

TO: Leslie G. Bellamy, Chair
Wayne Rew, Vice Chair
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Harold V. Helsley, Commissioner
Pat Modugno, Commissioner

FROM: James Bell, Principal Regional Assistant Planner
Ordinance Studies Section

**SUBJECT: PROJECT NO. R2009- 01476 - (1-5)/CASE NO. 200900011
AMENDMENT TO TITLE 22 (ZONING ORDINANCE) REGARDING
DOG AND CAT BOARDING AND BREEDING**

Agenda Of October 28, 2009 – Item No. 5

BACKGROUND

On March 3, 2009, the Board of Supervisors (Board) adopted a motion that requested the Department of Animal Care and Control, the Department of Public Works, the Department of Regional Planning, and the Department of Public Health to review existing County regulations governing the location, size and operation of dog kennels and dog breeding facilities, and make recommendations for ordinance amendments for improving the quality of care for the animals and for ensuring responsible and safe dog breeding.

The Department of Animal Care and Control (ACC) was designated as the lead Department in responding to the Board motion. Subsequently, ACC and the Department of Regional Planning (DRP) were identified as the two departments that have responsibilities for regulating animals in the County Code. The Departments of ACC and DRP collaborated on the proposed amendments to ensure consistency throughout the Code. The Departments of Public Works, Public Health, District Attorney's Office, and the Fire Department assisted in an advisory role.

During the past year, the Department of Animal Care and Control has experienced a significant increase in the number of cases in the County that involve the breeding of dogs at permitted or licensed kennels. Facilities that engage in large scale commercial dog breeding for profit are commonly referred to as "puppy mills." Unfortunately, many of these kennels have been found to endanger the health and welfare of adult dogs and puppies by housing them in overcrowded and unsanitary conditions. Many of these dogs are maintained without adequate veterinary care, food, water, and socialization. The County has had to seize hundreds of puppies and adult dogs due to such inadequate conditions.

CURRENT COUNTY REGULATIONS

The County Code addresses the care and keeping of animals in two ways. Title 10 (Animals) has requirements that establish minimum standards for the keeping of animals as well as

licensing requirements for animals. Title 22 (Planning and Zoning) has requirements that regulate how and where animals may be kept. The Department of Animal Care and Control (ACC) and the Department of Regional Planning (DRP) are proposing amendments to Title 10 and Title 22, respectively, which address issues relating to dog and cat breeding and boarding.

Currently, the Zoning Ordinance allows the following:

- Dog breeding in the Manufacturing Zones as a permitted use (Ordinance 54447, effective January 13, 1950).
- Dog kennels are a permitted use in the Heavy Agricultural (A-2) Zone and the Manufacturing Zones (Ordinance 4714, effective August 1, 1946).
- Dog kennels require a conditional use permit in the Commercial Manufacturing (CM) Zone.
- The Zoning Code was amended in 1971 to remove dog breeding from the A-2 Zone as a permitted use. (Ordinance 10366).
- Since 1971, the Regional Planning Department has approved dog breeding as an accessory use to a dog kennel. This practice was discontinued in 2008.
- The Zoning Ordinance does not define dog breeding or dog kennels.
- The Zoning Ordinance does not include limitations regarding the breeding or boarding of cats.

PROPOSED DRAFT ORDINANCE AMENDMENTS

The proposed Zoning Code amendment includes the following:

- Establishes definitions of boarding and breeding facilities for dogs and cats. For consistency, the definitions will reference as they are defined in Title 10 (Animals).

Section 10.08.065 Boarding facility.

- "Boarding facility" means an animal facility used for the care and temporary boarding (including day care) of dogs and cats and other animals normally kept as pets, in return for consideration, not including an animal hospital which only boards animals receiving medical treatment.

Section 10.08.070 Breeding facility

-- "Breeding facility" means an animal facility engaged in the business of breeding dogs and cats or other animals normally kept as pets for sale or exchange in return for consideration.

- The term dog kennels is replaced with the term boarding facility for dogs and cats.
- In the A-2 and M-1 Zones a boarding facility for dogs and cats is a permitted use.
- In the C-M Zone a boarding facility for dogs and cats requires a conditional use permit.
- Dog breeding is no longer a permitted use in the M-1 Zone.
- A breeding facility for dogs and cats is added as a use requiring a conditional use permit in the A-2, M-1, M-1½, M-2 and M-4 Zones.
- Boarding facilities (kennels) that breed dogs and cats must obtain a conditional use permit within five years.
- The existing limitations on the keeping of dogs in the Agricultural and Residential Zones are deleted and replaced by limitations for dogs and cats that apply to all zones.

