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CITY OF OAKLAND



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October 9, 2007

Life Enrichment Committee  
Oakland City Council  
Oakland, California

Chairperson Chang and Members of the Life Enrichment Committee:

**RE: A SUPPLEMENTAL REPORT AND ORDINANCE ON DOGS AT LARGE,  
CHANGING THE TITLE TO:**

**ORDINANCE CHANGING OAKLAND MUNICIPAL CODE TITLE 6,  
CHAPTER 6.04 SECTION 6.04.070 *DOGS AT LARGE* REGARDING  
REQUIRMENTS TO DOG GUARDIANS CONCERNING PICKING UP  
AFTER THEIR DOGS, TETHERING OF DOGS, DOGS IN VEHICLES  
AND SPECIFIC FINES FOR VIOLATIONS OF THE ORDINANCE; AND  
OAKLAND MUNICIPAL CODE SECTION 1.28.020.B. ALLOWING FOR  
AN EXCEPTION FOR THE AMOUNT OF FINES FOR VIOLATIONS OF  
SECTION 6.040.070**

At the request of the Life Enrichment Committee at their September 25, 2007 meeting, the title of this report and ordinance has been re-named to provide specificity on the proposed changes to the City's Municipal Code concerning Dogs at Large, Chapter 6 Section 6.040.070.

The new proposed items include:

- A requirement that dog guardians pick up after their dogs on public property and on private property that they do not own and that they dispose of the waste in a proper manner
- A prohibition of the use of chain leashes and tethers
- A change from leashes being no longer than 6 feet to a requirement that the dog be held on leash no longer than 6 feet away from the dog guardian, and that the leash be attached to a collar or harness

- A change in the prohibition of tethering dogs on public property. The current OMC makes no allowance for tethering of dogs on public property. This change will permit dog guardians 15 minutes to tether their dog on public property while the dog guardian runs a quick errand
- The new proposed ordinance sets forth specific fines for violations of the ordinance--\$50 for first offense, \$100 for a second offense in one year, and \$500 for a third offense within one year and differs from Section 1.28.020.B, which permits discretionary fines.
- A section concerning "Dogs in Vehicles" that tracks the State Law that took effect as of January 1, 2007, concerning Dogs in Vehicles.

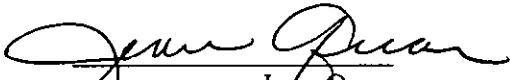
At the September 25, 2007 Life Enrichment Committee meeting, there was some confusion about the relationship between the City's Municipal Code concerning tethering and the State's Health & Safety Code 122335 on the same subject. The City Attorney's Office has advised that the State law does not preempt a municipality from setting its own appropriate time limits for tethering. In fact, the State law, at H&S 122335(b)(3), explicitly permits the City to set a "reasonable period" that is approved by animal control. The current Municipal Code has no provision for tethering of dogs on public property.

This change permits dog guardians a 15 minute period during which they could tether their dog on public property while the dog guardian runs indoors for errands of short duration.

**RECOMMENDATION AND RATIONALE:**

I respectfully request that Council Members approved these changes and additions, as set forth in the attached Ordinance, to the Oakland Municipal Code Title 6, Chapter 6.04 Section 6.04.070 *Dogs at Large*, and the change to Section 1.28.020.B in order to require dog guardians to pick up after their dogs, comply with the 15 minute tethering rule when on public property, comply with the regulations concerning leaving dogs unattended in cars, and to approve the specific fines for violations of this ordinance, which are set forth in the ordinance.

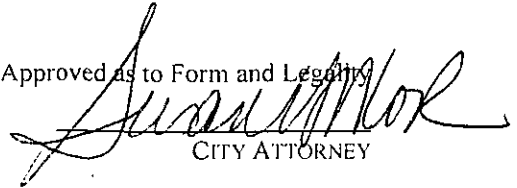
Respectfully submitted,

  
Jean Quan  
Council Member District 4

Prepared by  
Sue Piper  
Policy Analyst, District 4

Item: \_\_\_\_\_

Approved as to Form and Legality

  
CITY ATTORNEY

INTRODUCED BY COUNCILMEMBER JEAN QUAN

OFFICE OF THE CITY CLERK  
OAKLAND

2007 SEP 27 PM 4:53

## OAKLAND CITY COUNCIL

ORDINANCE No. \_\_\_\_\_ C.M.S.

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**ORDINANCE CHANGING OAKLAND MUNICIPAL CODE TITLE 6, CHAPTER 6.04 SECTION 6.04.070 DOGS AT LARGE REGARDING REQUIRMENTS TO DOG GUARDIANS CONCERNING PICKING UP AFTER THEIR DOGS, TETHERING OF DOGS, DOGS IN VEHICLES AND SPECIFIC FINES FOR VIOLATIONS OF THE ORDINANCE; AND OAKLAND MUNICIPAL CODE SECTION 1.28.020.B. ALLOWING FOR AN EXCEPTION FOR THE AMOUNT OF FINES FOR VIOLATIONS OF SECTION 6.040.070**

This ordinance implements changes to the Oakland Municipal Code concerning Dogs at Large in order to protect public health and safety of dogs, Oakland residents and visitors to Oakland. These changes also update the existing Municipal Code to comply with new State laws.

