



Citizens Humane Commission

ACTION CALENDAR

October 24, 2006

To: Honorable Mayor and
Members of the City Council

From: Citizens Humane Commission

Submitted by: Kate O'Connor, Secretary, Citizens Humane Commission

Subject: Specific Standards For Care of Dogs Kept Outdoors

RECOMMENDATION

Adopt a first reading of an Ordinance amending Berkeley Municipal Code (BMC) by adding 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 intentionally depriving an animal of sustenance, drink and shelter as a crime punishable as a misdemeanor or as a felony. Penal Code 597.1 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. However, 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 their owners or guardians provide for these dogs adequately.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

See companion report.

CONTACT PERSONS

Suzanne Seraphin, Chairperson, Citizens Humane Commission, 967-5100

Kate O'Connor, Secretary, Citizens Humane Commission, 981-6601

Attachments:

1. Ordinance

ORDINANCE NO. -N.S.

ADDING BERKELEY MUNICIPAL CODE SECTION 10.04.140 ESTABLISHING REQUIREMENTS FOR OWNERS/GUARDIANS OF DOGS PLACED OUTDOORS ON PRIVATE PREMISES

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:

10.04.140 Care requirements for dogs housed or left outdoors on private premises.

A. Scope. The requirements of this section apply only to privately owned and operated premises, and dogs kept on said premises by the owner, occupant, or agent thereof.

B. Definitions. A dog is “housed” outdoors under this section, if the dog is kept outdoors for 12 or more hours in a single day. A dog is “left” outdoors under this section, if the dog is kept out of doors for more than 1 hour but less than 12 hours in a single day without the presence or supervision of a human being, or without independent access to a habitable indoor space such as through a doggy door.

C. Shelter. If a dog is housed or left outdoors, its owner/guardian shall provide a “shelter” structure or other space for the dog that has a roof, a floor, and walls on three sides. The shelter shall (a) 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, (b) be structurally sound and maintained in good repair to protect the dog from injury, (c) effectively allow the dog to remain dry during rain and have shade from the sun, (d) have a floor made out of material that will not injure the dog’s feet or legs, and that is free of substantial cracks, depressions, and rough areas where insects, rodents or eggs from internal parasites may lodge, or that may cause injury to the dog, (e) be kept free of broken glass or other materials that may cause injury to the dog, (f) be kept clean and maintained in a manner designed to insure the best possible sanitary conditions, e.g. excreta shall be removed from the shelter as often as necessary, and (g) if the ambient temperature falls below the temperature to which the dog is acclimated, also include adequate bedding material or other means of protection from the cold.

D. Water. If a dog is housed or left outdoors, the owner/guardian shall provide the dog easy access to clean and fresh water at all times, unless doing so is restricted for veterinary care. If the water is kept in a container, the container shall be designed sufficiently to prevent tipping and spilling of the water contained therein. If necessary, the container shall be secured to a solid structure or secured in the ground. Water containers shall be kept clean, kept out of sun, and must be emptied and refilled with fresh water at least once a day. If an automatic or demand device provides the water, the water supply connected to the device must function whenever a dog that is housed or kept outdoors is outdoors.

E. Food. If a dog is housed outdoors, or left outdoors for more than 4 hours, the owner/guardian shall provide (a) sufficient food daily to maintain proper body weight and good health, which shall be free from contamination, wholesome, palatable, and of sufficient quantity and nutritive value to meet the daily requirements for the condition and size of the animal, and (b) a food receptacle that is easily accessible to the dog and located so as to minimize

contamination by excreta and/or insects, and that shall be durable and kept clean. If a disposable food receptacle is used, it 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.

F. Fencing. All dogs that are housed, left, or otherwise placed outdoors for any period of time on a single premise shall be confined by fencing or other barriers that prevent the dog from escaping the premise and running at large, and unspayed female dogs shall be confined during heat in a manner that adequately prevents unintended pregnancy.

G. Tethering. The fence/barrier requirement in this section remains applicable even if the dog is tethered to a stationary object or cable line. Though tethering is highly discouraged, if a dog that is housed, left, or otherwise placed outdoors is tethered, the tether shall be (a) attached to the dog by a non-choke collar or body harness, (b) short enough to prevent the dog from coming within one foot of a perimeter fence or barrier, and (c) long enough to allow the dog to move around, relieve itself away from the space of its confinement, and when required by this section, have access to adequate water, food, and shelter as provided in Penal Code Section 597t.

H. Adequate Space: All dogs that are housed or left outdoors shall be provided with enough space to ensure adequate separation between food, water and bedding, and areas to eliminate.

I. Health restrictions. A dog shall not be housed, left, or otherwise placed outdoors by any person, if doing so will impose suffering on the dog.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the glass 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.