

STAFF REPORT
City of Lancaster, California

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MVB

Date: November 10, 2009

To: Mayor Parris and City Council Members

From: David R. McEwen, City Attorney

Subject: Ordinance No. 938 - amending Chapter 6.04 of Title 6 and adding Chapter 6.08 to Title 6 of the Lancaster Municipal Code relating to Animal Control

Recommendation:

Introduce Ordinance No. 938, an ordinance of the City Council of the City of Lancaster, California, amending Chapter 6.04 of Title 6 and adding Chapter 6.08 to Title 6 of the Lancaster Municipal Code relating to animal control.

Fiscal Impact:

Unknown. There will be additional costs associated with the appointment and use of a City appointed hearing officer to conduct hearings for the purpose of determining whether a dog is a potentially dangerous or vicious dog. The proposed ordinance provides for the collection of such costs from the dog owner; however, there can be no assurances that all of such costs will be recovered. The County has indicated that if the City establishes a breed specific spay or neuter requirement, the County will require a DNA test to establish the breed of specified dogs. This cost will be passed on to the City; however, the City should be able to collect such amount from the owner.

Background:

The City Council previously adopted Ordinance No. 914 on January 27, 2009 amending certain provisions of the Lancaster Municipal Code relating to potentially dangerous and vicious dogs and breed specific mandatory spay and neutering. At the public hearing held on January 13, 2009, officials from Animal Control appeared and presented objections to certain provisions of the proposed ordinance. Notwithstanding these objections, the City Council adopted Ordinance No. 914 with the understanding that staff would work with Animal Control to resolve these issues.

Over the past several months, staff has met with Animal Control officials in an effort to address each of their concerns. With respect to the Dangerous Dog Ordinance, their concerns focused primarily on due process issues. After some prolonged negotiations, we are recommending some minor changes to hearing procedures recognizing that the owner may be identified to determine whether the dog is licensed. However, if the dog is not licensed and the owner is not otherwise known, no hearing is required.

The City Council asked that a deposit be required to cover the costs of boarding the dog during the pendency of the appeal as a condition of filing the appeal. After further research, it is my conclusion that Section 31622 of the Food and Agriculture Code does not allow such a deposit. It requires the payment of the \$25 appeal fee, but provides that the owner is responsible for the boarding costs only if the dog is determined to be a potentially dangerous or vicious dog. County Counsel expressed strong concerns that the deposit was a violation of the owner's right to due process.

With respect to the mandatory spay and neuter ordinance, we have added provisions to exempt hunting dogs, show dogs and service dogs meeting certain requirements.

Mandatory Micro Chipping

The County currently requires all dogs to be micro chipped. Ordinance No. 914 specifically provided that the provisions of the County Animal Control Ordinance relating to micro chipping do not apply in Lancaster. After further analysis, staff believes that requiring micro chipping would substantially reduce the City's cost attributed to housing stray animals by assisting in identification of the owners at an earlier time. If the City Council desires to make this change, we need to remove the reference to Section 10.20.185 of the County Ordinance in Section 6.04.030 of the Lancaster Municipal Code.

Attachment:

1. Ordinance No. 938