



OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

REPORT NO. R09-0102

MAR 23 2009

REPORT RE:

DRAFT ORDINANCE AMENDING SECTIONS 53.11, 53.12, 53.13, 53.15.2, 53.15.5, 53.31 AND 53.50 OF THE LOS ANGELES MUNICIPAL CODE TO ADOPT A METHOD FOR SETTING VARIOUS FEES CHARGED AND COLLECTED BY THE DEPARTMENT OF ANIMAL SERVICES AND TO REVISE AND INCREASE CERTAIN OF THOSE FEES, INCLUDING AN INCREASE OF THE \$28.00 FEE FOR SPAY AND NEUTER SERVICES IN DEPARTMENT OPERATED CLINICS TO \$40.00 AND AN INCREASE IN THE BREEDING PERMIT FROM \$100 TO \$120

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

Council File Nos. 07-0600-S93 and 08-0600-S34

Honorable Members:

Pursuant to your request, this office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The draft ordinance would amend several Sections of the Los Angeles Municipal Code (LAMC) to adopt a method for setting various fees to be charged and collected by the Department of Animal Services (Department), and would revise and increase certain of those fees, including an increase of the current \$28.00 fee for spay and neuter services in Department operated clinics to \$40.00 and an increase in the breeding permit from \$100.00 to \$120.00.

The schedule for adoption fees, for kennel and exhibition permit fees and other specific fees currently in the LAMC would be revised to include a method for modifying these fees from time to time to enable the Department to more effectively recover the costs of care, food and medical treatment for animals sold or redeemed from the

shelters, and to more effectively recover the administrative costs associated with kennel permits, animal exhibitions and other services. The proposed amendments will enhance responsiveness and allow regular modifications of various fees and permit costs as needed, while retaining Board and Council oversight.

The draft ordinance would revise the various fees and require that from time to time the Board of Animal Services Commissioners (Board) determine the verifiable total costs incurred by the City in connection with animal impoundment and adoption, and develop and recommend to the City Council for approval a reasonable revised schedule of fees. In addition, the Board would be required to establish, subject to the approval of the Council, a calendar of adoption events and certain time periods within a fiscal or calendar year during which the General Manager may reduce adoption fees by up to 50%, and may reduce or waive microchip fees, in order to encourage and promote pet adoptions.

Background and Summary of Ordinance Provisions

(1) Subsections (o), (p) and (q) of Section 53.11

Subsection (o) of Section 53.11 currently allows the General Manager of the Department to waive all or any portion of the fees for adoptions on three separate days in any calendar year. The proposed ordinance would expand the authority of the General Manager, at his or her discretion, to reduce by up to 50% all or any adoption fees listed in Section 53.12 (a) on certain annual events, such as Mother's Day and Valentine's Day, and certain other days of the year, such as several days in July and August. In addition, on those same occasions the General Manager would be authorized to reduce or waive the fees for an electronic animal identification device (microchip), in order to encourage and promote adoptions. The calendar of annual events for those fee discounts or waivers would be established by the Board subject to the approval of Council.

Subsection (p) will continue to allow the General Manager to waive adoption fees for various non-profit rescue or humane organizations. This language was previously found in Subsection (o). The waiver authority for rescue and humane organizations would be limited to a waiver of the adoption fees listed in Section 53.12(a) and microchip fees, and will not extend to spay and neuter fees or to license fees.

The new Subsection (q) would expand the authority of the General Manager to reduce or waive all fees, including dog license fees and taxes, for a municipal or county animal control agency or for a local animal control agency or entity responsible for enforcing animal-related laws and a Society for the Prevention of Cruelty to Animals (SPCA). Similar but more limited authorization was previously found in Subsection (p).

(2) Subsections (a), (c), (g), (h) and (i) of Section 53.12

The fee table in Section 53.12 (a) contains the proposed changes reflected in the report approved by Council. The fee table has been further modified by a couple of corrections to decrease the adoption fee for dogs and cats by \$8.00, from \$55.00 to \$47.00 for dogs and \$29.00 to \$21.00 for cats, adding rabbits to the \$40.00 spay/neuter fee for dogs and cats, and correcting the computation of the relinquishment fees for an equine animal.

The \$8.00 decrease in adoption fees for dogs and cats reflects a corresponding increase of \$8.00 in the spay/neuter fees from \$32.00 to \$40.00, in order to maintain the same total adoption costs.¹ The second change corrects a mathematical error. The discounts from the actual costs for relinquishment of an equine animal is 50%. As a result, the actual fee for relinquishment of an equine animal is \$223.00 for relinquishment and \$326.00 for relinquishment including pickup.²

Subdivision 1 of Subsection (c) currently requires the Department to add a \$2.00 administrative fee to the cost of services furnished by a private veterinarian at the request of the Department. The new Subdivision 1 would keep the \$2.00 fee, but add language to allow the administrative fee amount to be modified as recommended by the Board with the approval of Council using the methodology set forth in Section 53.12(a).

