no additional personnel will be added to launch implementation of the ordinances and programs proposed here.

However, the more consistent application of existing licensing (intact animal) and permitting (breeding, kenneling, transfer) regulations to a commercial breeding facility could result in the Department reaping additional revenue. For example, a fully-permitted commercial breeding facility housing, for the sake of simple calculation, 100 licensed intact breeding animals could generate more than \$30,000 a year in revenue that the Department has not heretofore been receiving. (Note: It is not anticipated that any existing facility will necessarily generate that level of revenue, but it remains to be seen.)

At such a time as the City may enjoy better fiscal circumstances, the Department would seek to add Animal Control Officers (ACOs) to its general ranks, and specifically to its permit team, to facilitate anti-mill and puppy shop enforcement efforts, as well as the smooth functioning of the "Humane L.A. pet shop" program. At present, the fully-burdened (including benefits) cost associated with an ACO is \$100,913. The impact on the Department's operating budget would be determined based on how many ACOs could be hired for these purposes.

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Other costs associated with these proposals, such as that of printed materials, is expected to be nominal.

Approved:

Brenda F. Barnette
Brenda F. Barnette, General Manager

BOARD ACTION:

_____ Passed

Disapproved _____

_____ Passed with noted modifications

Continued _____

_____ Tabled

New Date _____