

1 [Penalties related to vicious and dangerous dogs.]

2
3 **Ordinance amending Article 1, Section 42.2 of the San Francisco Health Code to**
4 **transfer authority for registration of vicious and dangerous dogs from the Department**
5 **of Public Health to the Department of Animal Care & Control, increase the vicious and**
6 **dangerous dog registration fee from \$50 to \$250, allow for microchipping as an**
7 **alternative form of permanent identification for dogs, and clarify standards for outdoor**
8 **enclosures; amending Section 42.3 to adjust hearing deadlines for vicious and**
9 **dangerous dog hearings; and amending Section 42.4 making a second or subsequent**
10 **violation within any 12-month period from the initial incident punishable as a**
11 **misdemeanor, and to allocate dog registration fees and fines collected for violations of**
12 **Sections 42 through 42.3 to the Department of Animal Care & Control for enforcement**
13 **of the vicious and dangerous dog program; and making environmental findings.**

14 Note: Additions are *single-underline italics Times New Roman*;
15 deletions are *strikethrough italics Times New Roman*.
16 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

17 Be it ordained by the People of the City and County of San Francisco:

18 Section 1. Article 1, Section 42.2 of the San Francisco Health Code is hereby
19 amended to read as follows:

20 **SEC. 42.2. REGISTRATION.**

21 Any dog found to be vicious and dangerous either as a result of (1) the actions of the
22 dog constituting vicious and dangerous behavior occurring in the presence of an animal
23 control officer, or representative of the Department of Public Health or Police Department; and
24 upon finding after hearing under Section 42.3; (2) a signed complaint or a verbal complaint
25 with corroborating evidence by an animal control officer or representative of the Department of

1 Public Health or Police Department; and (3) upon a finding after hearing under Section 42.3,
2 shall be registered with the Department of ~~Public Health, Bureau of Communicable Disease~~
3 ~~Control, Animal Bite Investigation Unit~~Animal Care and Control.

4 All such dogs should be registered within 10 days of the effective date of the finding.
5 The Department of ~~Public Health~~ Animal Care and Control shall establish a registration fee ~~not to~~
6 ~~exceed of \$50250~~.

7 Furthermore the keeping of a registered dog shall be subject to the following
8 conditions:

9 (a) **Permanently Affixed Identification Number and Tattoo**. The owner, guardian or
10 keeper shall have the licensing number assigned to such dog, or such other identification
11 number as the City shall determine, ~~tattooed~~ permanently affixed to the dog by a licensed
12 veterinarian or other Department authorized agency/individual ~~Department of Public Health~~
13 ~~representative~~ on the dog's upper inner lip, inner thigh or elsewhere as directed by the
14 Department of ~~Public Health~~ Animal Care and Control. For the purposes of this section
15 "~~tattoo~~ permanently affixed" shall be defined as any permanent numbering of a dog by means of
16 indelible or permanent ink or by microchip with the number designated by the Department of
17 ~~Public Health~~ Animal Care and Control, or any other permanent method of ~~tattooing~~ affixing the
18 identification number acceptable to the Department of ~~Public Health~~ Animal Care and Control.

19 (b) **Display of Sign**. The owner, guardian or keeper shall display a sign on his or her
20 premises warning that there is a vicious and dangerous dog on the premises. Said sign shall
21 be visible and capable of being read from the fronting street or public highway.

22 (c) **Confinement Indoors**. No registered dog may be kept on a porch, patio or in any
23 part of a house or structure that would allow the dog to exit such building on its own volition
24 except to a secured enclosure. In addition, no such dog may be kept in a house or structure
25

1 when the windows are open or when screen windows or screen doors are the only obstacles
2 preventing the dog from exiting the structure.

3 (d) **Confinement Outdoors.** When outside, all registered dogs shall be confined in a
4 secure enclosure, except when necessary to obtain veterinary care or to comply with
5 commands or directions of a City official. All such enclosures must be adequately lighted and
6 ventilated and kept in a clean, ~~and~~ sanitary, and humane conditions.

