

TRANSMITTAL

To:

THE COUNCIL

Date:

JUL 25 2012

From:

THE MAYOR

TRANSMITTED FOR YOUR CONSIDERATION. PLEASE SEE ATTACHED.



ANTONIO R. VILLARAIGOSA
Mayor

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ANIMAL SERVICES
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July 10, 2012

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

**SUBJECT: PROPOSED AMENDMENTS TO CODE SECTIONS PERTAINING TO
SPAY/NEUTER AND BREEDING PERMITS**

Dear Mayor Villaraigosa:

At its meeting of June 12, 2012, the Board of Animal Services Commission (Board) voted to recommend to the Mayor and City Council amending the below listed sections of the Los Angeles Municipal Code (LAMC) to amend specific code sections pertaining to spay, neuter and breeding permits.

Specifically, Board recommends to the Mayor and City Council to amend the Municipal Code as follows (see Section 2 for details):

1. Amend the spay/neuter ordinance exemption procedure as it relates to breed registries, changing the definition of registries qualifying an animal for exemption.
2. Delete the exemption as it relates to an animal being trained for various purposes.
3. Change the exemption procedure as it relates to obtaining a medical deferment, adding requirements and other details as deletions of lifetime exemptions.
4. Delete references in the Code to the Spay/Neuter Advisory Committee, which has completed its work and sunsetted as per the original ordinance.
5. Add a section to the spay/neuter Code requiring the sterilization under most circumstances of stray owned animals impounded by the Department as modified by the City Council.

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6. Amend the Code section on penalties to specify that penalties imposed by that section are not waivable if the non-compliant owner transfers or abandons the animal in question.
7. Add a section requiring periodic updating and/or clarification of terminology, as necessary and appropriate.
8. Add language and sections to the Breeding Permit Code requiring that animals permitted to breed be microchipped and setting forth additional requirements for and restrictions upon the issuance of breeding permits. A differentiation is made between guard dogs and working dogs.

Additionally, instruct staff to:

9. Update Standard Operating Procedures and ancillary documents to ensure that all staff has access to clear information on how to enforce the spay/neuter and breeding permit code sections and process exemption requests fairly and accurately.
10. Modify the Department's record-keeping to ensure that all categories of licenses and spay/neuter exemptions are tracked separately and that the licensing status of individual dogs can be readily ascertained.
11. Undertake a review of all fees, fines and timing requirements associated with implementation and enforcement of the spay/neuter and breeding permit code sections to determine any necessary changes.
12. Study and report back to the Board within 90 days with recommendations on the possible amending of the spay/neuter ordinance as it relates to dog breeds popularly known as pit bulls, pit bull mixes and Chihuahuas to preclude exemptions. This should include a consideration of procedures for identifying these breeds/mixes in a credible and practical manner and revisiting the need to continue or revise such a regulation should circumstances regarding intake and euthanasia rates change in the future.
13. Study and report back to the Board within 90 days with recommendations on the possible amending of the appropriate codes to reflect an increase the cost of an intact license and breeding permit for those dogs whose only qualification for an exemption would be the purchase of the breeding permit.

1. BACKGROUND:

In January 2008, the City Council approved a spay/neuter ordinance ("Ordinance") intended to require the majority of companion animals in Los Angeles to be sterilized. The ordinance became fully effective in October 2008. Public Service television and

radio spots were created and distributed to stations (and movie theaters) to encourage public awareness of the ordinance and the Department's Animal Control Officers (ACOs) began enforcing the ordinance in the context of their day-to-day, enforcement-related activities. On April 29, 2011, the Los Angeles Superior Court ruled in the City's favor against a legal challenge to the legality of the ordinance.

The Council's action mandated the creation of a Spay/Neuter Advisory Committee ("Committee"), whose March 2009 preliminary report and October 2009 final report set forth a number of useful strategies for enhancing the City's spay/neuter activities.

The Department has implemented a number of key concepts mentioned in the reports, including the creation of updated spay/neuter literature, updating of information on the Department's website, staff training on spay/neuter issues and programs, data-driven targeted spay/neuter outreach and service provision programs in high-need areas, increased emphasis on targeting subsidies to low-income pet owners, improved procedures for tracking D-300 temporary exemptions from spay/neuter for animals adopted from shelters, partnerships with private sector entities to expand spay/neuter services in the City and to provide additional resources to subsidize spay/neuter surgeries.

Another key Committee recommendation was to explore possible amendments to the Ordinance in order to address issues that have arisen relative to its implementation and enforcement. Because the City's existing breeding permit is an important adjunct to intact licenses in this context, the Committee also recommended amendments to the Code section that established it.

