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CARMEN A. TRUTANICH
City Attorney

REPORT NO. R 1 3 - 0 1 3 3
MAY 2 0 2013

REPORT RE:

**REVISED DRAFT ORDINANCE AMENDING THE SPAY/NEUTER EXEMPTIONS
AND BREEDING PERMIT PROVISIONS, REQUIRING THE STERILIZATION OF
IMPOUNDED STRAY UNALTERED DOGS AND CATS, AND DELETING
REFERENCE TO THE SPAY/NEUTER ADVISORY COMMITTEE**

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

Council File No. 12-1147

Honorable Members:

Pursuant to the request of the Honorable Personnel and Animal Welfare Committee (Committee), this Office has revised and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The ordinance would amend Section 53.15.2 of the Los Angeles Municipal Code (LAMC) by modifying or deleting several spay/neuter exemptions, amending penalties for non-compliance and requiring that stray dogs and cats impounded by the Department of Animal Services (Department) be sterilized prior to their being redeemed by their owners. As revised, the ordinance now includes new, shorter time periods for the Department to hold hearings and appeals, and includes a requirement that stray dogs and cats be implanted with a microchip prior to their release.

The ordinance also deletes the reference in the LAMC to the Spay/Neuter Advisory Committee, which completed its work and was dissolved pursuant to the provisions of Section 53.15.2 (b)(8)G of the LAMC.

Background

The Committee, at its meeting of January 15, 2013, requested that the draft ordinance be modified by adding a requirement that an unaltered dog or cat found running at large and impounded as a lost or stray animal be microchipped before being redeemed by its owner. This change has been incorporated into the revised draft ordinance.

In addition, the Committee expressed concern that Subsections (b) (10) and (11) of Section 53.15.2 provided an unnecessarily long period of time for administrative hearings and appeals, which would impose hardships on the Department, the owner and the animal. The revised draft ordinance was modified to provide for an administrative hearing within 20 days following a request by the owner. The previous draft allowed for 30 days in which to hold the hearing. The appeal period has similarly been shortened, requiring that it be calendared for the first available Board meeting following receipt of the appeal. The fees and costs to be charged to the owner from the time the appeal is received to the time that the Board decision is served on the owner was reduced to a maximum of 15 days from 45 days, unless the owner, in writing, requests the hearing date to be continued to the next Board meeting and agrees to pay an additional amount not to exceed 14 days of costs.

The Committee also suggested that the draft ordinance contain a severability clause.

Subsections (b)(8), (9) and (10) of Section 53.15.2 contain the only changes from the previous draft ordinance. However, this Report summarizes the entire draft ordinance, with the requested changes.

Summary of Ordinance Provisions

(1) Subsection (b)(2)A of Section 53.15.2

LAMC Section 53.15.2(b)(2) requires that all dogs and cats in the City be spayed or neutered subject to several exemptions. One exemption, codified in Subsection (b)(2)A, exempts a dog or cat that is registered with a breed registry recognized by the Department, and that is a show animal having competed within the previous two years, unless the animal is too young to compete. The draft ordinance requires the breed registry to be a national or international registry or association that includes breed identification, date of birth, names of registered sire and dam, the name of the breeder and recordkeeping relating to breeding, transfer of ownership and death. The draft ordinance also requires the owner to provide the Department with verified proof of competition.

(2) Subsection (b)(2)B of Section 53.15.2

Subsection (b)(2)B is the exemption linked to agility training, herding or related designations for working dogs. According to the Department, there are no accepted professional standards or licensing procedures for such activities. The draft ordinance deletes this Subsection.

(3) Subsection (b)(2)E of Section 53.15.2

Subsection (b)(2)E allows an owner of a dog or cat to provide a letter from a licensed California veterinarian certifying that arrangements have been made to spay or neuter the dog or cat within 60 days after the animal reaches the age of four months. If the sterilization will occur more than 60 days after the animal reaches the age of four months, the letter from the veterinarian must provide that the animal's health would be best served by spaying or neutering after a specified date, or provide that due to old age, a permanent and serious medical condition, or permanent infirmity that would prevent the animal from reproducing, it is unsafe to spay or neuter the animal.

