

ORDINANCE NO.        -N.S.

ADDING SECTION 10.04.145 TO THE BERKELEY MUNICIPAL CODE, PROHIBITING  
ANIMAL DECLAWING

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

Section 1. That Section 10.04.145 of the Berkeley Municipal Code is added to read as follows:

Section 10.04.145 Onychectomy (declawing) prohibited.

A. No person, licensed medical professional or otherwise, shall perform or cause to be performed an onychectomy (declawing) or flexor tendonectomy procedure by any means on any animal within the city, except when necessary for a therapeutic purpose. "Therapeutic purpose" means the necessity to address the medical condition of the animal, such as an existing or recurring illness, infection, disease, injury or abnormal condition in the claw that compromises the animal's health. "Therapeutic purpose" does not include cosmetic or aesthetic reasons, or reasons of convenience in keeping or handling the animal. In the event that an onychectomy or flexor tendonectomy procedure is performed on any animal within the city in violation of this section, each of the following persons shall be guilty of a violation of this section: (1) the person or persons performing the procedure, (2) all persons assisting in the physical performance of the procedure, and (3) the animal guardian that ordered the procedure.

B. Any person who violates this section shall be guilty of a misdemeanor and shall be fined in an amount not to exceed \$1000.00 or be imprisoned for a period of six months, or both. Violation of this section shall be a misdemeanor but may be charged in the discretion of the citing officer as an infraction.

Section 2. That Section 10.04.250 of the Berkeley Municipal Code is amended to read as follows:

Section 10.04.250 Violation--Penalty

A. Any person violating any provision or failing to comply with any of the requirements of this chapter shall be deemed guilty of an infraction as set forth in Chapter 1.20 of this code, in addition to any City impound and boarding fees, and in addition any fines required under state law Food and Agriculture Sections 30804.7(a-b) and 31751.7(a-b), except that a violation of Berkeley Municipal Code Sections 10.04.180 shall be punishable as a misdemeanor.

B. If the owner/guardian of an unaltered fertile dog or cat is issued a citation for a violation of any provision of this chapter other than Berkeley Municipal Code Sections 10.04.145 and 10.04.160 through 10.04.180 (concerning dangerous/vicious dogs and interfering with pound master), all infraction penalties and fines shall be nullified by the court, other than the court's administrative fee, if by the time of the court hearing, the owner/guardian provides written proof to the court that the animal was spayed or neutered within the 30-day period following the issuance of the citation.

C. The City of Berkeley encourages the spaying and neutering of dogs and cats. The dog and cat licensing requirements under this chapter will be the primary method of encouraging the spaying and neutering of dogs that have not been impounded. No investigation of a dog or cat license violation that concerns a dog or cat kept on private

property will be initiated, however, unless the animal is the subject of a complaint that is unrelated to its license status. Such unrelated complaints include but are not limited to a report of an animal bite, a barking dog, or an abused animal.

D. Whenever a dog is on public property or property open to the public, a peace officer, Animal Control Officer, or the Director of the Animal Shelter may at any time authorized by law initiate an investigation of a violation of the requirements that a dog be licensed and wear a dog license tag on its collar.

E. At the discretion of the court, the City of Berkeley is willing to accept as an alternative to the imposition of fines for infraction convictions for violations of this chapter, other than Berkeley Municipal Code Sections 10.04.145 and 10.04.160 through 10.04.180 (concerning dangerous/vicious dogs and interference with the impoundment of an animal), supervised community service at the direction of the Berkeley Animal Shelter Director in an amount of one hour of service for every \$7 in fines.

Section 3. Copies of this Ordinance shall be posted for two (2) 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 fifteen (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.

At a regular meeting of the Council of the City of Berkeley held on November 10, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.

At a regular meeting of the Council of the City of Berkeley held on November 17, 2009, this Ordinance was adopted by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.

\_\_\_\_\_  
Tom Bates, Mayor

ATTEST: \_\_\_\_\_  
Deanna Despain, CMC, City Clerk

Date signed: \_\_\_\_\_