Subsection (g), which was approved by Council in 2006, established the adoption fee for a rabbit at \$40, with the entire fee to be deposited into the Animal Sterilization Fund. The ordinance would reduce the rabbit adoption fee reflected in 53.12 (a) to \$16, but would add the spay/neuter fee, which will be \$40, for a total fee of \$56. Language has also been added to subsection (g) allowing the adoption fee to be modified upon recommendation by the Board with the approval of Council using the methodology set forth in Subsection 53.12 (a). Subsection (g) would still require that all of the adoption fee and the fee for spay or neuter for a rabbit, up to the amount of \$40.00 continue to be deposited into the Animal Sterilization Fund.

Subsection (h), which is the "Best Buddies" program recently approved by Council, currently allows the Department to waive the spay or neuter fees and the fees for implanting a microchip for a second or subsequent animal adopted along with an animal whose adoption fees were paid for in full, where the animals have bonded with each other. The ordinance would delete the fee waiver for spaying and neutering and

¹ Council (File 08-066-S34 item 2b) increased the spay/neuter fee by \$8, from \$32 to \$40 and (Item 2c) accepted the Department's recommendation that the spay/neuter fee increase should not increase the total adoption cost by effectuating a commensurate reduction in dog and cat adoption fees.

² The CAO report shows the actual cost to the Department for relinquishment as \$445.23 and for relinquishment and pickup as \$651.08. The discount applied is 50%, leaving the correct proposed charge as \$223 and \$326 respectively.

make the waiver authority consistent with the General Manager's waiver authority in Section 53.11(o).

Subsection (i), which is the "Seniors for Seniors" program recently approved by Council, allows the Department to waive any or all of the adoption fees for any impounded animal that is seven years of age or older when adopted by a senior person 62 years of age or older who will own and maintain the animal. The ordinance would allow the General Manager to waive up to 50% of the adoption fees listed in Subsection 53.12 (a) and would add authorization to waive all or some of the fees for a microchip, consistent with the new waiver authority that would be granted to the General Manager in Section 53.11(o). In addition, the ordinance would delete the current sunset clause to allow the program to continue past 2008.

(3) Subsection (b) of Section 53.13

Subsection (b) of Section 53.13 currently allows a person who has relinquished a stray dog or cat to the Department to redeem that animal prior to 9:00 a.m. on the day the animal becomes available for adoption on the assumption that the shelter opens at 8:00 a.m. The ordinance would replace the reference to 9:00 a.m. with the phrase "one hour after public operating hours begin" in order to allow the Department greater flexibility in shelter hours, while maintaining the ability of a person who relinquishes a stray to have the opportunity to adopt the animal in that first hour after the shelter opens.

(4) Paragraph (2) of Subsection (c) of Section 53.15.2

Paragraph (2) of Subsection (c) of Section 53.15.2 of Section 53.15.2 of the LAMC currently requires an applicant for a breeding permit to pay an annual fee of \$100.00 for each owned dog or cat which is allowed to breed. The ordinance would increase the fee to \$120.00 and add language to allow the fee to be modified as recommended by the Board with the approval of Council using the methodology set forth in Section 53.12(a).

(5) Section 53.15.5

Section 53.15.5 currently requires the Department to charge \$15.00 for implanting an electronic animal identification device (microchip) in an animal adopted from the shelter, and \$25.00 for a device implanted at the request of an owner of a dog or cat not adopted from the shelter. The ordinance would keep the existing fees, but would allow the fees to be modified using the methodology provided in Section 53.12(a).

(6) Subsection (a) of Section 53.31

Subsection (a) of Section 53.31 currently authorizes the Department to establish a clinic at which members of the public may have dogs and cats spayed or neutered upon payment of a \$28.00 fee. The ordinance would increase the \$28.00 fee for spaying or neutering at Department-operated clinics to \$40.00 (consistent with CF No. 08-0600-S34) and allow the fee to be further modified using the methodology set forth in Section 53.12(a). This will not affect shelter clinics operated by outside contractors.

Subsection (a) also contains a waiver of the fee for spaying or neutering a cat owned and maintained by a "very low income" person 62 years of age or older whose income is less than \$11,500.00, which was the "very low income" limitation for a family of two persons in the City of Los Angeles at the time the section was last amended. The ordinance would delete the reference to \$11,500.00 and leave in place the method for determining and utilizing the annual Housing and Urban Development Department definition of "very low income."