Since the Ordinance became effective in October 2008, the Department has monitored the data associated with implementation of the Ordinance, such as numbers of citations, exemptions and breeding permits issued relating to the ordinance. The data (see chart below) suggests that the provisions allowing animals to be exempted from the spay/neuter requirement by virtue of owners purchasing an intact license and a breeding permit constitute the most popular route to obtaining an exemption. (Other means of obtaining exemptions were employed but have not proven to be as popular, or, for that matter, necessary.) However, one would expect a more direct correlation between the number of intact licenses and the number of breeding permits purchased annually than appears to exist.

Following is a chart showing the data on exemptions relative to dog licenses and the spay/neuter ordinance:

The noteworthy increase in the issuance of breeding permits through 2010 roughly coincides with implementation of the Ordinance (enforcement began on October 1, 2008). The requirement for the intact license paired with a breeding permit was included in the ordinance to “raise the bar” for allowing owners to obtain exempt status for their dogs without meeting any of the ordinance’s other exemption criteria. However, the number of breeding permits plus other types of exemptions (specifically medical plus working dogs) doesn’t approximate the number of intact licenses issued.

According to the Committee report, through September 2009, after roughly one year of Ordinance implementation, the Department’s records showed that 81% of all exemptions granted were the result of dog owners obtaining breeding permits in addition to intact licenses. Based on Chart 1 above, it appears that documented exemptions (including breeding permits) account for a minority of intact licenses issued, suggesting that there could be both implementation and record-keeping issues that should be addressed going forward.

Since the provision was first proposed, various observers have expressed concern that allowing intact licenses to be issued in conjunction with breeding permits was creating an unintended monetary incentive for owners of intact dogs to breed them when they otherwise might not have intended to do so. No conclusive evidence supporting or refuting this concern has yet been gathered. However, the Superior Court, in its 2011 consideration of the legality of the ordinance, several times mentioned the importance of this provision in making the Ordinance legally defensible. Independently, the Committee concluded that this provision should be retained provided that several aforementioned amendments to the breeding permit Code section were undertaken.

The relatively small number of other exemptions and working dog licenses issued since 2008 suggests that health issues, show status, service status and registration status are thus far not having a major impact on the total number of animals being exempted. But questions have been raised (based on a relatively small number of problem cases) over the Department’s ability to consistently apply these criteria, and under what circumstances.

Of additional concern is the likelihood that these numbers reflect the ongoing challenges in “penetrating the market” relative to enforcing the City’s dog licensing requirements as well as the provisions of the spay/neuter ordinance. Steps already have been taken to

	2006	2007	2008	2009	2010	2011
Chart 1						
Altered licenses	104,293	102,452	106,728	106,642	105,259	113,662
Intact licenses	11,584	10,143	8,359	5,174	3,626	2,366
Working dog licenses (can be altered or intact)	545	509	430	204	282	315
Breeding permits	288	571	835	949	1,475	767
Medical exemptions	N/A	N/A	17	75	94	95
Citations	N/A	N/A	12	483	376	368

improve the licensing procedures (such as the recently approved “omnibus licensing ordinance”) and better market dog licenses. Heightened awareness of licensing should, as a matter of course, heighten awareness of the spay/neuter ordinance.

During the February 14, 2012 Board discussion an additional proposal was raised to consider adding a mandatory spay/neuter requirement for several types of dogs that are prominent in the Department’s shelter intake and euthanasia statistics. These include pit bulls, pit bull “mixes” and Chihuahuas. Because the mechanisms for implementing such a proposal are not yet in place and there are a number of issues

related to doing so that merit further study, the Department needs additional time to determine the feasibility of the idea.

Additionally, while reviewing the February 14 discussion, the Department has identified another issue. The practice of granting a spay/neuter exemption to any dog whose owner purchases both an intact license and a breeding permit [Municipal Code Section 53.15.2 (2) (b) (F)] inadvertently creates a situation whereby those dogs exempted using the other methodologies (such as breed registry or medical) enjoy no practical advantage or added legitimacy compared to dogs whose owners utilize the purchase option. Staff feels that there should be a material difference between specified exemptions and those which are purchased, and will be prepared to return to the Board with a recommendation within a reasonable period of time.

2. RECOMMENDATIONS

The Board recommends the following changes to the Municipal Code with the understanding that all suggested Code amendment language is subject to review and revision by the City Council and City Attorney. The revisions are:

1. Amend the spay/neuter ordinance exemption procedure as it relates to breed registries, changing the definition of registries qualifying an animal for exemption.

