

Frequently Asked Questions Regarding Proposed Changes to Los Angeles County Code Title 10 – Animals

The proposed changes to the Los Angeles County Code Title 10 – Animals, are the County's first effort to regulate the commercial breeding of dogs. It also adds protections for all animals. This proposed ordinance will supplement laws already in place enacted to protect the welfare of animals. The attached chart contains a section by section breakdown of the changes. The following is a summary of the provisions of the ordinance which directly benefit animals and enable consumers to identify breeders.

All Animals:

1. Requires minimum grooming standards;
2. Prohibits tethering of animals except as permitted by state law;
3. Requires working smoke alarms and means of fire suppression where animals are housed;
4. Restricts the use of wire floors except as permitted by state law;
5. Regulates the stacking of crates.

Animal Facilities:

1. Adds additional record keeping requirements;
2. Requires posting of information regarding dogs and cats for sale.

Breeding Facilities:

1. Allows for inspections from the Public Health Department.
2. Requires the breeder to list the size category of dogs raised, and be reinspected if that changes
3. Limits the number of allowed dogs to 50 sexually intact dogs over one year of age; may be exceeded if additional requirements are met
4. Requires facilities with more than 50 dogs to demonstrate they can care for them, have additional staffing, be inspected more frequently, and have an approved emergency response plan
5. Requires breeding females to be at least 12 months of age before being bred
6. Requires that offspring not be removed from the premises before the age of eight weeks
7. Requires pregnant dogs to be housed separately at least three days before giving birth
8. Requires nursing mothers and their litters have their own enclosure
9. Requires all dogs to be microchipped or tattooed prior to four months of age or prior to sale or transfer
10. Adds additional record keeping requirements for breeding animals
11. Adds misdemeanor penalty for knowingly providing false information or records
12. Allows the department to place reasonable restrictions on the breeding of animals other than dogs
13. Provides noncompliance penalties – 1st violation an infraction punishable by a fine not to exceed \$250; 2nd violation within a year punishable as a misdemeanor

14. Provides injunctive relief remedy to enjoin the breeder so acting or failing to act to conform his or her conduct to these provisions.

Discussion

1. **Cap on Number of Dogs Allowed:** The proposed ordinance caps the number of sexually intact dogs over one year of age to 50 dogs, unless other requirements are met. An inspection schedule has been devised to require additional re-inspections for facilities housing more than 50 adult breeding dogs and inspections increase in frequency according to the number of dogs housed, up to six times per year. Other requirements to exceed the 50 dog cap include a demonstrated ability to care for the larger number of dogs; an emergency response plan; and increased staffing requirements.

The number of animals is not the exclusive predictor of how animals will be cared for. The Department has taken enforcement action against breeders with less than 50 dogs because of substandard care, and regulates kennels with several hundred dogs that are receiving good care. Nevertheless, the Department recognizes there are more responsibilities when caring for a larger number of animals and the proposed ordinance takes this into consideration. The Department is confident that the additional inspection requirements will properly regulate the care of large numbers of dogs at breeding facilities.

Constitutional Issues Relating to the Right to Engage in Business:

"The right to engage in a legitimate employment or business is a fundamental individual freedom protected by the due process provisions of both the state and federal constitutions. . . The legislature may not, under the guise of protecting the public interest, arbitrarily interfere with private business, or impose unusual and unnecessary restrictions on lawful occupations." (13 Cal. Jur. 3d Constitutional Law § 216).

For this reason, it is imperative that any restrictions placed on businesses are rationally related to the legitimate goal of the County to protect the welfare of animals. Animals arrive at County shelters from a variety of sources, and while many are purebred there is no clear data to indicate the majority come from large scale commercial breeders. An absolute cap on dog numbers could appear to be an arbitrary interference with private business.

Other States: While five other states have recently imposed caps on the number of breeding dogs, these laws are new and unchallenged, and some also have exemptions or loopholes which make them less restrictive than the proposed County ordinance. Some states have considered and rejected caps.

Louisiana: Limit is 75 dogs over one year of age. This is a higher limit than proposed in the County ordinance change. Effective 7/8/08.

Oregon: Limit is 50 dogs over two years of age. There is no limit on the number of dogs under two years of age. Young adult dogs can be repeatedly cycled through the breeding program without violating the limit. Effective 1/1/10.