(7) Subsection (f) of Section 53.50

Section 53.50 of the LAMC makes it illegal to keep, conduct, or operate a dog or cat kennel, pet shop, zoo, animal rental establishment, animal grooming parlor, stable, pony ride, circus, rodeo, pet show, animal act or exhibition, miscellaneous animal or reptile establishment in the City of Los Angeles without first obtaining an annual permit in writing from the Department. Subsection (f) requires the Department to charge an annual permit fee. The ordinance would revise those fees and provide that the fees can be further modified using the methodology set forth in Section 53.12 (a).

Fee Notice Requirement

We note that, because this ordinance would effectuate increases in existing fees, notice of its proposed adoption should be given in accordance with the provisions of California Government Code sections 66018 and 6062a. Those sections of State law require that prior to adoption of a new or increased fee a public hearing be held and notice of that hearing be published in a newspaper with two publications at least five days apart over a ten day period. The notice period begins the first day of publication, and there must be at least five days intervening between the first and the second publications, not counting the dates of publication.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Animal Services and the City Administrative Officer, asking that the

Department make any comments directly to the City Council when it considers this matter.

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 available when you consider this matter in order to answer any questions you may have.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

DM:DSL:fa
Transmittal

ORDINANCE NO _____

An ordinance amending Sections 53.11, 53.12, 53.13, 53.15.2, 53.15.5, 53.31 and 53.50 of the Los Angeles Municipal Code to adopt a method for setting various fees to be charged and collected by the Department of Animal Services, and to revise and increase certain of those fees, including an increase of the current \$28.00 fee for spay and neuter services in Department-operated clinics to \$40.00, and an increase of the breeding permit from \$100.00 to \$120.00.

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

Section 1. Section 53.11 of the Los Angeles Municipal Code is amended by revising Subsection (o) and Subsection (p), and by adding a new Subsection (q), to read:

(o) Notwithstanding any other provision of this Article, the Board of Animal Services Commissioners, subject to the approval of the City Council, shall establish a calendar of specific adoption events and certain time periods within a fiscal or calendar year during which the General Manager may reduce the fees listed in Section 53.12(a) by up to 50%, and may reduce or waive the fees for an electronic animal identification device (microchip) established pursuant to Section 53.15.5, in order to encourage and promote pet adoptions.

(p) The General Manager may waive all or any portion of the fees listed in Section 53.12(a) and all or any portion of the electronic animal identification device (microchip) fees established pursuant to Section 53.15.5 upon the release of any animal which has been held by the Department for the legal holding period, to a non-profit humane or rescue organization that meets the eligibility criteria of a program established by the Board of Animal Services Commissioners designed to increase adoptions by partnering with non-profit humane or rescue organizations, when the organization enters into an agreement with the Department to comply with the program requirements. The designation of an animal as releasable shall be in accordance with the Department's policies concerning the adoption of such animals. A fee waiver will be made only upon the condition that any animal so released may not be sold by the receiving organization.

For the purposes of this section, rescue and humane organizations are defined as California non-profit corporations that are exempt from taxation under Internal Revenue Code section 501(c)(3), participate in early age spay/neuter of animals, comply with all State and local laws regarding the humane care and treatment of animals, and in addition, whose mission is in whole or in part the rescue and placement of companion animals including but not limited to dogs, cats, rabbits, gerbils, hamsters, birds, equine animals, farm animals or reptiles, and/or the trapping, neutering and returning of feral cats.

(q) The General Manager may waive all or any portion of the fees, including license taxes and fees, upon the release of any animal which has been held by the Department for the legal holding period to another municipal or county animal control agency, a Society for the Prevention of Cruelty to Animals (SPCA), or to a local animal control agency or entity responsible for enforcing animal-related laws for one or more municipalities or counties. The designation of an animal as releasable shall be in accordance with the Department's policies concerning the adoption of such animals. Societies for the prevention of cruelty to animals are California non-profit corporations that perform humane services and are incorporated under the provisions of California Corporations Code Section 10400 and the Non-profit Public Benefit Corporation Law in Part 2 of the California Corporations Code, beginning at Section 5110.

Sec. 2. Section 53.12 of the Los Angeles Municipal Code is amended to read:

SEC. 53.12. ANIMAL SHELTER ADOPTION FEE SCHEDULE.

