



City of Culver City

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Staff Report

File #: 16-1213, **Version:** 1

Item #: PH-1.

CC - Public Hearing: Introduction of an Ordinance Repealing and Replacing Chapter 9.01 of Title 9 of the Culver City Municipal Code, "Animals And Fowl"; and Adopting by Reference Los Angeles County Code Title 10 "Animals," with Amendments.

Meeting Date: July 10, 2017

Contact Person/Dept: Lt. Troy Dunlap, Police; Animal Services Officer Corolla Fleeger/Police

Phone Number: Lt. Troy Dunlap (310) 253-6258
ASO Corolla Fleeger (310) 253-6143

Fiscal Impact: Yes ☐ No ☒

General Fund: Yes ☐ No ☐

Public Hearing: ☒ **Action Item:** ☐ **Attachments:** ☒

Commission Action Required: Yes ☐ No ☒

Public Notification: (E-Mail) Meetings and Agendas - City Council (07/06/2017) Culver City News (06/22/17 and 06/29/17)

Department Approval: Scott Bixby, Chief of Police (06/28/17)

RECOMMENDATION

Staff recommends the City Council conduct a public hearing and introduce an Ordinance repealing and replacing Chapter 9.01 of Title 9 of the Culver City Municipal Code, "Animals and Fowl"; and adopting by reference Los Angeles County Code Title 10 "Animals," with amendments.

PROCEDURE:

1. Mayor seeks motion from the City Council to receive and file the affidavits of publication and posting of notices, and correspondence received in response to the public hearing notices; and
2. Mayor calls for a staff report and the City Council Members may pose questions to staff as desired; and,
3. Mayor seeks a motion to open the public hearing; and,
4. Mayor seeks a motion to close the public hearing after all public testimony has been

presented; and,

5. The City Council discusses the item and arrives at its decision.

BACKGROUND

Historically, the City has adopted Title 10 - "Animals" of the Los Angeles County Code ("Title 10") to serve as the City's animal control ordinance, supplemented by provisions in the Culver City Municipal Code (CCMC). In October 2016, Title 10 was substantially updated and improved to be consistent with changes in state and federal laws, and to remove unnecessary language. According to the County of Los Angeles, the "improved Title 10 is now 38 percent shorter than before and much more effective."

In addition to being updated and streamlined, this improved version of Title 10 allows for an administrative procedure to address potentially dangerous or vicious dogs. Potentially dangerous or vicious dogs are those that have bitten or injured a human being or another animal. Under the procedures set forth in the previous version of Title 10 adopted by the City, after the City investigated an incident of a dog biting a person or harming another animal, the City was required to file a petition with the Los Angeles Superior Court to have the dog declared to be a potentially dangerous dog or a vicious dog. With the congestion in the court's schedule, these hearings were often scheduled 45 to 60 days or more into the future. The process takes considerable City resources to file the Petition with the court and attend the hearing, which takes place in downtown Los Angeles. The version of Title 10 proposed to be adopted allows for an administrative process to have a dog declared potentially dangerous or vicious, and allows greater flexibility by permitting the City to choose either the administrative process or the court process.

In addition to adopting the updated version of Title 10, the proposed Ordinance revises CCMC Chapter 9.01 to eliminate provisions that are rendered unnecessary due to the comprehensive revisions to Title 10. The proposed version of Chapter 9.01 contains only provisions that were not included in Title 10, and that are essential for the Animal Services Division to effectively protect both animals and the public. Staff is also proposing some minor amendments to Title 10 to delete several provisions that are inapplicable. The proposed Chapter 9.01 also contains a new subchapter 9.01.700, which sets forth an administrative process to address animal nuisances such as excessively barking dogs.