The draft ordinance requires that a veterinarian's letter certifying that an animal's health would be best served by spaying or neutering after a specified date be limited to situations where the dog or cat is too sick or injured to be spayed or neutered, or if the letter states that it is unsafe to spay or neuter the animal, it must be due to old age, a permanent and serious medical condition, or permanent infirmity that would prevent the animal from reproducing. The draft ordinance requires that the veterinarian's letter specify the medical condition and diagnosis, and be supported by diagnostic reports. An updated letter is to be submitted by the owner if the cat or dog has not been spayed or neutered by the date specified in the veterinarian's letter and, in any event, at the time of each license renewal.

(4) Subsection (b)(7) of Section 53.15.2

New language added to Subsection (b)(7) would prohibit the Department from waiving the penalties when an owner transfers or abandons a dog or cat without complying with spay or neuter requirements.

(5) Subsection (b)(8) of Section 53.15.2

Subsection (b)(8) established the Spay/Neuter Advisory Committee and provided that the Committee was to complete its work and dissolve by October 30, 2009. Deleting Subsection (b)(8) deletes reference to the dissolved Committee.

(6) New Subsections (b)(8), (9) and (10) of Section 53.15.2

Subsection (b)(8) provides that an unaltered dog or cat found running at large and impounded as a lost or stray animal shall be spayed or neutered and implanted with a microchip before being returned to its owner. A vaccinated cat exempt from the spay or neuter requirement will be released to its owner upon the payment of the impound fees, in addition to the cost of implanting a microchip. A vaccinated and licensed dog exempt from the spay or neuter requirement will be released to its owner upon the payment of the impound fees, in addition to the cost of implanting a microchip. If the owner agrees to have the animal sterilized, the impound fees, except for the cost of licensing, implanting a microchip and sterilization, will be waived by the Department.

The second time an intact animal is impounded, sterilization is mandatory. The fees and costs are not to be waived and will be a lien on the animal.

Subsection (b)(9) provides the owner with the right to an administrative hearing. The owner must request the hearing within 10 days after being notified that the impounded dog or cat is to be spayed or neutered, and the owner must pay the accrued impound fees and costs. The request for a hearing is to be submitted on a form provided by the Department, and the hearing is to be held within 20 days after receiving the request and follow the hearing procedures of LAMC Section 53.18.5. Following the hearing, the Hearing Examiner will make a recommendation to the General Manager, who shall issue the decision. An owner who fails to request a hearing in a timely manner will forfeit the right to challenge the Department's order to sterilize the animal.

Subsection (b)(10) provides for an appeal to the Board following the hearing. The revised language of the ordinance requires that the appeal be calendared for the first available Board meeting following receipt of the appeal, consistent with the procedures established in LAMC Section 53.18.5 (q) 2 through 10. The fees and costs to be charged to the owner from the time the appeal is received by the Department to the time that the Board decision is served on the owner will not exceed 15 days unless the owner, in writing, requests the hearing date to be continued to the next Board meeting and pays an additional amount not to exceed 14 days of costs, which represents the normal time between Board meetings. If the Board reverses the decision of the General Manager and orders the animal returned without sterilization, the fees for the care and feeding of the animal from the time the appeal is received by the Department until the time the Board decision is served on the owner are waived. There will be no right of appeal should the owner fail to appear at the administrative hearing.

(7) Subsection (c)(3) of Section 53.15.2

Presently, Subsection (c)(3) prohibits the Department from issuing a breeding permit to a person who has been convicted of animal cruelty or abuse. The draft ordinance would also prohibit the Department from issuing a breeding permit to a

person who has been convicted of animal neglect, or who has failed to obtain appropriate licenses or permits for the animal for which the breeding permit is being sought.

(8) New sub-Subsection H to Subsection (c)(4) of Section 53.15.2

Sub-Subsection H would require a breeding permit holder to implant the puppy or kitten with an electronic animal identification device identifying the breeder, and will require the identity of the breeder to remain on the electronic animal identification device, along with the identity of the new owner upon the sale or transfer of the animal.

