[Amending Health Code Section 42.3 to authorize hearing officer to prohibit owner of a dog declared vicious and dangerous from owning dogs for three years.]

Ordinance amending San Francisco Health Code Section 42.3, to add the authority of a hearing officer to prohibit the owner of a vicious dog from owning dogs for a period of three years.

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

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

Section 1. The San Francisco Health Code is hereby amended by amending Section 42.3, to read as follows:

Sec. SEC. 42.3. SEIZURE OF DOG: HEARINGS.

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

(b) Immediate Seizure.

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

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

(c) (i) Prior to the seizure of any dog authorized by paragraph (a) and within three days of the seizure of any dog pursuant to paragraph (b) a hearing officer shall inform, in writing, the owner, guardian, or keeper of the dog that the person's dog is alleged to be vicious and dangerous and be subject to penalties under this ordinance. Unless the hearing is waived by the owner, guardian, or keeper of the dog, or the hearing is scheduled on an agreed-upon date not later than 30 days from date of incident, the hearing officer shall fix a time not less than 30 nor more than 60 days from date of the incident, and fix a place for said hearing and cause all parties to be notified, not less than 15 days before the date of such hearing. The hearing may be informal and the rules of evidence not strictly observed. It shall not be necessary, for the City, to prove that the owner, guardian, or keeper of the dog knew
that the dog was vicious and dangerous. Within 15 days following the hearing, the hearing
officer shall issue his or her decision to all parties.

(ii) Should the hearing officer find the dog to be vicious and dangerous, the
hearing officer shall order the dog be registered pursuant to Section 42.2, and that the dog be
spayed or neutered. The hearing officer may, in addition, order other remedies as may be
appropriate for the safety of the public, including, but no limited to, an order that the dog and the
owner, guardian, keeper and any person in control of the dog attend and complete a basic
obedience course under an approved and recognized obedience trainer or dog-training
organization. If the hearing officer finds that the owner, guardian, keeper, or other person in control
of the dog has not or cannot adequately control his or her dogs, the hearing officer may also prohibit
that person or persons from owning or possessing dogs for a period of three years from the date of the
order.

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

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

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

By: Margaret W. Baumgartner
Deputy City Attorney
Ordinance amending San Francisco Health Code Section 42.3, to add the authority of a hearing officer to prohibit the owner of a vicious dog from owning dogs for a period of three years.

January 4, 2005  Board of Supervisors — PASSED ON FIRST READING
Ayes: 9 - Alioto-Pier, Ammiano, Dufty, Elsbernd, Gonzalez, Ma, Maxwell, Peskin, Sandoval
Absent: 1 - McGoldrick
Excused: 1 - Daly

January 11, 2005  Board of Supervisors — FINALLY PASSED
Ayes: 10 - Alioto-Pier, Ammiano, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval
Absent: 1 - Daly
I hereby certify that the foregoing Ordinance was FINALLY PASSED on January 11, 2005 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

Mayor Gavin Newsom