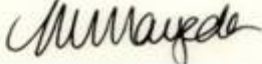


September 8, 2005

TO: Supervisor Gloria Molina, Chair
Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

FROM: Marcia Mayeda, Director 

SUBJECT: **REVIEW OF COUNTY ORDINANCE NO. 2001-0042
PERTAINING TO THE SUPPRESSION OF
DANGEROUS DOGS**

On August 16, 2005 your Board instructed the Department of Animal Care and Control and County Counsel to review County Ordinance No. 2001-0042 pertaining to the suppression of dangerous dogs to ensure the ordinance is effective and provides the sanctions necessary to protect the public. This report is an analysis of this ordinance as well as related information that may be of interest to your Board.

Summary

1. No change in the County ordinance regarding dangerous dogs is currently necessary.
2. The ordinance is effective and provides the sanctions necessary to protect the public through both civil and criminal means.
3. Pending state legislation may provide further opportunities to mitigate aggressive dog behavior.
4. The department is initiating new strategies to prevent dangerous dog situations.

Analysis

County ordinances involving dangerous and vicious dogs are found in Title 10, Chapter 37 and in 10.40.010 (w). These ordinances provide for civil and criminal penalties. California Penal Code Section 399 also provides criminal penalties for knowingly keeping a dangerous dog.

Civil Prosecution

Los Angeles County Code Section 10.37.010, et seq. permits the department, through the Office of the County Counsel, to bring a limited civil action against a dog owner whose dog causes a person to take defensive action to avoid injury, or whose dog injures or kills a person or domestic animal.

This ordinance provides a comprehensive framework which is designed to identify “potentially dangerous dogs” and “vicious dogs” and to impose conditions and restrictions on the ownership of such dogs. Los Angeles County ordinance 10.37.020 defines “potentially dangerous dog” as any of the following:

- A. “Any dog which, when unprovoked, on two separate occasions within the prior 36-month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or custodian of the dog;
- B. Any dog which, when unprovoked, bites a person or otherwise engages in aggressive behavior, causing a less severe injury than as defined in section 10.37.040 (“Severe Injury - Definition”);
- C. Any dog which, when unprovoked, has killed, seriously bitten, inflicted injury, or otherwise caused injury to a domestic animal off the property of the owner or custodian of the dog.”

It should be noted that the County’s definition of “severe injury” is broader than the state’s definition of “severe injury.” Also, the state requires two of the incidents described in subsection “C” above. Therefore, the County’s dangerous dog ordinance is stricter than the state statute, which is permissible under Food & Agriculture Code 31683.

Los Angeles County ordinance 10.37.030 defines “vicious dog” as any of the following:

- A. “Any dog that engages in or has been found to have been trained to engage in exhibitions of fighting.
- B. Any dog which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a person.

C. Any dog previously determined to be and currently listed as a potentially dangerous dog which, after its owner or custodian has been notified of this determination, continues the behavior described in section 10.37.020 or is maintained in violation of section 10.37.130.”

Conditions of ownership and penalties for violations stemming from a “potentially dangerous dog” finding include that the dog be: properly licensed, micro-chipped, and vaccinated; kept indoors or in a securely fenced yard or enclosure when on the owner’s property; muzzled and restrained by a substantial leash and only under the control of an adult capable of restraining and controlling it if off the owner’s premises; complete an obedience course; be spayed or neutered; and the dog may be required to wear a bright fluorescent yellow collar that identifies it as a potentially dangerous dog.

In addition, the dog owner may be required to maintain general liability insurance; shall pay a fine not to exceed \$500; and shall pay all charges for services performed by the Department pursuant to this section. Finally, a judicial officer may impose such other reasonable conditions as are deemed necessary to protect the public safety and welfare.

Consequences of “vicious dog” determinations are even stronger. Dogs meeting this definition may be destroyed. If they are not destroyed, the judge shall impose the conditions set forth under “potentially dangerous” as well as require a special enclosure to contain the dog; order that the owner give written notice of the vicious dog to the postal service and all utility companies; order the owner to post signs on the premises where the dog lives, giving notice of the dog’s presence on the property; require the owner to pay a fine not to exceed \$1,000; and may prohibit the owner from owning, possessing, controlling, or having custody of any dog for a period of up to three years.

