



Office of the City Manager

CONSENT CALENDAR  
December 13, 2005

To: Honorable Mayor and  
Members of the City Council

From: Citizens Humane Commission

Submitted by: Diane Sequoia, Chairperson, Citizens Humane Commission

Subject: Specific Standards For Care of Dogs Kept Outdoors

RECOMMENDATION

Adopt first reading of an Ordinance adding Berkeley Municipal Code (BMC) Section 10.04.140, specifying requirements for minimum standards of care for owners/guardians who keep their dogs outdoors. This includes shelter, water, feeding and confinement.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Currently, the Berkeley Municipal Code does not regulate minimum standards for care of dogs that are kept outdoors. California Penal Code 597 describes depriving an animal of sustenance, drink and shelter as a crime punishable as a misdemeanor or as a felony. Penal Code 597 also states that any owner, driver, or possessor of any animal, who permits the animal to be without proper care and attention, shall, on conviction, be deemed guilty of a misdemeanor. State law does not specify the type of shelter, or food and water requirements that are expected and does not address backyard tethering of dogs at all.

BACKGROUND

Animal control is frequently requested to conduct welfare checks on dogs that are kept outdoors. Some of these dogs are obviously neglected but without clearly defined standards of care for these animals it is often difficult for AC staff to enforce better living conditions for these animals.

The dog may be tied to a stake or a tree, around which it can become tangled preventing the dog from getting to its shelter, food or water. Or it may be tied to a fence, which can be extremely dangerous for the dog. Many tethered dogs have been strangled to death when they attempt to escape by jumping the fence. Backyard dogs that cannot get to or do not have any shelter can die of heatstroke during hot days, or die of hypothermia due to exposure on cold and/or wet days.

Hanging a tarpaulin over a lean-to may provide shelter but this often proves inadequate when the wind and rain blows the tarpaulin off the shelter and turns the ground into a quagmire.

Some owners/guardians only feed their dogs scraps of food from their table. This does not provide the necessary nutrients for a dog to live healthily. Food is often left outside to become dirty and insect ridden. Water bowls are often tipped over by the dogs or left for days filled with stagnant water.

Some dogs are kept tethered 24 hours a day. This confinement can lead to health problems and behavior problems on the part of the dog such as excessive barking and aggression.

RATIONALE FOR RECOMMENDATION

By adding this ordinance to the BMC, and thus requiring specific standards of care for dogs that are kept outdoors in Berkeley, animal control officers will be better able to ensure that owners or guardians provide for these dogs adequately.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission's Report.

CONTACT PERSONS

Diane Sequoia, Chairperson, (510) 677 3978

Kate O'Connor, Secretary, (510) 981 6601

Attachments:

1: Ordinance

ORDINANCE -N.S.

ADDING BERKELEY MUNICIPAL CODE SECTION 10.04.140 SPECIFYING  
REQUIREMENTS FOR OWNERS/GUARDIANS WHO KEEP THEIR DOGS OUTDOORS

BE IT ORDAINED by the City Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 10.04.140 is added to read as follows:

**Section 10.04.140 Duties of dog owners/guardians – Requirements for dogs kept outdoors.**

**A. Shelter requirements**

No person shall keep a dog outdoors on any premises unless at least one of the following applies: either the dog has access to the owner's home through a dog door during all time spent outside; or the dog is under the supervision of a human being who can allow the dog access to the owner's home during all time spent outside; or the dog is at all times in the company of a human being; or the dog spends less than one hour per day outside; or the dog is provided full access to an enclosed building, dog house, or similar shelter at all times. The dog must have space outside its shelter to move around and relieve itself away from its confinement, and this space must be free of broken glass and similar potentially dangerous materials which could result in injury to the dog. Said shelter shall:

1. Have five sides, including a top, a bottom and three sides.
2. Have a floor raised off the ground, free of cracks, depressions and rough areas where insects, rodents or eggs from parasites may lodge. An effective program for the control of insects, parasites, and other pests shall be established and maintained.
3. Be cleaned and maintained in a manner designed to insure the best possible sanitary conditions. Excreta shall be removed from the shelter as often as necessary. Rugs, blankets or other bedding material shall be kept clean and dry.
4. Be of adequate size to allow the dog to stand up and turn about freely, stand easily, sit and lie in a comfortable normal position.
5. Have a floor constructed so as to protect the dog's feet and legs from injury.
6. Allow dogs kept outdoors to remain dry during rain.
7. Have sufficient clean bedding material or other means of protection from the weather elements provided when the ambient temperature falls below that temperature to which the dog is acclimated.
8. Provide sufficient shade to allow the dogs kept outdoors to protect themselves from the direct rays of the sun, when sunlight is likely to cause overheating or discomfort.
9. Be structurally sound and maintained in good repair to protect the dog from injury.
10. Be constructed and maintained so that the dog contained therein has convenient access to clean food and water.

**B. Water requirements.**

No person shall keep a dog on any premises unless the dog has access to clean and fresh water at all times. Clean potable water shall be available to the dog unless restricted by a veterinarian as a treatment for a specific medical or surgical condition and;

1. If the water is kept in a container, this container shall be designed sufficiently to prevent tipping and spilling of the water contained therein. If necessary to accomplish this, the container shall be secured to a solid structure or secured in the ground. Watering containers shall be kept clean, kept out of sun, and must be emptied and refilled with fresh water at least once a day; or
2. If an automatic or demand device provides the water, the water supply connected to the device must function 24 hours a day and the water receptacle and bowl must be cleaned regularly.

**C. Feeding requirements.**

No person shall keep a dog on any premises unless the dog is provided sufficient food daily to maintain proper body weight and good health.

1. The dog shall be provided food, which shall be free from contamination, wholesome, palatable, and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal.
2. Food receptacles shall be accessible to the dog and shall be located so as to minimize contamination by excreta and/or insects. Feeding pans shall be durable and kept clean. Disposable food receptacles may be used but must be discarded after each feeding. Self-feeders may be used for the feeding of dry food, and they shall be sanitized regularly to prevent molding, deterioration or caking of feed. Spoiled or contaminated food shall be disposed of in a sanitary manner.

**D. Confinement requirements for dogs kept on private property.**

1. Premises shall be fenced in such a manner as to prevent the dog escaping and running at large.
2. Unspayed female dogs shall be confined during heat in a manner that adequately prevents unintended pregnancy.
3. Though highly discouraged, tethering is only acceptable if:
  - a. The tether is attached to a stake in the ground or on an overhead line with a pulley like system, and is short enough to prevent the dog from coming within one foot of the fence. The fence requirement in this section remains applicable as if the tethering apparatus did not exist, even if the tethering requirements are also met.
  - b. The tether is of sufficient length to allow the dog to move around and relieve itself away from its confinement and is attached to the dog by a non-choke type collar or body harness, allowing the dog access to food, water and shelter.

**E. Adequate exercise.**

All dogs that are tethered outside or kept in a confined area must be provided with adequate exercise. "Adequate Exercise", means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, size and condition of the animal.

**F. Dogs prohibited from outdoor residence.**

Dogs on whom outdoor residence will impose physical suffering may not be kept outdoors.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of old City Hall, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.