DISCUSSION

CCMC Chapter 9.01

In the proposed Ordinance (Attachment 1) Chapter 9.01 has been revised to eliminate unnecessary provisions but remains similar in layout as was previously adopted. (the current Chapter 9.01 is Attachment 2). Below, some of the changes to CCMC Chapter 9.01 are highlighted, in the order the subchapters appear within the Chapter:

- **General Provisions**

- Definitions that were redundant with Title 10 are eliminated. The remaining definitions have been updated/modified where needed. For instance, a definition for the Animal Services Officer was added, and the definition of a household pet was modified to exclude any animal, fowl or reptile prohibited by California Fish and Wildlife per California Code of Regulations Title 14 Section 671.
- The provisions pertaining to permits for animals other than household pets have been updated to reflect issuance by the Culver City Animal Services Officer instead of by the City Clerk. The tasks of posting notices to the neighbors and conducting an investigation will now be performed by the Animal Services Division instead of the City Clerk's office. The appeal process will be handled administratively by the Chief of Police or his designee rather than City Council.
- The number of dogs and cats allowed before a permit must be obtained remains at three dogs or three cats over the age of four months. An American with Disabilities Act (ADA) provision has been added to specify that service dogs do not count toward the number of dogs kept or maintained at a residence. (This provision has remained in Chapter 9.01 because Title 10 allows a different number of animals before a permit is required.)
- The section pertaining to animals and fowl in or near certain establishments has been updated.
- The riding academy business provision has been separated from the bee keeping section.
- Dogs: The sections pertaining to dogs remain basically unchanged except as follows:
 - The "dogs confined on private premises" provision now includes language that electric invisible fences and/or verbal command control are not sufficient to meet the requirements of the section.
 - The provisions pertaining to dogs running at large contains updated language.
- Cats
 - In the City of Culver City, the licensing of cats remains voluntary.
 - A definition of owner under the cat licensing regulations has been added.
- Adoption by Reference of Title 10 of the Los Angeles County Code - "Animals": Staff believes that the adoption of the Los Angeles County Code Title 10 (Attachment 3) will streamline the process of enforcement with its comprehensive provisions ranging from the duties of the Animal Services Division, to the animal facility inspections and permits, to livestock, to rabies confinement, to investigation and resolution of the ownership of potentially dangerous or

vicious dogs, and to requirements for animal care. The Los Angeles County's "Plain Language" initiative replaced legal terms and bureaucratic language with language that was easier to understand and created less confusion.

- Declawing of Animals: The Onychectomy (Declawing) and Flexor Tendonectomy provision, adopted by the City in 2009, has not changed.

Abatement of Animal Public Nuisances (New Subchapter 9.01.700)

This new subchapter is recommended by staff due to the huge number of barking dog complaints received by the Animal Services Division as well as the Culver City Police Department (CCPD) as a whole. Animal ownership is welcomed within the City of Culver City; however, strong emphasis is placed on responsible ownership of animals. Primary responsibility is placed upon animal owners to properly train and/or secure their animals so as to prevent them from disturbing the peace of the surrounding neighborhood and causing excessive discomfort to a reasonable person of normal sensitivity. The totality of the evidence, a reasonable interpretation of the nuisance ordinance, and reasonable evaluation of the observed animal behavior must be considered to determine whether the behavior would meet the threshold of "animal public nuisance."

Often when residents complain about a barking dog, the Animal Services Officer or police officer called to the scene are unable to observe/hear the alleged offensive excessive barking. The proposed provisions provide a mechanism for complaining parties to obtain resolution for abating the nuisance without solely relying on the Animal Services Officer or CCPD officers to witness or verify an offense of this nature. Additionally, rather than taking the owners of the animal causing the excessive noise to an overburdened criminal court, this provision provides a simple process which relies on supportive evidence and declarations for a neutral party/Hearing Officer to review. This provision also provides the animal owner the right to appeal.

Current Nuisance Complaint Procedures

When a resident is disturbed by excessive noise caused by a neighboring barking, howling or whining dog, they initiate the first complaint to Culver City Animal Services. Once an initial complaint is received, a "Nuisance Animal Warning Notice" is submitted to the animal owner or the responsible party. The Animal Services Officer attempts to verify the excessive noise by going to the property, but in a majority of instances the barking, howling or whining is not observed or heard. Thus, an Animal Nuisance Complaint packet is submitted to the complaining party to be filled out. The complainant is asked to provide evidence that there has been a violation of the nuisance ordinance to include: documentation of the date, time and duration of the noise, video and or audio recordings of the noise and animal, and statements from neighbors who may support the complaint.