(9) New sub-Subsection I to Subsection (c)(4) of Section 53.15.2

Sub-Subsection I would require a breeding permit holder to comply with all applicable local, state and federal requirements for humane standards of operation, maintenance and housing of animals, and make the permit holder subject to inspection by the Department.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Animal Services with a request that the Department make any comments they may have directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Assistant City Attorney Dov S. Lesel at (213) 978-8154. He or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By 
PEDRO ECHEVERRIA
Chief Assistant City Attorney

PBE:DSL:fc
Transmittal

ORDINANCE NO. _____

An ordinance amending Section 53.15.2 of Article 3, Chapter V of the Los Angeles Municipal Code (LAMC) amending the spay/neuter exemptions for dogs and cats over the age of four months, modifying the breeding permit provisions, requiring the sterilization of stray dogs and cats impounded by the Department of Animal Service, and deleting the reference in the LAMC to the Spay/Neuter Advisory Committee.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Subsection (b)(2)A of Section 53.15.2 of Article 3 of Chapter V of the Los Angeles Municipal Code is amended to read as follows:

A. The dog or cat is a breed approved by and registered with a national or international breed registry or association which, at a minimum, requires identification of the breed, date of birth, names of registered sire and dam, the name of the breeder and recordkeeping relating to breeding, transfer of ownership and death. In addition, the animal must actively show or compete and shall have competed in at least one show or sporting competition hosted or staged by, or under the approval of, a national association, unless it is too young to compete. The owner shall provide verified proof to the satisfaction of the General Manager of the Department with each application for a new or renewal license. The Board of Animal Services Commissioners may issue further guidelines for enforcement of this Subsection.

Sec. 2. Subsection (b)(2)B of Section 53.15.2 of Article 3 of Chapter V of the Los Angeles Municipal Code is deleted.

Sec. 3. Subsection (b)(2)E of Section 53.15.2 of Article 3 of Chapter V of the Los Angeles Municipal Code is amended to read as follows:

E. The owner of the dog or cat provides a letter to the Department from a California licensed veterinarian certifying that arrangements have been made to spay or neuter the dog or cat within 60 days after the animal reaches the age of four months; that the dog or cat is too sick or injured to be spayed or neutered and that the animal's health would be best served by spaying or neutering after a specified date; or that it is unsafe to spay or neuter the animal due to old age, a permanent and serious medical condition or permanent infirmity that would prevent the animal from reproducing. The letter shall include the veterinarian's license number.

Except for a letter certifying that arrangements have been made to spay or neuter the dog or cat within 60 days after the animal reaches the age of four months, any letter from a veterinarian requesting a temporary or permanent extension, including updates, shall specify the animal's medical condition and the diagnosis which justifies the exemption and be supported by diagnostic reports. If the cat or dog has not been spayed or neutered by the date specified in the veterinarian's letter, the owner shall obtain an updated letter from the veterinarian specifying the new date by which the animal may be safely spayed or neutered. An updated letter for a temporary or permanent extension shall be submitted at the time of each license renewal. If the letter from the 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 Department has been notified that the dog has in fact been spayed or neutered within that 60-day period, the owner shall qualify for the lower license fee and license tax for an altered dog.

Sec. 4. The second paragraph of Subsection (b)(7) of Section 53.15.2 of Article 3 of Chapter V of the Los Angeles Municipal Code is amended to read as follows:

If after 60 days from the date of notification of a third violation, the \$500.00 civil penalty is not paid or the 40 hours of community service is not performed, and/or the owner still has not spayed/neutered the dog or cat as required, the continuing violation of this Subsection may also be deemed a misdemeanor. The penalties provided herein shall not be waived by the Department upon the transfer or abandonment of the dog or cat by the owner or custodian and shall be in addition to any other applicable civil or criminal penalties that may be imposed.

Sec. 5. Subsection (b)(8) of Section 53.15.2 of Article 3 of Chapter V of the Los Angeles Municipal Code is deleted.

Sec. 6. New Subsections (b)(8), (9) and (10) are added to Section 53.15.2 of Article 3 of Chapter V of the Los Angeles Municipal Code to read as follows:

(8) An unaltered dog or cat found running at large and impounded as a lost or stray animal shall be spayed or neutered and implanted with a microchip before being redeemed by its owner, and the owner shall pay the amount established by the Department for spaying or neutering the dog or cat and implanting the microchip.

The Department shall waive the sterilization requirement the first time the unaltered dog or cat is impounded if the animal is exempt from the spay/neuter requirement, vaccinated and implanted with a microchip, and in the case of a dog, licensed, or the owner obtains a license and is in compliance with all other applicable provisions of this Article. The owner shall be responsible for paying

the impound fees established by the Department, including the reasonable cost of feeding and caring, implanting the microchip, vaccinations, medication and any diagnostic or therapeutic applications as may be required in the reasonable discretion of the Department. Payment of the impound fees shall not be waived by the Department upon the abandonment of the dog or cat by the owner and shall be in addition to any other applicable civil or criminal penalties that may be imposed. If the owner chooses to have the animal sterilized prior to or in conjunction with the redemption and pays for the dog license, sterilization and implanting the microchip, the Department shall waive the impound fees.