7 Whenever necessity requires a registered dog to be outside of the enclosure, the dog
8 shall be securely muzzled and restrained with a chain having a minimum tensile strength of
9 300 pounds and not exceeding three feet in length, with handgrip, and shall be under the
10 direct control and supervision of the owner, guardian or keeper of the dog.

11 (e) **Reserved.**

12 (f) **Identification Photographs.** All owners, keepers or harborers of a registered dog
13 must, within 10 days of the effective date of this ordinance, provide to the Director of the
14 Department of Animal Care and Control, ~~Communicable Disease Control~~, or his ~~or~~ her designee
15 two color photographs of the registered animal clearly showing the color and approximate size
16 of the animal.

17 (g) **Reporting Requirements.** All owners, keepers or harborers of a registered dog
18 must, within 10 days of the incident, report the following information in writing to the Director
19 of the Department of Animal Care and Control, ~~Communicable Disease Control~~, or his ~~or~~ her
20 designee:

21 (1) The removal from the City or death of a registered dog;

22 (2) The new address of a registered dog owner or guardian should the owner or
23 guardian move within City limits.

24 (h) **Sale or Transfer of Ownership Prohibited.** No person shall sell, barter or in any
25 other way dispose of a dog registered with the City to any person within the City; provided that

1 the owner or guardian of a registered dog may sell or otherwise dispose of a registered dog or
2 the offspring of such dog to persons who neither reside within the City nor intend to train,
3 keep, harbor, own, or in any way possess such animal in the City providing written approval of
4 such sale or transfer by an authorized officer or employee of the city or county where the dog
5 is intended to be kept.

6 (i) **Violation of Registration Requirements.** It shall be unlawful for the owner,
7 guardian, keeper or harbinger of a dog registered with the City to fail to comply with the
8 requirements and conditions set forth in this ordinance regarding registration. Any dog found
9 to be the subject of a violation of these registration requirements shall be subject to seizure
10 and impoundment. In addition, failure to comply will be cause for the revocation of the license
11 of such animal resulting in the immediate removal of the animal from the City.

12 Section 2. Article 1, Section 42.3 of the San Francisco Health Code is hereby
13 amended to read as follows:

14 **SEC. 42.3. SEIZURE OF DOG: HEARINGS.**

15 (a) **Subject to Seizure.** Upon the receipt of a signed complaint, or upon the personal
16 observation of an Animal Control Officer, or a representative of the Department of Public
17 Health or Police Department, that a dog is vicious and dangerous, and said dog is on its
18 owner, guardian, keeper or harbinger's property, the Animal Control Officer, or the Department
19 of Public Health or Police Department representative, may find the dog presents a danger and
20 is subject to seizure and impoundment. Upon a finding that the dog is subject to seizure,
21 written notice of such finding shall be made to the owner, guardian, keeper or any adult in
22 apparent control or possession of the dog. Prior to the seizure of the dog, the owner,
23 guardian, or keeper of the dog shall be entitled to a hearing as described in paragraph (c) of
24 this section.

25 (b) **Immediate Seizure.**

1 (i) Should any Animal Control Officer, representative of the Department of Public
2 Health or the Police Department determine that probable cause exists to believe that a dog is
3 vicious and dangerous and cannot be properly controlled, such dog is subject to immediate
4 seizure. The owner, guardian, or keeper of the dog shall be entitled to a hearing upon seizure
5 as described in paragraph (c) of this section, and upon the hearing the owner or guardian of
6 any dog found to be vicious or dangerous shall be assessed the costs of sheltering the dog
7 and of administering the ordinance.

8 (ii) Upon the receipt of a signed complaint, or upon the personal observation of an
9 Animal Control Officer, or a representative of the Department of Public Health or Police
10 Department, that a dog has killed or wounded, or assisted in killing or wounding any domestic
11 animal, or has attacked, assaulted, bit or otherwise injured any person or assisted in
12 attacking, assaulting, biting or otherwise injuring any person, such dog shall be subject to
13 immediate seizure and impoundment. The owner, guardian, or keeper of the dog shall be
14 entitled to a hearing upon seizure as described in paragraph (c) of this section.

