



## AGENDA REPORT

**Meeting Date:** August 18, 2015

**Item Number:** E-1

**To:** Honorable Mayor & City Council

**From:** Laurence S. Wiener, City Attorney

**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS ADOPTING BY REFERENCE ARTICLE 3 ("ANIMALS AND FOWLS") OF CHAPTER V ("PUBLIC SAFETY AND PROTECTION") OF THE CITY OF LOS ANGELES MUNICIPAL CODE, AND AMENDING ARTICLE 3 ("ANIMAL CONTROL AND LICENSING REQUIREMENTS") OF CHAPTER 2 ("ANIMALS, FOWL, AND REPTILES") OF TITLE 5 ("PUBLIC HEALTH, WELFARE, AND SANITATION") OF THE BEVERLY HILLS MUNICIPAL CODE

**Attachments:** 1. Ordinance

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### **RECOMMENDATION**

It is recommended that the City Council move to waive the full reading and adopt the ordinance entitled "AN ORDINANCE OF THE CITY OF BEVERLY HILLS ADOPTING BY REFERENCE ARTICLE 3 ("ANIMALS AND FOWLS") OF CHAPTER V ("PUBLIC SAFETY AND PROTECTION") OF THE CITY OF LOS ANGELES MUNICIPAL CODE, AND AMENDING ARTICLE 3 ("ANIMAL CONTROL AND LICENSING REQUIREMENTS") OF CHAPTER 2 ("ANIMALS, FOWL, AND REPTILES") OF TITLE 5 ("PUBLIC HEALTH, WELFARE, AND SANITATION") OF THE BEVERLY HILLS MUNICIPAL CODE".

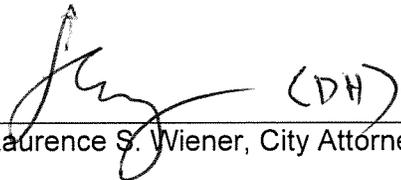
### **DISCUSSION**

In order to ensure consistency in enforcement and operations, this ordinance adopts by reference the relevant City of Los Angeles animal-related code provisions, including the recently adopted ordinance prohibiting the sale of commercially bred dogs, cats and rabbits in pet stores. This will continue to ensure that services, such as licensing, spaying and neutering, will be seamlessly provided and will reduce any confusion that may occur from having City of Los Angeles staff enforcing a different code for the residents of Beverly Hills.

When a City adopts an Ordinance incorporating another code by reference (such as Beverly Hills is doing with the Los Angeles City code), the Government Code requires a procedure that requires the City Council to set the public hearing regarding such Ordinance only after the first reading of such Ordinance. After the public hearing, the City Council may amend, adopt or reject the Ordinance. On July 21, 2015, the first reading of the Ordinance was conducted and the public hearing was set for August 18, 2015. If adopted on August 18, 2015, the Ordinance will go into effect on September 18, 2015.

**FISCAL IMPACT**

There is no direct fiscal impact from the adoption by reference of the current Los Angeles animal control ordinance. The City of Beverly Hills contracts with the City of Los Angeles for animal control services and expects to pay approximately \$75,000 for these services during fiscal year 2015-16.

 (DH)  
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Laurence S. Wiener, City Attorney

# **Attachment 1**

ORDINANCE NO. 15-O-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BEVERLY HILLS ADOPTING BY REFERENCE ARTICLE 3 (“ANIMALS AND FOWLS”) OF CHAPTER V (“PUBLIC SAFETY AND PROTECTION”) OF THE CITY OF LOS ANGELES MUNICIPAL CODE, AND AMENDING ARTICLE 3 (“ANIMAL CONTROL AND LICENSING REQUIREMENTS”) OF CHAPTER 2 (“ANIMALS, FOWL, AND REPTILES”) OF TITLE 5 (“PUBLIC HEALTH, WELFARE, AND SANITATION”) OF THE BEVERLY HILLS MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The City Council hereby amends and restates Section 5-2-301 of Article 3 (“ANIMAL CONTROL AND LICENSING REQUIREMENTS”) of Chapter 2 (“ANIMALS, FOWL, AND REPTILES”) of Title 5 (“PUBLIC HEALTH, WELFARE, AND SANITATION”) to read as follows:

“5-2-301: CITY OF LOS ANGELES ANIMAL CONTROL ORDINANCE ADOPTION:

- A. Except as hereinafter provided, Article 3 of Chapter V, Animals and Fowls, of the Los Angeles Municipal Code, as amended and in effect on July 1, 2015, is hereby adopted by reference as the Animal Control Ordinance of the City of Beverly Hills and may be cited as such.