An animal impounded for a second or subsequent time shall be spayed or neutered. The owner shall pay the amount established by the Department for the sterilization as part of the impound fees. If the owner chooses to have the animal sterilized prior to or in conjunction with the redemption and pays for the sterilization, the Department shall waive the impound fees. If the owner fails to pay the impound fees and costs as required, the animal shall be deemed to have been abandoned, unless the owner consents to and pays for the sterilization.

(9) Prior to sterilizing an animal pursuant to the provisions of Subdivision (8) of this Subsection, the Department shall serve upon the owner in the manner provided for giving of notice in Section 11.00 (i) of this Code, written notice of the intent to sterilize. If the owner does not want the Department to sterilize the animal, the owner, on a form provided by the Department, may file a written request for an administrative hearing within ten (10) days of such service. The decision of the Department to sterilize is final and effective when served on the owner, unless an appeal is filed within fifteen (15) days of said service.

If the Department receives a timely written request for an administrative hearing, it shall hold a hearing within twenty (20) days of receiving the request. Notice shall be served at least ten (10) days prior to the date set for the hearing. The hearing shall be conducted in accordance with the provisions of Subsections (a) through (m) inclusive, of Section 53.18.5. Prior to the hearing, the impound fees and costs accruing to the date of the hearing shall be paid by the owner.

(10) The decision of the General Manager may be appealed to the Board of Animal Services Commissioners by the owner. The appeal shall be in writing on an appeal form provided by the Department and scheduled for the first available Board meeting following receipt of the appeal in accordance with the procedures in Section 53.18.5 (q) 2 through 10, which govern the appeal process to the Board. The fees and costs to be charged to the owner from the time the appeal is received by the Department to the time that the Board decision is served on the owner shall not exceed fifteen (15) days of fees and costs for feeding and caring of the animal, unless, by written consent of the owner, the hearing date is continued to the next Board meeting and the owner agrees to pay for a not-to-exceed additional fourteen (14) days of fees and costs. If the Board reverses the decision of the General Manager and orders the animal returned

without sterilization, the fees and costs for the feeding and caring of the animal accruing after the time the appeal is received by the Department to the time the Board decision is served on the owner shall be waived. Payment of the impound fees and costs shall not be waived by the Department upon the abandonment of the dog or cat by the owner and shall be in addition to any other applicable civil or criminal penalties that may be imposed.

Sec. 7. Subsection (c)(3) of Section 53.15.2 of Article 3 of Chapter V of the Los Angeles Municipal Code is amended to read as follows:

(3) The Department shall administer an animal breeding permit program to allow the breeding of unaltered dogs and cats consistent with the criteria and procedures established by the Department pursuant to Section 53.58 of this Article. A breeding permit shall not be issued to a person who has been convicted of animal cruelty, neglect or abuse or to a person who has failed to obtain appropriate licenses or permits for the animal for which the breeding permit is being sought. Animals receiving a breeding permit shall be implanted with an electronic animal identification device (microchip) identifying the owner. The microchip number shall be verified by the Department.

Sec. 8. A new sub-Subsection H is added to Subsection (c)(4) of Section 53.15.2 of Article 3 of Chapter V of the Los Angeles Municipal Code to read as follows:

H. A breeding permit holder shall implant each offspring born to a permitted animal with an electronic animal identification device identifying the breeder. The identity of the breeder shall remain on the electronic animal identification device along with the identity of the new owner upon the sale or transfer of the animal.

Sec. 9. A new sub-Subsection I is added to Subsection (c)(4) of Section 53.15.2 of Article 3 of Chapter V of the Los Angeles Municipal Code to read as follows:

I. A 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 Department.

Sec. 10. **Severability.** If any section, subsection, clause, phrase, or provision of this ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of the ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, clause, phrase, or provision thereof irrespective of the fact that one or more other sections, subsections, sub-subsections, clause, phrases, or provisions may be declared to be invalid or unconstitutional.

Sec. 11. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By  _____
DOV S. LESEL
Assistant City Attorney

Date 5-20-13

File No. CF 12-1147