(a) The Department shall charge and collect fees of the types and in the amounts set forth in this Section, or as revised in the manner set forth in this Section, to recover the costs incurred by the City in connection with animals adopted or redeemed from City animal shelters. From time to time the Board of Animal Services Commissioners shall determine the verifiable total costs incurred by the City in connection with animal impoundment and adoption, and develop and recommend to the City Council for approval, a reasonable revised fee schedule for animals adopted or redeemed from the animal shelters, including those adopted through special programs. Upon approval by the City Council, the Department shall promulgate the revised fees in an appropriate manner for the information of the public. Unless revised as set forth herein, the Department shall charge and collect the following fees:

Spay or neuter, dog, cat or rabbit	\$40.00
For each dog adopted or redeemed	\$47.00
For each cat adopted or redeemed	\$21.00
For each dog redeemed, second or more occurrence	\$25.00 additional
For each cat redeemed, second or more occurrence	\$13.00 additional
For each equine animal sold or redeemed	\$325.00
For each sheep, lamb, swine, goat or other animal sold or redeemed	\$23.00
For each rat, mouse, squirrel or similar small rodent, reptile or bird sold or redeemed	\$13.00
For each rabbit sold or redeemed	\$16.00
Relinquishment fee for a dog	\$25.00
Relinquishment fee, including pickup, for a dog	\$56.00

Relinquishment fee for a cat	\$22.00
Relinquishment fee, including pickup, for a cat	\$47.00
Relinquishment fee for a rabbit	\$19.00
Relinquishment fee for an equine animal	\$223.00
Relinquishment fee, including pickup, for an equine animal	\$326.00
Relinquishment fee for a small animal	\$11.00
Relinquishment fee for other animals	\$24.00
Relinquishment fee, including pickup, for other animals	\$54.00

For feeding and caring for animals held for other than adoption or redemption, the reasonable cost of feeding and caring for them. In addition to the above fees, the Department shall charge and collect fees for implanting a microchip and for spay and neuter and other charges as provided in this Article.

(b) No fees whatsoever shall be charged or collected for or on account of any animal which has been unlawfully taken up or impounded, and any such animal shall be immediately delivered upon demand therefor to the owner or person entitled to the custody thereof.

(c) For veterinary services furnished to animals by the Department:

1. If furnished by a private veterinarian at the request of the Department, the fee to be charged and collected shall be the total of the actual bill to the Department plus \$2.00 for Department administrative expenses, or such other reasonable fee as established in the manner set forth in Subsection (a) above.

2. If furnished by a City veterinarian, the fees shall be charged and collected pursuant to a fee schedule to be established by the General Manager.

Said fee schedule shall take into account the reasonable expense of supplying the services including such factors as direct costs of the services and department overhead.

(d) Department shall not charge and collect a fee for each dog or cat redeemed by its owner who is a disabled individual or is 62 years of age or older provided that the combined adjusted gross income (as used for purposes of the California Personal Income Tax Law) of all members of the household in which such individual resides during the calendar year prior to the date the dog or cat was redeemed was less than the "very low income" limitation for a family of two persons in the City of Los Angeles, as determined by the United States Housing Act of 1937, as amended, and published by the United States Department of Housing and Urban Development. For each fiscal year, the General Manager is directed to determine, and utilize as that year's adjusted

gross income limitation, the figure in effect on the first day of April preceding the start of the fiscal year.

(e) Department shall not charge and collect a fee for each animal, or litter under four months old, which is impounded, other than an animal suspected of rabies which is impounded for the purpose of quarantine, provided that the combined adjusted gross income (as used for purposes of the California Personal Income Tax Law) of all members of the household in which the owner resides during the calendar year prior to the date the animal was impounded was less than the "very low income" limitation for a family of two persons in the City of Los Angeles, as determined by the United States Housing Act of 1937, as amended, and published by the United States Department of Housing and Urban Development. For each fiscal year, the General Manager is directed to determine, and utilize as that year's adjusted gross income limitation, the figure in effect on the first day of April preceding the start of the fiscal year.

(f) For purposes of this section, an individual shall be considered to be disabled if he or she is unable to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long continued and indefinite duration.

(g) All of the proceeds from the fee set forth in Subsection (a) for each rabbit adopted or redeemed plus the proceeds from the spay or neuter fee as established in this Article, shall be deposited into the Animal Sterilization Fund, up to an amount of \$40.00 per rabbit.

(h) The General Manager may reduce the fees listed in Section 53.12(a) by up to 50%, and reduce or waive the fees for an electronic animal identification device (microchip) for a second or subsequent animal adopted along with an animal whose adoption fees were paid for in full where the animals have bonded with each other.

(i) The Department may reduce the fees listed in Section 53.12(a) by up to 50%, and reduce or waive the fees for an electronic animal identification device (microchip), for any impounded animal that is seven years of age or older, if adopted by an individual 62 years of age or older who will own and maintain that animal.