The failure of an owner of a dog to comply with any of the conditions imposed by the court is a misdemeanor punishable by a fine not exceeding \$1,000 or by imprisonment in the County jail for a period not exceeding six months, or by both fine and imprisonment.

Between 1999 and 2001, our agency used the more limited State Food & Agriculture Code provisions to prosecute dangerous dog cases through County Counsel. During this period of time we worked diligently with County Counsel to completely revamp Chapter 37 to address the dangerous dog issues. After the new ordinance became effective in 2001, our agency used it to prosecute these cases. In total, 45 cases have been filed since 1999. We received favorable results in all but one of those cases, which was handled by outside counsel.

Criminal Prosecution

While Chapter 37 of Title 10 is an effective tool in responding to the dangerous dog problem, the department found that its legal costs for pre-trial preparation and courtroom appearances were rapidly escalating. In 2001-02, our agency spent \$111,715 on legal services. By 2003-04, that figure had increased to \$280,601, a jump of more than 250%.

Due to the large number of cases being filed and prosecuted, we agreed with County Counsel that some of the cases should be contracted to attorneys in the private sector to help with the caseload.

Since August 2004 our agency has been primarily using the District Attorney's Office to prosecute cases under the County's animal hazard ordinance [10.40.010 (w)]. This has the advantage of adding criminal penalties, including, for example, restitution and, when appropriate, a prohibition against owning animals for up to three years and other conditions of probation.

This has been a very successful program and our agency has received a great deal of cooperation from the District Attorney's office, which has obtained a plea agreement or won every case it has prosecuted to date.

California Penal Code Section 399 is a provision under state law which provides for the criminal prosecution of dog owners who knowingly and willingly allow their dangerous dogs to run at large or who keep their dogs without reasonable care, when such dogs subsequently cause serious bodily injury to any human being. Under these circumstances a dog owner may be criminally charged with a misdemeanor or a felony. If the dog kills a human being the charge is automatically a felony. This department has used this law when prosecuting severe attacks by dangerous dogs.

Breed Specific Legislation

Currently, under Food & Agriculture Code section 31683, local government may not regulate potentially dangerous or vicious dogs in a manner that is specific as to breed. However, a proposed change in the statute, (Senate Bill 861--Speier) had passed both the houses of the legislature and is on the Governor's desk for signature. This bill would amend Food & Agriculture Code Section 31683 to allow local government to enact dog breed-specific ordinances pertaining only to mandatory spay or neuter programs and breeding requirements. We will continue to monitor the progress of this bill and keep you informed.

Other Approaches to Dangerous Dog Suppression

This department has also initiated a new program, called "Safe Neighborhoods." This is an internal program in which the department will take proactive actions regarding complaints of possibly aggressive dogs. These are dogs that have caused concern in their neighborhoods due to their nature or disposition, or the circumstances under which they are kept. An example might be a dog that is confined behind a fence and has not escaped or bitten, but charges a weak fence and causes neighbors to become alarmed.

When the department receives calls of concern from residents, postal workers, utility workers, or others regarding these dogs, an officer will make a personal visit to the dog's home. The officer will evaluate the dog's temperament, ensure the dog is properly vaccinated and licensed, as well as conduct a security assessment of the fencing or other means by which the dog is confined. The owner will be advised that their dog has caused concern in the neighborhood and will be counseled on ways to modify the dog's behavior. Spaying and neutering will be strongly encouraged since unaltered dogs are three times more likely to bite than altered ones. Any violations of animal control ordinances will be addressed through education, intervention or enforcement.

Information regarding these dogs will be included in our computer database so the department can monitor them. This will be a proactive measure to make it less likely for dangerous dog situations to develop.

If you have any questions or need additional information, please contact me at (562) 728-4610.

c: David E. Janssen
Violet Varona Lukens
Ray Fortner