

THE
URBAN
WILDLANDS
GROUP



April 20, 2015

Personnel and Animal Welfare Committee
Councilmember Paul Koretz, Chair
Los Angeles City Council
200 North Spring Street
Los Angeles, CA 90012

Re: April 21, 2015, Item 13. Department of Animal Services reports in response to Motion (Koretz – O’Farrell) relative to implementing changes to the Los Angeles Municipal Code to increase the number of cats that a City resident may own¹ [Council File 13-1513 – Number of Cats Owned by Residents] – Oppose

Dear Chair Koretz and Committee Members:

The Urban Wildlands Group (UWG) is a Los Angeles-based organization dedicated to the protection of species, habitats, and ecological processes in urban and urbanizing areas. Endangered Habitats League (EHL) is southern California’s only regional conservation group, dedicated to the protection of our diverse species and ecosystems and to sensitive and sustainable land use for the benefit of all the region’s inhabitants.

The Personnel and Animal Welfare (PAW) Committee has for consideration a report from the Department of Animal Services (Department) dated April 16, 2015 that proposes to increase the limit on the number of cats that a City resident may own and/or maintain at a residence. UWG’s comments submitted on January 19, 2015 regarding the need for CEQA analysis still apply, as does the letter sent to you by attorney Babak Naficy on November 3, 2014 on behalf of the plaintiffs (including UWG and EHL) in *Urban Wildlands Group et al. v. City of Los Angeles et al.*, and all other previous communications and testimony. We note that the report now imagines that the City Attorney would undertake “any required CEQA analysis” but fails to acknowledge the relationship between the CEQA review for this proposal and the stalled Mitigated Negative

¹ This description has been updated from the previous meeting, where it was patently deceptive in claiming that the item pertained to increasing the cat limit from 3 to 5 when the item actually proposed to increase the limit from 3 to no limit. The current description is, however, deceptive by omission in that it neglects to specify that the Committee will consider raising the limit on the number of cats allowed at a residence from 3 to 20. The Brown Act requires that agenda descriptions be adequate for the public to ascertain whether an item is of interest to allow for public participation. A description of increasing the cat limit that does not specify that limit (20) fails to meet that test.

Declaration for the proposed Citywide Cat Program,² for which the Department is responsible for CEQA compliance and which also contemplates increasing the household cat limit.

The current proposal continues to be flawed in many ways, and indeed the Department has introduced new flaws in the current iteration. Key problems with the proposal are as follows:

- The proposal now indicates that if more than 3 cats are permitted, all cats would be required to be kept “indoors or enclosed in a covered structure with a solid floor.” This condition raises many additional concerns. Would cats in these situations be required to be licensed and microchipped so that if they were found roaming, they could be identified and flagged as violating the conditions of the proposed regulatory framework? This would seem to be an essential requirement to enforce the proposed framework. What priority would complaints about outdoor cats be given by the Department? Currently, complaints about nuisance free-roaming cats are, by policy, given low priority and almost never receive the attention of animal control officers.
- The proposal now includes language that would allow cats to be kept in outdoor cages, so long as such a cage could be described as “a covered structure with a solid floor.” This is highly problematic, because it would allow the construction of open-sided outdoor cat runs. Such enclosures would facilitate interactions between cats and wildlife at cage edges, allowing for movement of pathogens and fleas between cats and wildlife and indeed between caged animals and owned pets of neighbors. (Unfortunately, owned cats are not prohibited from roaming onto neighbors’ properties under City law.) This scheme would also expose neighbors to allergens, fleas, pathogens, noise, and other adverse impacts. Notwithstanding the proposed once-yearly inspections, this new provision would increase risk of disease transmission between the clowder cats and roaming pets, raccoons, opossums, skunks, and rats, either directly or through transfer of fleas.
- The new provision for enclosure “in a covered structure with a solid floor” raises significant additional planning and zoning issues. What would be the standards for constructing such enclosures? How would they be permitted? What kind of notice to surrounding property owners would be required and would they be permitted to object? What setbacks would be required from property lines? Could such structures be in front yards? How would compliance with the California Coastal Act be undertaken since structures of this sort would constitute “development” in the Coastal Zone?
- If a person applies for a permit to keep a cat clowder in an outdoor enclosure, would the permit require inspection of the entire property to ascertain the total number of cats present? If not, it would allow people to keep cats in an outdoor enclosure, while avoiding inspection of living conditions and additional cat numbers inside a home.
- The newly proposed roof-and-floor outdoor cat enclosures could also result in additional cats being moved outside. It is well known that some cat rescue hobbyists currently have

