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 lawfully tethered to a stationary object or cable line. In the limited circumstances in which Health and Safety Code section 122335 allows tethering a dog on privately owned and operated premises, 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.