Once the completed complaint packet is received, the Animal Services Officer reviews it and issues an Administrative Citation for a first offense, if the Animal Services Officer finds that the excessive

noise is captured on the video recording. If excessive noise caused by the animal is still occurring, subsequent citations are issued. If the excessive noise still is not alleviated and/or the owner refuses to take the necessary steps to correct the situation, the information is forwarded to and reviewed by the City Attorney's Office. In most instances the City Attorney's office sends a noise questionnaire to the surrounding neighbors, to ascertain if others are affected by the alleged noise. The Animal Services Officer and a member of the City Attorney's office often meets with the animal owner to attempt a voluntary resolution to the noise problem, through measures suggested by the Animal Services Officer. Under the current ordinance as written, the only other remedy, if the noise is not abated, would be to file a criminal action in Superior Court against the dog owner, which City staff disfavors due to the time consuming use of City resources and the stigma on a resident animal owner to have a criminal action filed against them for a barking dog offense.

Proposed Nuisance Complaint Procedures

Similar to the current procedure, the process begins with the complainant submitting a complaint to Culver City Animal Services. When the Animal Services Officer has personally confirmed the existence of a potential nuisance or has received a written complaint of such nuisance animal signed by the complaining party, a "Nuisance Animal Warning Notice" is submitted to the animal owner or the responsible party. The Animal Services Officer will make a reasonable attempt to contact the animal owner or the responsible party concerning the matter. If the Animal Services Officer has personally verified the barking, howling or other excessive noise, then the Officer will proceed to issue administrative citations if steps are not taken by the responsible party to abate the noise, whether through additional training of their animal, or moving the animal indoors, etc.

If within 10 days of the issuance of the Nuisance Animal Warning Notice the Animal Services Department determines that the barking, howling or other sound or cry was "provoked" or that such barking, howling or other sound or cry was not excessive, unrelenting or habitual, the Animal Services Department will void the warning notice.

When the Animal Services Department receives a subsequent verbal or written complaint concerning a nuisance animal at the same location within 12 months after the issuance of a Nuisance Animal Warning Notice, the Animal Services Department will then determine whether the Nuisance Animal Warning Notice went unheeded. If the nuisance has not been abated, the complaining party will be given a "Declaration of Complaint of Nuisance Animal and Petition for Administrative Hearing" (Declaration) to fill out and return to the City. Upon receiving a Declaration from the complaining party, signed under penalty of perjury, the matter is set for hearing before the City's designated Administrative Hearing Officer.

A hearing will be set at least 10 days but no more than 30 days from the date the Declaration is received by the City. The complaining party and responsible party each may present evidence at the hearing through witnesses, recordings, and documents.

The hearing before the Administrative Hearing Officer is open to the public. Administrative hearings are informal and rules of evidence do not apply. The Administrative Hearing Officer may admit all relevant evidence, including incident reports, declarations of witnesses, and any audio or video recordings. The Administrative Hearing Officer may decide all of the issues even if the responsible party for the animal fails to appear at the hearing. The Administrative Hearing Officer may find, upon

a preponderance of the evidence, that the behavior of the animal is a public nuisance.

Within 15 days after the conclusion of the hearing, the Administrative Hearing Officer will notify the responsible party of the determination and any orders issued. If the Officer determines that the excessive noise caused by the animal is a public nuisance, the responsible party shall comply with the Officer's order within 10 days after the date of mailing of the determination and order. The order may direct the responsible party to take action to alleviate the conditions, including containing the animal within an enclosed building, requiring additional training of the animal, requiring that the animal wear a noise suppression device, or other remedies appropriate to the situation. The Administrative Hearing Officer has the discretion to issue an administrative fine or to assess administrative costs against the responsible party. The decision of the Hearing Officer is be final; however, the animal owner has the right to appeal the decision to the Superior Court.

FISCAL ANALYSIS

There is no direct fiscal impact associated with repealing and replacing Chapter 9.01 of Title 9 of the Culver City Municipal Code, "Animals and Fowl" and adopting by reference Los Angeles County Code Title 10 "Animals", with amendments.

ATTACHMENTS

1. 2017-07-10 - ATT New Ordinance "Animals"
2. 2017-07-10 - ATT Current Municipal Code "Animals and Fowls"
3. 2017-07-10 - ATT Los Angeles County Code Title 10 "Animals" effective October 6, 2016

MOTION

That the City Council:

Introduce an Ordinance repealing and replacing Chapter 9.01 of Title 9 of the Culver City Municipal Code, "Animals and Fowl"; and adopting by reference Los Angeles County Code Title 10 "Animals," with amendments.