A copy of article 3 of chapter V, Animals And Fowls, of the Los Angeles municipal code, as amended and in effect on July 1, 2015, has been deposited in the office of the city clerk of the city of Beverly Hills and shall at all times be maintained by the city clerk for use and examination by the public.

- B. Notwithstanding the provisions of subsection A of this section, whenever any of the following words and phrases are used in the animal control ordinance, except for Sections 53.18.5, 53.34.2, 53.34.3, and 53.34.4 of the Los Angeles Municipal Code as adopted by reference, such name or term shall be defined as follows:

BOARD OF ANIMAL SERVICES COMMISSION: Shall mean and include the Beverly Hills hearing officer.

CITY OF LOS ANGELES OR CITY: The city of Beverly Hills, except where the city of Los Angeles is the correct notation due to the circumstances.

DEPARTMENT (Or Any Similar Term): Shall mean and include the code enforcement division of the Beverly Hills building and safety department.

GENERAL MANAGER (Or Any Similar Term): Shall mean and include the director of community development, or his designee, of the city of Beverly Hills.

Whenever the animal control ordinance refers to a "person owning or having charge, care, custody or control of any animal", or whenever the animal control ordinance refers to an "owner", that person or owner shall mean "guardian" for the purposes of the animal control ordinance, referring to any person who cares for a domestic pet."

Section 2. The City Council hereby amends and restates Section 5-2-302 of Article 3 ("ANIMAL CONTROL AND LICENSING REQUIREMENTS") of Chapter 2 ("ANIMALS, FOWL, AND REPTILES") of Title 5 ("PUBLIC HEALTH, WELFARE, AND SANITATION") to read as follows:

"5-2-302: ANIMAL CONTROL ORDINANCE AMENDED:

- A. Notwithstanding the provisions of section 5-2-301 of this article, the animal control ordinance is amended by deleting sections 53.08, 53.15.1, 53.38, 53.39, 53.42(c), 53.42(d), 53.43, 53.47, 53.49, 53.55, 53.59, 53.60, 53.63, 53.64, 53.68, and 53.69.
- B. Notwithstanding the provisions of section 5-2-301 of this article, the following text from section 53.50(f) is hereby deleted: "The fees imposed herein for a pet show or a dog show shall be waived in the event that such show is held in a public park".
- C. Notwithstanding the provisions of section 5-2-301 of this article, the following text from section 53.73 is hereby deleted: "The ordinance will become operative six months after its effective date, and expire on June 30, 2016, unless extended by ordinance".
- D. Notwithstanding the provisions of section 5-2-301 of this article, the animal control ordinance is amended by amending sections 53.00 (amending the definitions of "Cat Kennel" and "Dog Kennel"), 53.06, 53.06.2, 53.15.2(c), 53.18.5 (amending the first two sentences only), 53.27, 53.33, 53.42(e), 53.50(a), and 53.66 to read as follows:

**53.00 Cat Kennel.**

"Cat Kennel" shall mean any dwelling unit, structure, or premises, whereon or wherein six (6) or more cats over the age of four (4) months are kept, harbored, or maintained for any purpose, other than in a pet store for sale to the public or for care or treatment in an animal hospital.

### **53.00 Dog Kennel.**

"Dog Kennel" shall mean any lot, building, structure, or premises whereon or wherein four (4) or more dogs over the age of four (4) months are kept, harbored or maintained for any purposes other than in a pet shop for sale to the public or for care or treatment in an animal hospital.

### **53.06 Animals at Large**

No person owning or having possession, charge, custody or control of any animal, except cats which are not in heat or season, shall cause, permit or allow the animal to stray, run, or in any manner to be at large in or upon any public street, sidewalk or park.

#### **53.06.2 Restraint Of Dogs.**

Every person owning or having charge, care, custody or control of any dog shall keep such dog exclusively upon his own premises provided, however, that such dog may be off such premises if it be under the control of a competent person and restrained by a substantial chain or leash not exceeding six feet in length.

#### **53.15.2(c) Breeding Permit.**

(1) No person shall cause or allow any dog or cat owned, harbored or kept within the city of Beverly Hills to breed.

