Analysis

This ordinance amends Title 10 – Animals of the Los Angeles County Code, relating to Potentially Dangerous and Vicious Dogs.

There are three reasons for the amendments to Chapter 37 of Title 10. First, to provide a cost effective administrative hearing option to the current ordinance requiring a court hearing to determine if a dog is potentially dangerous or vicious. Second, to expand the definition of "severe injury" to include serious physical illness and injuries caused by an attack, other than fractures and lacerations. Third, to expand the definition of "vicious dog" to include findings from other jurisdictions that a dog is a threat to public safety.

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DCR:vn

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ORDINANCE NO. _____

An ordinance amending Title 10 - Animals of the Los Angeles County Code, relating to Potentially Dangerous and Vicious Dogs.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 10.37.030 is hereby amended to read as follows:

10.37.030 Vicious dog -- definition.

"Vicious dog" means 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 in Los Angeles County, or to be a dangerous or vicious dog in another jurisdiction, 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 or other restrictions placed upon it by another jurisdiction.

SECTION 2. Section 10.37.040 is hereby amended to read as follows:

10.37.040 Severe injury -- Definition.

"Severe" injury means any physical harm~~injury~~ to a human being that results in a serious illness or injury, including but not limited to a major fracture, muscle tears or disfiguring lacerations ~~or requires~~requiring multiple sutures or corrective or cosmetic surgery.

SECTION 3. Section 10.37.110 is hereby amended to read as follows:

10.37.110 Potentially dangerous or vicious dog hearing.

A. Hearing.

If an animal control officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that a dog is potentially dangerous or vicious, the director of the department of animal care and control shall petition the Superior Court, within the judicial district wherein the dog is owned or kept, for a hearing, or shall conduct an administrative hearing, for the purpose of determining whether or not the dog in question should be declared potentially dangerous or vicious.

B. Notice of Hearing and Petition.

Whenever possible, a complaint received from a member of the public which serves as the evidentiary basis for the animal control officer or law enforcement officer to find probable cause shall be sworn to and verified by the complainant and shall be attached to the petition. The director of the department of animal care and control shall notify the owner or custodian of the dog that a hearing will be held by the Superior Court or that an administrative hearing will be held, at which time he or she may present evidence as to why the dog should not be declared potentially dangerous or vicious. The owner or custodian of the dog shall be served with notice of the hearing and a copy of the petition, either personally or by first class mail ~~with return receipt requested~~. The hearing shall be held promptly within no less than five (5) working days nor more than ten (10) working days after the service of the notice upon the owner or custodian of the dog.

C. Conduct of Hearing.

The hearing shall be conducted as an administrative hearing, or a limited civil case pursuant to Code of Civil Procedure Section 85, et seq., ~~and shall be~~ open to the public. The judicial officer or administrative hearing officer~~court~~ may admit into evidence all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. A jury shall not be available. The judicial officer or administrative hearing officer~~court~~ may find, upon a preponderance of the evidence, that the dog is potentially dangerous or vicious and shall make other orders or findings required or authorized by this chapter. The judicial officer or administrative hearing officer~~court~~ may decide all issues for or against the owner or custodian of the dog even if the owner or custodian fails to appear at the hearing.

D. Administrative hearing officer.

If the dog owner is notified that an administrative hearing will be held, the hearing shall be conducted by a neutral hearing officer. The department may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who signed the petition or directed the seizure or impoundment of the dog, and is not junior in rank to that person(s). In the alternative, the department may utilize the services of a hearing officer from outside the department.

SECTION 4. Section 10.37.120 is hereby amended to read as follows:

10.37.120 Notice of determination and appeal from court hearing.

A. Following a court~~the~~ hearing conducted pursuant to Section 10.37.110, the owner or custodian of the dog shall be notified in writing of the determination and order

issued, either personally or by first class mail, postage prepaid by the court. If the petitioner or the owner or custodian of the dog contests the determination, he or she may, within five (5) days of the receipt of the notice of determination, appeal the decision, which appeal shall be made to the Superior Court before a judge other than the judge who originally heard the petition. The fee for filing an appeal shall be the fee provided for by Section 31622(a) of the Food and Agricultural Code and shall be payable to the county clerk. The petitioner or the owner or custodian of the dog shall serve notice of the appeal upon the other party personally or by first class mail, postage prepaid.

B. The court hearing the appeal shall conduct a hearing de novo, without a jury, and make its own determination as to potential danger and viciousness and make other orders authorized by this chapter, based upon the evidence presented. The hearing shall be conducted in the same manner and within the time periods set forth in Section 10.37.110. The court may admit all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. The issue shall be decided upon the preponderance of the evidence.

C. The court hearing the appeal may decide all issues for or against the owner or custodian of the dog even if the owner or custodian fails to appear at the hearing.

D. The determination of the court hearing the appeal shall be final and conclusive upon all parties.

SECTION 5. Section 10.37.121 is hereby added to read as follows:

10.37.121 Notice of decision and judicial review of administrative decision.

Following an administrative hearing conducted pursuant to Section 10.37.110, the department and the owner or custodian of the dog shall be notified in writing of the decision of the hearing officer, either personally or by first class mail. If the department or the owner or custodian of the dog desires to contest the decision, the department or the owner/custodian must notify the other party within five (5) days of the intention to seek judicial review of the decision. The party seeking judicial review by the Superior Court must comply with all requirements of Code of Civil Procedure Section 1094.5 et seq.

SECTION 6. Section 10.37.130 is hereby amended to read as follows:

10.37.130 Conditions of ownership of potentially dangerous dogs.

A. The dog shall be properly licensed, micro chipped, and vaccinated at the owner's expense, prior to release to the dog's owner or custodian. The department may include the designation in the registration records of the dog, after the court has determined that the designation applies to the dog.