**WHEREAS**, 40 percent of the households in the United States are home to one or more dogs, according to the American Veterinary Medical Association; and

**WHEREAS**, the City has the responsibility for ensuring the health, safety and well being of animals within the City of Oakland; and

**WHEREAS**, dog waste can contain bacteria and parasites that severely sicken people, pets, and wildlife and can be washed into storm drains, which flow directly into streams or ponds and cause a host of water quality problems; and

**WHEREAS**, Oakland currently does not have requirements that dog guardians pick up after their dogs on public and private property that is not the dog owner's or caretaker's private property; and

**WHEREAS**, assuring that pet owners comply with the new State laws regarding the health and safety of dogs, and to create a healthy and safe environment for Oakland residents and visitors to Oakland; now therefore,

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1:** The Oakland Municipal Code is hereby amended to add, delete, or modify sections as set forth below; additions are indicated by underscoring and deletions are indicated by ~~strike-through type~~.

## 6.04.070 Dogs at large

Except in the case of a "Seeing Eye dog" actually being used by a blind person, a "signal dog" actually being used by a hearing impaired person, or a "service dog" actually being used by a handicapped person, or a police dog being used by any federal, state, county, city or city and county law enforcement agency for any law enforcement purpose, it is unlawful for any person owning or having in charge, care, control, or custody any dog, hereinafter referred to as "dog guardian", to cause, allow or permit such dog, whether licensed or unlicensed, on or upon any public street, alley or other public place, except as expressly set forth below in this Section. unless such dog be kept securely confined by a rope, chain or other leash not over six feet in length securely and continuously held by a competent person, or to permit whether wilfully or through failure to exercise due care or control, any such dogs to commit any nuisance on any property other than the street gutters outside of pedestrian ways or on any improved private property other than that of the owner or persons having charge, care, control or custody of such dog. For purposes of this section any dog confined within a vehicle shall be deemed to be on the enclosed premises of the operator thereof and any dog securely tied or chained so as to be confined within any unenclosed lot or premises shall be deemed to be on an enclosed lot or premises. It is unlawful for any person owning or having in charge, care, control or custody any dog to suffer or permit any such dog to trespass on private property. Nothing contained in this section shall prevent a dog from being used without a leash to herd, guard, gather or otherwise work domestic animals or fowls in or upon a public place or unenclosed lot or premises or from participating at obedience trials or dog shows or from being without leash upon any public street, alley or way so long as such dog is at heel and so long as such dog is under the charge and control of a person competent to keep such dog under effective charge and control, and so long as such dog does not harm or damage, or threaten to harm or damage, any person on public or private property. (Prior code § 3-9.07)

- a. LEASHED. All dogs shall be leashed and securely and continuously held by a responsible person when on public property. All dog guardians (owners, caretakers, dog walkers) must keep the dog securely on a leash, no further than six feet away from a responsible dog guardian, and the leash must be securely attached to a collar or harness at all times when on sidewalks, streets, alleys, parks or other public property. Chain leashes or tethers are prohibited. Dogs may only be off leash on private property where permission from the property owner permits the dog to be off-leash, or in designated off-leash areas (See Section 6.04.080) Dogs left unattended and attached to any stationary object on public property for more than 15 minutes are considered at large dogs and are subject to impound. (See Section 6.04.210)
- b. DOGS IN VEHICLES. In accordance with California law (Penal Code 597.7(a)), dog guardians are prohibited from leaving dogs unattended in vehicles under conditions that endanger health or well being of the dog due to heat, cold, lack of adequate ventilation or lack of food or water, or

other circumstances that could result in, or be expected to cause suffering, disability or death to the dog.

- c. NUISANCE. Dog guardians shall maintain control at all times in order to prevent the dog from trespassing onto private property, from obstructing access to any public or private area, from committing any nuisance on public or private property, or from threatening, harming or damaging any person or other animal on public or private property.
- d. PICKING-UP. All dog guardians shall pick up after their dogs. Dog guardians shall immediately remove their dog's feces on any public or private property, other than the dog guardian's private property, and then shall dispose of the waste matter in an appropriate trash receptacle. Any person who has custody or control of a dog in a public place is encouraged to carry disposable bags, or a device for picking up and removing dog feces. The City of Oakland encourages the use of biodegradable disposable bags for this purpose.
- e. ENFORCEMENT. A violation of the above (a-d) is an infraction as defined at Section 1.28.020B. This section (e) is enforceable by the Oakland Police Department or other authorized city of Oakland employee. See Section 1.24.020A. Offenders are subject to fines.
- f. FINE SCHEDULE. A first offense shall be punishable by a fine of fifty dollars (\$50), and a second offense within a period of one year, shall be punishable by a fine of one hundred dollars (\$100), and a third or subsequent offense within a one year period, and shall be punishable by a fine of five hundred dollars (\$500). As set forth at Section 1.28.020B, "any violation beyond the third conviction within a one-year period may be charged by the City Attorney or the District Attorney as a misdemeanor and the penalty for conviction of the same shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period of not more than six months or by both."

**1.28.020      Violations as infraction.**

B. Any person convicted of an infraction under the provision of the code shall be punishable upon a first conviction by a fine of not more than one hundred dollars (\$100.00) and, for a second conviction within a period of one year, by a fine of not more than two hundred dollars (\$200.00) and, for a third or any subsequent conviction within a one-year period, by a fine of not more than five hundred dollars (\$500.00). Any violation beyond the third conviction within a one-year period may be charged by the City Attorney or the District Attorney as a misdemeanor and the penalty for conviction of the

same shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period of not more than six months or by both. Exceptions: See Section 6.04.345, Feeding of Feral Pigeons: See also Section 6.04.070f, Dogs At Large.

**Section 2: Severability:** If any article, section subsection, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions that shall remain in full force and effect.

**Section 3: Effective Date:** This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES – BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID and  
PRESIDENT DE LA FUENTE

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_

LATONDA SIMMONS  
City Clerk and Clerk of the Council of  
the City of Oakland, California