(2) Any commercial establishment selling dogs and cats shall prominently display the name and address of the breeder(s) of such dogs and cats and any other information required by the general manager.

(3) Any commercial establishment which sells or otherwise transfers a dog or cat, whether for compensation or otherwise, shall provide to the new animal owners city application(s) for a license and permit as well as written information regarding the license and permit requirements of the city applicable to such animal.

#### **53.18.5 Hearing Procedures and License Revocations**

This section shall govern procedures for the revocation of dog licenses and related matters. For purposes of this section the term "dog" includes the plural and the term "owner" means the owner or person having charge, care or custody of a dog.

### **53.27 Transfer Of Ownership; Notice Required.**

Each owner or operator of any dog hospital or pet shop or as a veterinarian who sells, gives away or in any manner causes the ownership or permanent possession of any dog, whether over four (4) months or age or not, to be transferred to any person, shall notify in writing the department of that fact within five (5) days after the date of such sale or transfer. Such notice shall state the kind of dog, the name of such dog, if any, and the person to whom such dog has been sold or transferred.

### **53.33 Vicious Animals - Private Premises.**

It shall be unlawful for any person to keep within the city a vicious dog, nor shall any person, owning or having custody or control of any dog, or any other animal known by such person to be vicious or dangerous, shall permit it to run at large, or permit it to run loose on or within the premises of such person in such a manner as to endanger the life or limb of any person lawfully entering such premises.

### **53.42(e) Animals, Sale Of - As Novelties - On Streets.**

(e) This section shall not be construed to prohibit the display or sale of rabbits, natural chicks, ducklings or other fowl, in proper facilities by stores engaged in the business of selling the same, to be raised for food purposes.

### **53.50(a) Permit Required.**

No person, without first obtaining a permit therefor in writing from the department, shall keep, conduct or operate within the city any pet shop, animal grooming parlor, pony ring or pony ride, circus, pet show, cat show or animal acts or exhibitions.

### **53.66 Guard Dogs.**

(a) No person shall keep, use or maintain any guard dog or sentry dog within city limits.

(b) For the purposes of this section, "guard dog" means any dog kept, used or maintained on any commercial or industrial premises or any dog used to guard, protect, patrol or defend any property or person.

(c) For the purposes of this section, "sentry dog" means any dog trained to guard, protect, patrol or defend any premises, area or yard, or any dog trained as a sentry or to protect, defend or guard any person or property or any dog which is schutzhund or any similar classification."

Section 3. The City Council hereby amends and restates Section 5-2-303 of Article 3 (“ANIMAL CONTROL AND LICENSING REQUIREMENTS”) of Chapter 2 (“ANIMALS, FOWL, AND REPTILES”) of Title 5 (“PUBLIC HEALTH, WELFARE, AND SANITATION”) to read as follows:

“5-2-303. VIOLATIONS; PENALTY:

- A. Unless a different penalty is provided for in this chapter, violation of any provision of the animal control ordinance shall be punishable as provided in Article 1 of Chapter 3 of Title 1 of the Beverly Hills Municipal Code.
- B. Any person violating any of the following sections of the Animal Control Ordinance is guilty of a misdemeanor that is punishable as provided for in Article 1 of Chapter 3 of Title 1 of the Beverly Hills Municipal Code:

- Section 53.03(c)
- Section 53.06.5(c)
- Section 53.15(f)
- Section 53.15.2(b)(2)(F)(7)
- Section 53.15.2(d)
- Section 53.15.3(b)
- Section 53.18.5(n)
- Section 53.34
- Section 53.34.2(a)
- Section 53.34.4(f)(1)
- Section 53.58
- Section 53.64(e)
- Section 53.72(c)”

Section 4. CEQA Finding. The City Council hereby finds that it can be seen with certainty that there is no possibility the adoption of this Ordinance will have a significant effect on the environment because the Ordinance only regulates animal services within the City. The Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act pursuant to Section 15061(b) (3) of Title 14 of the California Code of Regulations.

Section 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 6. The City Clerk is directed to forward a certified copy of this Ordinance to the Director of the City of Los Angeles Department of Animal Services.

Section 7. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk’s

certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 8. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:  
Effective:

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JULIAN A. GOLD, M.D.  
Mayor of the City of Beverly Hills,  
California

ATTEST:

\_\_\_\_\_  
(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

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MAHDI ALUZRI  
Interim City Manager