DEPARTMENT OF ANIMAL CARE AND CONTROL ORDINANCE

In response to the Board's motion, Animal Care and Control will provide two ordinances; one which primarily provides definitions and associated fees, and a second ordinance that establishes additional requirements for the care of dogs and cats. The ACC presented their first ordinance to the Board of Supervisors on September 22, 2009. ACC's intends on presenting their second ordinance to the Board of Supervisors in November. For reference, ACC's definition and fee ordinance and draft regulation ordinance are attached.

STATE LEGISLATION

Existing law proscribes specified acts against animals and imposes criminal penalties for a violation. Senator Nava introduced Assembly Bill 241 in January of 2009. This bill would have made it a misdemeanor for any person to have more than a combined total of 50 adult unsterilized dogs and cats, for breeding or raising them for sale as pets. Also, the bill would have authorized certain officers to lawfully take possession of an animal kept in violation of those provisions. Governor Schwarzenegger vetoed this bill on October 11, 2009. The Governor's veto message included the following:

"...This measure simply goes too far in an attempt to address the serious problem of puppy mills. An arbitrary cap on the number of animals any entity can possess throughout the state will not end unlawful, inhumane breeding practices. Instead this measure has the potential to criminalize the lawful activities of

reputable breeders, pet stores, kennels, and charitable organizations engaged in raising service and assistance dogs.”

ACC is currently reevaluating their proposed cap of 50 dogs and cats. DRP’s proposed ordinance does not place a uniform cap on dogs and cats at a breeding facility and is not affected by the Governor’s veto of Assembly Bill 241. As a conditional use permit is required for a breeding facility, specific environmental impacts from the number of dogs and cats on a parcel will be dealt with on a case by case basis through the discretionary process.

ENVIRONMENTAL DOCUMENTATION

An Initial Study was prepared for the draft ordinance in compliance with the California Environmental Quality Act (CEQA). The Initial Study showed that there is no substantial evidence that the amendments will have a significant effect on the environment. Based on the Initial Study, the Department of Regional Planning has prepared a Negative Declaration for this project.

LEGAL NOTIFICATION

A 1/8 page legal advertisement was published in Antelope Valley Press newspaper on September 27, 2009. Case related materials were sent to all county libraries on September 25, 2009 and also posted on the Department of Regional Planning’s web site (<http://planning.lacounty.gov>) under “Ordinances”. The American Kennel Club, Last Chance for Animals, and Best Friends Animal Society were notified of the public hearing.

COMMUNITY OUTREACH

A Puppy Mill Task Force was organized by the Fifth District office to address how to resolve issues with puppy mills. The Task Force is made up of representatives from the District Attorney, Animal Care and Control, County Counsel’s Office, the Department of Regional Planning, Last Chance for Animals, Golden Retriever Rescue, and Best Friends Animal Society. Their comments and suggestions have been incorporated into both the ACC and DRP’s draft ordinances.

At the time of this report, staff has received six phone calls from residents who are currently breeding dogs in the A-2 Zone. They were concerned that they will need to discontinue this use within five years.

After speaking with these residents, this issue was raised at the Puppy Mill Task Force which was held on October 7, 2009. The first draft of this ordinance did not allow dog breeding in the A-2 Zone. Staff has revised the draft ordinance to allow breeding facilities in the A-2 Zone with a conditional use permit. Existing approved boarding facilities with breeding as an accessory use would have five years in which to obtain a conditional use permit.

STAFF RECOMMENDATION

Staff recommends that the Regional Planning Commission adopt the attached resolution and forward Project No. R2009-01476-(1-5) to the Board of Supervisors for consideration in a public hearing.

SUGGESTED MOTION

“I MOVE THAT THE REGIONAL PLANNING COMMISSION ADOPT THE ATTACHED RESOLUTION AND FORWARD PROJECT NO. R2009-01476-(1-5) TO THE BOARD OF SUPERVISORS FOR CONSIDERATION IN A PUBLIC HEARING.”

Attachments

Draft Title 22 Ordinance
Summary Table of Proposed Changes
Draft Resolution
Negative Declaration
Board Motion
Animal Care and Control's Board letter dated September 22, 2009
Animal Care and Control's Draft Title 10 Ordinance