Amendments to the Spay/Neuter Code [LAMC 53.15.2(b)] Amend LAMC Section 53.15.2(b) A. substantially as follows: “The dog or cat is a breed approved by and is registered with a national or international breed registry with registration guidelines as outlined below, the animal is actively used to show or compete and has competed in at least one show or sporting competition hosted or staged by, or under the approval of, a national association. The owner shall provide verified proof of competition to the Department with each application for a new or renewal license by a method agreed to by, and to the satisfaction of, the General Manager. “At a minimum, the breed registry must require identification of the breed, date of birth, names of registered sire and dam, the name of breeder, and record-keeping relating to breeding, transfer of ownership and death.””

Comments: The existing exemption, which allows breed and show registries to apply for recognition by the Department and the Board as acceptable for the purpose, has not been an effective or widely used procedure. Many of the registries themselves lack qualifying guidelines or standards, and do not actually require dogs to be intact as a requirement of being registered. Being intact is a requirement only for certain types of competitions and those circumstances merit consideration for exemptions.

The Department is proposing that only national registries with rigorous record-keeping requirements be deemed acceptable. Additionally, owners of animals exempted under this section should be required to provide verified proof of competition or have the exemption revoked. This verification should be provided on

paper, by facsimile or electronically, based on procedures to be determined by the General Manager.

2. Delete the exemption as it relates to an animal being trained for various purposes.

Delete LAMC Section 53.15.2(b) B. (other types of exemptions based on registries and training)

Comments: Similar to #1, the existing approach has resulted in few exemptions and raised questions about the qualifying guidelines or standards for the registries. Additionally, the provision requires that an exempted animal have been trained or be in training for any one of several activities, and there are no accepted professional standards or licensing procedures for animal training that can be used to validate an exemption request.

3. Change the exemption procedure as it relates to obtaining a medical deferment, adding requirements and other details as deletions of lifetime exemptions.

Amend LAMC Section 53.15.2 (b)(2)E. substantially as follows:

"The owner of the dog or cat provides a letter to the Department from a licensed veterinarian certifying that the animal's health would be best served by spaying or neutering after a specified date; or that due to age, poor health, or illness it is unsafe to spay or neuter the animal; or that arrangements have been made to spay or neuter the dog or cat within 60 days after the compliance deadline and the dog or cat is spayed or neutered within that 60-day period. If the animal has not been spayed or neutered by the specified date and is not recommended for a lifetime exemption by the veterinarian for reasons of old age, permanent serious medical conditions or permanent infirmity that would prevent the animal from reproducing, the owner must obtain a new letter in full compliance with this provision. This letter shall include the veterinarian's license number, the date by which the animal may be safely spayed or neutered, and be updated periodically as necessary. The letter must also include evidence of applicable medical diagnostics to justify the

exemption. In addition, if the letter from the licensed veterinarian certifies that arrangements have been made to spay or neuter the dog within 60 days from the date the dog reaches the age of four months, and the dog is spayed or neutered within that 60-day period, the owner shall qualify for the lower license fee and license tax for an altered dog. It shall be the owner's responsibility to comply with the spay/neuter provisions of this chapter, including paying the license fee and license tax."

Comments: Since the ordinance became law, it has become evident that there need to be standards applied to health exemption letters from veterinarians so that the Department can be sure that health considerations continue to be relevant. Requiring that the health exemption be renewed either when the requested delay period ends without the animal having been sterilized will provide a means of doing so. Additionally, requiring diagnostic justification will bolster the credibility of the medical exemption. The Department should develop procedures as necessary to ensure that the requirements are complied with.

4. Delete references in the Code to the Spay/Neuter Advisory Committee, which has completed its work and sunsetted as per the original ordinance.

Amend LAMC Section 53.15.2 to delete Section (b) (8) pertaining to the Spay/Neuter Advisory Committee.

Comments: The Spay/Neuter Advisory Committee established by the original Ordinance completed its work on October 31, 2009, and disbanded at that time consistent with the provisions of this Section. Its final report issued October 30, 2009, remains a testimony to the good work carried out by the committee. A number of its recommendations are reflected in this report. The continued presence of language mandating its existence in the past is therefore unnecessary.

5. Add a section to the spay/neuter Code requiring the sterilization under most circumstances of stray owned animals impounded by the Department as modified by the City Council.

Amend LAMC Section 53.15.2 to add a new Subsection (b)(8) substantially as follows:

"An unaltered dog or cat found running at large and impounded as a lost or stray animal shall be required to be spayed or neutered before being redeemed by its owner or custodian. The owner or custodian shall have the option of having the procedure accomplished by the Department in accordance with its accepted procedures, or having it accomplished by a private veterinarian of the owner's choice with notification of completion of the procedure being provided to the Department within seven (7) days.