² A Mitigated Negative Declaration was prepared for a “Citywide Cat Program” but not moved forward. As we noted in our January 19, 2015 letter, the General Manager of the Department has acknowledged publicly that the program likely would not withstand legal challenge, specifically stating, “there’s a concern that we would never prevail in court with this CEQA.”

many more than the legal number of cats being kept inside private residences. The new proposal would let them construct outdoor enclosures for these animals, increasing their environmental impact. Not all environmental impacts are from predation — having cats maintained in the type of outdoor enclosure described would increase opportunities for transmission of diseases to and from wildlife, pets, and humans.

- The proposal requires that permits for clowders not endanger “the safety and comfort of the cats or the residents *of the immediate vicinity*.” “Immediate vicinity” is defined as “the adjoining private residential property.” This is an absurdly restrictive definition of the parties who might be adversely impacted by a clowder. Currently, cat kennels (4 or more cats) cannot be located within 500 feet of residential zones. Private clowders as described in this proposal could adversely impact more than “the adjoining private residential property.” They could impact wildlife through exchange of disease and fleas across open bars (since the covered structures could have open sides). The range of harms is not limited to adjoining properties. The proposed scheme could impact people who share trash facilities with a clowder permit holder who is dumping animal waste from up to 20 cats. Clowders could also affect nearby commercial zones through odors, pathogens, and noise. Such roof-and-floor cat runs would also attract nuisance wildlife and likely create harborage for rats and mice in violation of County public health regulations.
- By redefining the Cat Kennel Ordinance to allow up to 20 cats, the proposal would allow people with private clowders to burden City services by taking advantage of dead animal pickup as provided under Los Angeles Municipal Code Section 66.00.1(a)(2). Kennels are not allowed to dispose of animals through dead animal pickup, but the new clowders would be allowed to do so.
- The current iteration of the proposal drops reference to the City of Laguna Beach, which was presented as a model for the private clowder proposal in the previous report from the Department. The City of Laguna Beach limits the total number of cats in a clowder to 6 maximum and indeed gives specific square footage requirements for the property to have more than 1 cat. The City of Laguna Beach furthermore has a “no trespass” ordinance for all cats, providing a uniform standard. The current proposal contains no standards for parcel and dwelling square footage required for additional cats. The absence of such limits in the proposal and the legalization of outdoor roof-and-floor cat runs indicate that the warehousing of unadoptable cats is the true purpose of the proposal.
- The proposal is silent on whether people with clowders would be allowed to feed additional “unowned” cats at a property. The proposed Citywide Cat Program, which contained a proposal to increase the number of cats allowed at a residence, also proposed to exempt unowned cats fed at a residence from the Cat Kennel Ordinance, implying that those cats do count under the current regulatory structure. This inconsistency illustrates the need for the City to address these issues together, rather than piecemealing the amendment to the Cat Kennel Ordinance as is being attempted with the current proposal.
- The proposal still fails to accurately evaluate the cost of the proposal or to provide a sufficient funding stream for enforcement. In fact, the fiscal analysis consists of a single

sentence that does not estimate either the size of the program or its expense. Without a realistic plan to fund enforcement, the program cannot be expected to be feasible or its limitations enforced. Nuisance cat complaints already receive low priority for response by the Department of Animal Services. The revenue generated by the proposed program would obviously be insufficient to support even the permit officers who would administer the program let alone regular animal control officers who would handle complaints. It is entirely foreseeable that the Department would not prioritize response to complaints requesting compliance with this program and that its purported mitigations (that all cats be enclosed) would not be enforced.