15 (c)(i) Prior to the seizure of any dog authorized by paragraph (a) and within three days
16 of the seizure of any dog pursuant to paragraph (b) a hearing officer shall inform, in writing,
17 the owner, guardian, or keeper of the dog that the person's dog is alleged to be vicious and
18 dangerous and be subject to penalties under this ordinance. Unless the hearing is waived by
19 the owner, guardian, or keeper of the dog, or the hearing is scheduled on an agreed-upon
20 date ~~not later than 30 days from the date of the incident~~, the hearing officer shall fix a time not less
21 than ~~30~~15 nor more than ~~60~~90 days from the date ~~of that~~ the incident enforcement agency locates
22 the dog and/or the owner, guardian or keeper, and fix a place for said hearing and cause all
23 parties to be notified, not less than ~~15~~10 days before the ~~day~~date of such hearing. The hearing
24 may be informal and the rules of evidence not strictly observed. It shall not be necessary; for
25 the City; to prove that the owner, guardian, or keeper of the dog knew that the dog was

1 vicious and dangerous. Within 15 days following the hearing, the hearing officer shall issue his
2 or her decision to all parties.

3 (ii) Should the hearing officer find the dog to be vicious and dangerous, the hearing
4 officer shall order the dog be registered pursuant to Section 42.2, and that the dog be spayed
5 or neutered. The hearing officer may, in addition, order other remedies as may be appropriate
6 for the safety of the public, including, but not limited to, an order that the dog and the owner,
7 guardian, keeper and any person in control of the dog attend and complete a basic obedience
8 course under an approved and recognized obedience trainer or dog-training organization. If
9 the hearing officer finds that the owner, guardian, keeper, or other person in control of the dog
10 has not or cannot adequately control his or her dogs, the hearing officer may also prohibit that
11 person or persons from owning or possessing dogs for a period of three years from the date
12 of the order.

13 (iii) In the event the hearing officer concludes that the dog is vicious and dangerous
14 and that the health, safety and welfare of the community is not adequately addressed by the
15 requirements provided in Section 42.3(c)(ii), the hearing officer may order the dog destroyed.

16 (iv) The decision of the hearing officer is final.

17 Section 3. Article 1, Section 42.4 of the San Francisco Health Code is hereby
18 amended to read as follows:

19 **Section 42.4. PENALTY; MISDEMEANOR OR INFRACTION.**

20 Any person who violates any provision of Sections 42 through 42.6-3 shall be deemed guilty of
21 a misdemeanor or infraction.

22 (a) If charged as an infraction, the penalty upon conviction of such person shall be a
23 fine not exceeding \$500. A second or subsequent violation within any 12-month period from the
24 initial incident will be punishable as a misdemeanor.

1 (b) If charged as a misdemeanor, the penalty upon conviction of such person, shall be
2 imprisonment in the County Jail for a period not to exceed one year or by a fine not exceeding
3 \$1,000, or by both such fine and imprisonment. Upon conviction of a misdemeanor the court
4 may prohibit the person from owning, keeping or otherwise being in control of a dog within the
5 City and County for a period of one year. Violation of that prohibition shall constitute a
6 misdemeanor.

7 (c) The complaint charging such violation shall specify whether the violation charged is
8 a misdemeanor or an infraction.

9 (d) Allocation of fees and fines collected. All fees and the City's share of all fines collected
10 under this section shall be used only by the Animal Care and Control Department to fund the
11 enforcement of the vicious and dangerous dog program as set forth in this Section.

12 Section 4. The Planning Department has determined that the actions contemplated in
13 this Ordinance are in compliance with the California Environmental Quality Act (California
14 Public Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of
15 the Board of Supervisors in File No. _____ and is incorporated herein by reference.

16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By: _____
19 ROSA M. SANCHEZ
20 Deputy City Attorney