B. The dog, while on the owner's property, shall, at all times, be kept indoors, or in a securely fenced yard or enclosure from which the dog cannot escape, and into which children cannot trespass. The yard or enclosure must be inspected and approved in writing by the department prior to release of the dog to its owner or custodian.

C. The dog may be off the owner's premises only if it is muzzled and restrained by a substantial leash, not exceeding six (6) feet in length, and if it is under

the control of an adult capable of restraining and controlling the dog. At no time may the dog be left unattended while off the owner's premises.

D. The owner or custodian of the dog shall notify the department immediately in the event the dog is at large, or has committed an attack on any person or animal, has been sold or otherwise disposed of, or has died.

E. The dog must complete an obedience course for a minimum of ten (10) hours of training with the owner at the owner's expense within sixty (60) days after release of the dog to its owner or custodian. The course shall be a course approved by the department prior to the release of the dog to the owner or custodian.

F. The dog must be spayed or neutered at the expense of the owner or custodian prior to the release of the dog to its owner or custodian.

G. The dog may be required to wear a bright fluorescent yellow collar visible at 50 feet in normal daylight, which will be provided by the department at the owner's expense.

H. The owner or custodian of the dog may be required to maintain general liability insurance covering property damage and bodily injury caused by a potentially dangerous or vicious dog, with a combined single limit of $300,000.00 per occurrence, and may be required to show proof of such insurance within fourteen (14)~~30~~ days after the court has made its determination.

I. All charges for services performed by the department pursuant to this Section 10.37.130 and all fines shall be paid prior to the release of the dog to its owner

or custodian. If the~~said~~ charges and fines are not paid within fourteen (14)~~30~~ days after the date the services are performed or the fines are ordered to be paid, the dog shall be deemed to be abandoned ~~to~~and may be disposed of by the department.

J. If the determination that a dog is potentially dangerous under Section 10.37.020, is made pursuant to a court hearing, the judicial officer shall impose a fine on ~~T~~the owner ~~of a dog which has been determined to be a potentially dangerous dog as defined in Section 10.37.020, shall pay a fine~~ not to exceed $500.00 for each separate basis upon which the~~said~~ determination was made. The~~Said~~ fine shall be paid to the department for the purpose of defraying the costs of the implementation of this chapter.

K. A judicial officer or administrative hearing officer may impose such other reasonable conditions as are deemed necessary to protect the public safety and welfare.

SECTION 7. Section 10.37.140 is hereby amended to read as follows:

10.37.140 Consequences of vicious dog determination.

A. A dog determined to be a vicious dog may be destroyed by the department when it is found, after proceedings conducted under Section 10.37.110, that the release of the dog would create a significant threat to the public health, safety and welfare.

B. If it is determined that a dog found to be vicious shall not be destroyed, the judicial ~~authority~~officer or administrative hearing officer shall impose the conditions upon ownership of potentially dangerous dogs required by Section 10.37.130, the conditions required by this section, and any other conditions necessary to protect the public health, safety, and welfare.

C. The enclosure that is required pursuant to subsection B of Section 10.37.130 shall be an enclosure which is enclosed on all sides, and which is locked by a padlock. It may be required to have a top and a cement floor. The enclosure must be approved in writing by the department.

D. The owner or custodian of a vicious dog must give written notice of the vicious dog determination to United States Post Office (local branch) and all utility companies which provide services to the premises where the dog is kept. The owner or custodian shall provide a copy of the~~such~~ notice to the department within thirty (30) days after the court determination that the dog is vicious.

E. The owner or custodian of the dog shall post one or more signs on the premises at a location(s) approved by the department stating that a dog which has been determined to be vicious resides on the premises.

F. If the determination that a dog is vicious under Section 10.37.030, is made pursuant to a court hearing, the judicial officer shall impose a fine on ~~T~~the owner ~~of a dog which has been determined to be a vicious dog pursuant to the provisions of Section 10.37.030 shall pay a fine~~ not to exceed $1,000.00 for each separate basis upon which the~~said~~ determination was made. The~~Said~~ fine shall be paid to the department for the purpose of defraying the cost of the implementation of this chapter.

G. The owner of a dog determined to be a vicious dog may be prohibited from owning, possessing, controlling, or having custody of any dog for a period of up to three years, if it is found at the hearing conducted pursuant to the petition to declare the dog vicious, that ownership or possession of a dog by that person would create a significant threat to the public health, safety, and welfare.

SECTION 8. Section 10.37.150 is hereby amended to read as follows:

10.37.150 ~~Penalty~~Compliance with conditions and consequences of ~~for~~ violation of conditions.

A. The hearing officer or judicial officer who heard the petition to determine if a dog is dangerous or vicious may schedule follow-up hearing dates to ensure compliance with all conditions imposed.

B. Consequences that may result from ~~T~~the failure of an owner or custodian of a dog released after a hearing pursuant to Section 10.37.110 or Section 10.37.120 to comply with any of the conditions imposed under Section 10.37.130 or Section 10.37.140 include, but are not limited to the following:

1. The failure to comply with any condition~~by the court~~ is a misdemeanor punishable by a fine not exceeding $1,000.00 or by imprisonment in the County Jail for a period not exceeding six months, or by both such fine and imprisonment~~.~~;

2. A violation of any part of an administrative decision or court order may be the subject of a civil action for injunctive relief to enjoin the person who violated the decision or order. The filing and prosecution of an action for injunctive relief shall not limit the authority or ability of the County to take any other action permitted by law;

3. A violation of an administrative decision or court order following a determination that a dog is potentially dangerous, may result in the filing of an action to determine if the dog is vicious under Section 10.37.030 C.

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