"In cases where the Department directly undertakes the procedure, the current specified cost set by the Department for the procedure shall be charged to the owner

or custodian as part of the redemption process. However, if the animal is licensed and is being impounded for the first time, it may be redeemed by its owner or custodian without being spayed or neutered provided that all other applicable provisions of this section, including the animal qualifying for an exemption or the owner having a valid current breeding permit, are complied with. These provisions shall apply to any animal meeting the requirements described herein notwithstanding any prior exempted status with the exception of animals meeting the provisions of Section 53.15.2 (b) E. regarding medical exemptions.

"The owner or custodian of the unaltered animal shall be responsible for the established costs of impoundment, which may include daily boarding costs, vaccination, medication, and any other diagnostic or therapeutic applications as required. The owner or custodian shall comply with any additional impoundment procedures. Any fee that may be imposed shall be applicable to an owner or custodian who surrenders or fails to redeem an animal that is subject to this section if the owner or custodian fails to otherwise comply with applicable provisions of the Code.

"All or part of fees specifically associated with the impoundment may be waived at the Department's discretion if the owner consents to have the animal sterilized prior to or in conjunction with redemption. Any animal impounded for a second time under this provision must be sterilized prior to redemption, with no fees to be waived."

Comments: This provision is intended to combat irresponsible pet ownership by reducing the number of instances wherein an unaltered animal is found at large, subjected to impoundment and returned to its owner only to have the circumstances repeated at a later date. A remedy similar to this proposal was originally a part of proposed state legislation in 2009.

6. Amend the Code section on penalties to specify that penalties imposed by that section are not waivable if the non-compliant owner transfers or abandons the animal in question.

Amend Section 53.15.2(b)(7) to add language substantially as follows:

"The penalties provided shall not be waived by the Department upon the transfer or abandonment of the dog or cat by the non-compliant owner. All penalties shall be imposed in addition to any other applicable civil or criminal penalties that may be imposed."

Comments: This provision, recommended by the Spay/Neuter Advisory Committee, is intended to prevent an irresponsible pet owner from walking away from his or her compliance obligations without being held accountable and to clarify the difference between administrative fees and penalties imposed upon violators.

7. Add a section requiring periodic updating and/or clarification of terminology, as necessary and appropriate.

Amend LAMC Section 53.15.2 to add a new Subsection (b)(9) substantially as follows:

"The Department, through its Board, shall from time to time clarify and publish Definitions of terms in this subsection, including, but not limited to: "registry," "recognized national association," "actively used to show or compete" and so forth.

8. Add language and sections to the breeding permit Code requiring that animals permitted to breed be microchipped and setting forth additional requirements for and restrictions upon the issuance of breeding permits.

Amendments to the Breeding Permit Code [LAMC 53.15.2(c)]

1. **Amend LAMC Section 53.15.2 (c) 4. to add a provision H. substantially as follows:**

"Any breeding permit holder shall implant each offspring born to a permitted animal with an animal identification device identifying the breeder and owner of the animal. Upon transfer of ownership of the animal, the identity of the breeder must remain listed along with the identity of the new owner."

2. **Amend LAMC Section 53.15.2 (c) 4. to add a provision I. substantially as follows:**

"Any breeding permit holder shall comply with all applicable local, state and federal requirements for humane standards of operation, maintenance and housing of animals and shall be subject to inspection by the Los Angeles Department of Animal Services at its sole discretion."

3. **Amend LAMC Section 53.15.2 (c) 3. To add language substantially as follows:**

"The Department shall administer an animal breeding permit program to allow the breeding of unaltered dogs and cats consistent with criteria and according to procedures established by the General Manager pursuant to Section 53.58 of this code. Under no circumstances shall such a permit be issued to a person who has been convicted of animal cruelty, abuse or neglect, or of failure to obtain appropriate licenses or permits for the animal for which the breeding permit is being sought."

Comments: LAMC Section 53.15.2 (c) establishes the City's breeding permit, a key element of the majority of ordinance exemptions granted since October 2008. The Committee's recommendations set forth a series of proposed amendments to the breeding permit requirements to make more rigorous the requirements for obtaining such a permit, and placing breeding permit applicants on clearer notice of what would be expected of them whether or not they chose to breed an unaltered animal. These include requirements to encourage and motivate responsible breeding and

deny breeding rights to owners unwilling or unable to treat animals humanely and/or prevent unplanned reproduction.

The Committee's recommendation regarding increasing the price of a breeding permit is based on the \$120 permit fee that existed at the time the Committee issued its report. The City Council has subsequently raised the fee to \$235. Further increases to this fee, as well as the Committee's recommendations to increase various fines associated with violations, should be considered for possible implementation either separately or in the context of the review of fees and charges normally undertaken as part of the preparation of the Department's annual budget.

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

BFB:RP

cc: Dov Lesel, Assistant City Attorney
Ross Pool
File