Virginia: Limit is 50 dogs under one year of age, but permits an exception for a higher number after a hearing. This is similar to our proposal, which permits an exception to the 50 dog limit if additional restrictions are met. Effective 7/1/09.

Washington: Limit is 50 dogs over six months of age; became effective 1/1/10.

Missouri: If not overturned, the limit will be 50 dogs over one year of age. This limit was passed in the November, 2010 election under a ballot initiative and there are already movements to have it repealed. The law's effective date is delayed, until November 2011. Moreover, hunting dogs are exempted, which is a huge loophole. "Hunting dog" is not defined, and the American Kennel Club recognizes over 55 breeds of hunting dogs. Any person who claims to be raising their dogs for hunting purposes (even if mixed breeds) may also be exempted.

Delaware, South Dakota, West Virginia and New York have considered and **rejected caps** on the number of breeding dogs. Other states that have adopted "puppy mill laws" have **no caps**: Indiana (effective 2010) and Tennessee (effective 2010)

*The bottom line is that of the dozens of states that have considered puppy mill bills over the past **five years**, only two states have adopted absolute restrictive caps (50 dogs/no exceptions); those laws were both effective in 2010 (Washington State and Oregon) and have not yet stood the test of time.*

2. **Requirements for Veterinary Care**: Veterinary care requirements are already mandated under a number of County and State laws, including California State Penal Code Section 597.1; Health and Safety Code 122065 (g); and Los Angeles County Code Section 10.40.010 I and K. All these laws are regularly enforced by the Department. Additionally this ordinance will require annual medical exams for all intact dogs over one year of age, as well as a written medical program approved by a licensed veterinarian.
3. **Restrictions on Breeding Activities**: The Department carefully considered these suggestions. There are conflicting veterinary opinions on the need for resting periods between breeding cycles, as well as a lack of compelling scientific research to support the maximum number of litters a dog may safely have and the maximum age at which she should be bred. Additionally, the practicality of being able to enforce such requirements would not be possible within current staffing and budget restrictions. In light of these concerns, it was not considered to be practical to regulate these areas. The proposed ordinance requires a female unaltered dog to be at least twelve (12) months of age before being bred.

4. **Stacking of Crates:** Proper stacking of crates is not necessarily injurious to the dogs, provided that adequate protection is required. The proposed ordinance requires the crates be securely fastened and designed so that there is no danger of an enclosure falling; the animals do not have direct access to one another; waste from one enclosure cannot be transmitted to another enclosure; food and water containers must be secured to prevent spillage; and crates may not be stacked more than two high. The proposed language regarding the use of crates is found in County Code Section 10.40.010 L, and applies to every individual pet owner or animal business such as groomers, not just breeding facilities. Crates are not permitted as primary housing facilities, but only as temporary housing.
5. **Wire Flooring:** California State Health and Safety Code Section 122065.5 prohibits the housing of dogs primarily on wire flooring. Additionally Section 122065(d) requires that dogs be provided with a rest board, floor mat or similar device to provide solid flooring for dogs. Since the keeping of dogs on wire floors is already restricted by State law, and only allowed to be used on a temporary basis, it is not necessary for the County ordinance to address this.
6. **Cage Size:** Cage size is already regulated in Health and Safety Code 122065 (c) and Los Angeles County Code Section 10.40.010 L. These laws require that all animal rooms, cages, kennels and runs shall be of sufficient size to provide adequate and proper accommodations for the animals kept therein; they are appropriate to the age, size, weight and breed of dogs; and there is sufficient space for the dog to stand, sit, turn freely without the head touching the top of the cage, and to lie in a natural position. The Department has enforced space requirements as a regular part of its annual inspection program without any problems and does not feel additional language is required.
7. **Exercise Requirements:** Adequate exercise and socialization are already required in Health and Safety Code 122065 (e) and Los Angeles County Code Section 10.40.010 R, which require that confined or restrained animals be given exercise proper for the individual animal under the particular conditions and that dogs are provided with adequate socialization, meaning contact with other dogs and with humans. The Department has enforced exercise and socialization requirements as a regular part of its annual inspection program without any problems and does not feel additional language is required.