Sec. 3. Subsection (b) of Section 53.13 of the Los Angeles Municipal Code is amended to read:

(b) Notwithstanding any other provision of this article, a person who has relinquished a stray dog or cat to the Department may, until one hour after public operating hours begin on the first day the animal becomes available for adoption and not thereafter, redeem such animal by paying to the Department the fees and charges accruing up to the time of such redemption, and, in the case of dogs which are unlicensed by paying in addition thereto the license fees prescribed by this Article.

Sec. 4. Paragraph (2) of Subsection (c) (2) of Section 53.15.2 of the Los Angeles Municipal Code is amended to read:

(2) Each breeding permit shall be valid for one year from the date of issuance, and may be renewed annually, before its expiration date. Each applicant for such a permit shall pay an annual fee of \$120.00 or such other fee established in the manner set forth in Subsection (a) of Section 53.12 and promulgated by the Department. A separate permit must be obtained for each owned dog or cat which is allowed to breed.

Sec. 5. Section 53.15.5 of the Los Angeles Municipal Code is amended to read:

SEC. 53.15.5. ELECTRONIC ANIMAL IDENTIFICATION DEVICE.

The Department of Animal Services shall implant each dog and cat adopted out of a Department shelter with an electronic animal identification device (microchip) approved and provided by the Department. Except as otherwise expressly provided, the fee for the implanted device shall be \$15.00, or such other fee established in the manner set forth in Subsection (a) of Section 53.12 and promulgated by the Department. The fee for the implanted device shall be paid in addition to any other adoption related fee, except as otherwise expressly provided.

Any owner of a dog or a cat may have an electronic animal identification device provided and implanted by the Department in the dog or cat. The fee for such implanted device shall be \$25.00, or such other fee established in the manner set forth in Subsection (a) of Section 53.12 and promulgated by the Department.

Sec. 6. Subsection (a) of Section 53.31 of the Los Angeles Municipal Code is amended to read:

(a) **Authority for Clinic and Fees.** The General Manager is hereby authorized and empowered to establish Department operated clinics at which members of the public may have dogs and cats spayed or neutered in a humane manner upon payment of a \$40.00 fee for each animal, or such other fee established in the manner set forth in Subsection (a) of Section 53.12 and promulgated by the Department.

Notwithstanding the foregoing, no fee shall be charged for spaying or neutering a dog whose owner has applied for and qualifies to be issued a free license under Subsection (f) of Section 53.15 of this Code for such dog.

Nor shall a fee be charged for spaying or neutering a cat owned and maintained by a person 62 years of age or older, provided that the combined adjusted gross income (as used for purposes of the California Personal Income Tax Law) of all members of the household in which such person resided during the calendar year prior to the date on which the cat is to be spayed or neutered was less than the "very low income" limitation for a family of two persons in the City of Los Angeles for said calendar year, using the figure in effect on the preceding first day of April as published by the United States

Department of Housing and Urban Development. No more than three cats per person or household may be spayed or neutered free of charge, except that upon satisfactory proof of loss or death of a cat that was spayed or neutered free of charge under the provisions of this Subsection, a replacement cat may be spayed or neutered free of charge for the same person.

Sec. 7. Subsection (f) of Section 53.50 of the Los Angeles Municipal Code is amended to read:

(f) **Permit Fees.** The Department, before receiving any application for granting of any permit required by this Section, shall require the payment of an annual permit fee of the type and in the amount set forth in this Section as follows, or as revised in the manner set forth in Subsection (a) of Section 53.12:

1. Dog Kennel	\$225.00
2. Cat Kennel	\$210.00
3. Pet Shop	\$275.00
4. Zoo	\$180.00
5. Animal Rental Establishment	\$210.00
6. Pet Show, Dog Show, Animal Acts or Exhibitions	\$380.00
7. Alligator Farms, Ostrich Farms and Wild Animals	\$150.00
8. Miscellaneous Animals or Reptile Establishment	\$150.00
9. Circus, First Day	\$3,100.00
Per Day Thereafter	Included
10. Rodeo, First Day	\$665.00
Per Day Thereafter	Included
11. Homing Pigeons	\$225.00
12. Riding Academy, Livery Stable, Board Stable, Pony Ride, Horse Market or Mule Market	\$180.00
13. Animal Grooming Parlor	\$130.00
14. Filming with Animals	\$300.00

15. Filming per day, Thereafter

Included

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.

Sec. 8. 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 _____.

KAREN E. KALFAYAN, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By  _____
DOV S. LESEL
Assistant City Attorney

Date 3-18-09

File Nos. 07-0600-S93 and 08-0600-S34