- The proposal would change the baseline conditions in the City for the possibly pending CEQA analysis of the Citywide Cat Program, in which changing the limit on the number of cats owned by residents is proposed.
- The proposal conflicts with the permanent injunction in *Urban Wildlands Group et al. v. City of Los Angeles et al.* (Los Angeles Superior Court Case No. BS115483) in that feral cats would be among those adopted out to people under the new program, thereby making it an action in furtherance of the City's TNR program for feral cats, which would not be allowed under the injunction. The limit of 3 cats per household currently constrains the number of feral cats that people can "adopt" from shelters. By increasing the household limit, the proposal alters conditions governed by the injunction.
- The current Cat Kennel Ordinance provides a mechanism by which animal waste must be managed because animal waste from kennels is defined to be a pollutant (LAMC 64.70.01). Property owners are required to keep pollutants out of the storm drain system (LAMC 64.70.02). By defining structures with open sides that might house up to 20 cats in residential yards as something other than cat kennels, the proposal would have the effect of exempting clowder permit holders from the responsibility of keeping animal waste from these enclosures out of the storm drain system.
- The proposal should be reviewed by the Department of City Planning and the Planning and Land Use Committee because it changes the acceptable uses of property in residential zones. Currently, keeping more than 3 dogs and/or 3 cats at a property is not permissible at all in residential zones. The proposed change essentially would allow a kennel (more than 3 cats at a property) to be located in residential zones. Since the definition of "kennel" is relied upon by the planning and zoning code in three different sections (LAMC 12.17.5, 12.18, 12.23), this proposed change should be considered by the Department of City Planning and the Planning and Land Use Committee.

The proposal is obviously not motivated by a groundswell of demand for the ability to own large numbers of additional pet cats over the 3 currently allowed. Some responsible people have 4 or 5 cats, but as long as the cats are kept indoors and do not bother neighbors, the owners are not cited. Based on public testimony heard by the PAW Committee and on the proposal itself, the proposal appears to be motivated by a desire to reduce euthanasia of cats at City animal shelters. In the proposal, the purpose of using private homes as overflow animal shelters is evident many times: 1) the proposal refers to fostering cats (p. 1), which must mean cats over 4 months old because cats under 4 months old are already exempt from these limits; 2) the proposal explains

that raising the cat limit would allow “the City to adopt out or place more cats in temporary foster care to save cats’ lives due to space constraints in shelters or rescues” (p. 2); 3) the proposal specifies that additional cats could be for the “pleasure and enjoyment of the animals’ owners” or “fosters waiting to be placed in a home of his/her own” (p. 3); 4) the fees would be waived for fosters, constituting a subsidy for placing cats from shelters into homes (p. 3); and 5) the proposal states a second time that fees will be waived for “temporary fosters” without defining what constitutes “temporary” (p. 4).

The testimony from an orchestrated group of supporters of the proposal at your Committee earlier this year repeatedly mentioned that the proposal would save cats’ lives. This can only mean that unadoptable cats that would otherwise be euthanized at City shelters would be transferred to newly established clowders in residential neighborhoods under the program.

It is therefore obvious that this proposal is an attempt to move cats into overflow animal shelters (private clowders) that are currently banned by municipal code as cat kennels. As such, any amendment of the Cat Kennel Ordinance must be seen as part of the Citywide Cat Program, for which CEQA review was initiated but not moved forward (presumably because it was so heavily criticized by relevant public agencies and experts). To propose to review this element of the Citywide Cat Program separately (increasing the cat limit to reduce euthanasia at shelters) is the definition of piecemealing a project under CEQA.

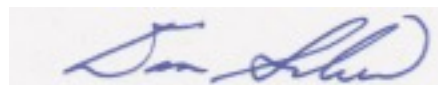
We have repeatedly recommended a series of steps that could be taken to reduce the number of unowned and unwanted cats over the long term by addressing the overpopulation problem at the source, but the City continues to ignore these suggestions: require that all cats be licensed; adopt a prohibition on cats running at large; enforce the spay/neuter ordinance and provide low-cost spay/neuter services for owned cats; continue to accept unowned stray and feral cats at shelters and euthanize them if suitable homes are not available; and enforce the existing ordinance that bans feeding of non-domesticated mammalian predators, which the feeding of unowned cats outdoors does by also unintentionally providing food to raccoons, skunks, and coyotes.

Once again, we strongly encourage the PAW Committee to consider these initiatives instead of the current proposal.

Sincerely,



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