

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 14-0442

Introduced by: Councilmembers Curran, Branch, Reisinger, President Young, Councilmembers Kraft, Scott, Holton Middleton, Welch

Introduced and read first time: September 22, 2014

Assigned to: Health Committee

Committee Report: Favorable with an amendment

Council action: Adopted

Read second time: December 4, 2014

AN ORDINANCE CONCERNING

1 **Animal Control and Protection – Impoundment Reform**

2 FOR the purpose of deleting provisions allowing for the appeal of certain animal control
3 decisions to the Circuit Court for Baltimore City by right; reducing the period in which an
4 animal’s owner must respond to the denial, suspension, or revocation of a license from 10 to
5 5 days; removing the requirement that a new owner of an animal whose previous owner has
6 had a license denied, suspended, or revoked live outside of the City; clarifying the
7 requirements for transferring an animal to a new owner when the previous owner’s permit for
8 the animal has been denied, suspended, or revoked; lengthening the period of time for which
9 an individual who has had an animal permit denied or revoked may not apply for another
10 animal permit; allowing for the temporary impoundment of an animal during certain
11 investigations; requiring the payment of certain animal care expenses when an individual
12 requests review of a decision regarding the animal; correcting, clarifying, and conforming
13 related provisions; and generally relating to animal control and protection.

14 BY repealing and reordaining, with amendments
15 Article - Health
16 Section(s) 2-301, 10-223, 10-224, 10-804, and 10-1008
17 Baltimore City Revised Code
18 (Edition 2000)

19 BY repealing
20 Article - Health
21 Section(s) 10-1009, 10-1010, 10-1011, and the designation of “Part III. Administrative and
22 Judicial Review”
23 Baltimore City Revised Code
24 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

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1 BY recaptioning
2 Article - Health
3 Title 10. Animal Control and Protection
4 Subtitle 10. Hearings and Judicial Review
5 to be
6 Title 10. Animal Control and Protection
7 Subtitle 10. Hearings
8 Baltimore City Code
9 (Edition 2000)

10 BY adding
11 Article - Health
12 New section(s) 10-1009 and 10-1010, to be under the new designation
13 “Part III. Costs of Care Pending Final Decision”
14 Baltimore City Revised Code
15 (Edition 2000)

16 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
17 Laws of Baltimore City read as follows:

18 **Baltimore City Revised Code**

19 **Article – Health**

20 **Title 2. Department of Health**

21 ***Subtitle 3. Administrative Hearings***

22 **§ 2-301. Scope of subtitle.**

23 (A) *IN GENERAL.*

24 Except as otherwise specified in this article, this subtitle applies whenever:

25 (1) a person is aggrieved by a notice, order, decision, or other action of the
26 Department; or

27 (2) the Department proposes to deny, revoke, suspend, or refuse to renew a license or
28 permit.

29 (B) *EXCLUSION FOR ANIMAL CONTROL AND PROTECTION.*

30 THIS SUBTITLE DOES NOT APPLY TO MATTERS THAT:

31 (1) RELATE TO THE HEALTH DEPARTMENT’S OFFICE OF ANIMAL CONTROL, OR

32 (2) OTHERWISE ARISE UNDER TITLE 10 {“ANIMAL CONTROL AND PROTECTION”} OF
33 THIS ARTICLE.

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Title 10. Animal Control and Protection

Subtitle 1. General Provisions

Part III. Denials, Suspensions, and Revocations

§ 10-223. Surrender or removal of animal on denial, etc.

(a) *IN GENERAL.*

A person whose license or permit for an animal is denied, suspended, or revoked must, within [10] 5 days of the denial, suspension, or revocation:

(1) surrender the animal to the Office; or

[(2) remove the animal from the City and provide the Office with an affidavit stating that the animal has been removed from the City, the name of the animals' new owner, and the new address where the animal is located.]

(2) ELECT TO TRANSFER THE ANIMAL TO A NEW OWNER AND PROVIDE THE OFFICE WITH THE TWO NOTARIZED AFFIDAVITS REQUIRED BY SUBSECTION (B) OF THIS SECTION.

(B) *AFFIDAVITS REQUIRED FOR TRANSFER OF ANIMAL TO NEW OWNER.*

IF THE CURRENT OWNER ELECTS TO PERMANENTLY TRANSFER THE ANIMAL TO A NEW OWNER, THEN:

(1) WITHIN 5 DAYS OF THE DENIAL, SUSPENSION, OR REVOCATION OF THE OWNER'S LICENSE OR PERMIT FOR THE ANIMAL, THE CURRENT OWNER MUST PROVIDE AN AFFIDAVIT TO THE OFFICE, ON THE FORM DESIGNATED BY OFFICE, THAT INCLUDES THE FOLLOWING:

(I) THE NAME, BREED, AGE, WEIGHT, AND PHYSICAL DESCRIPTION OF THE ANIMAL;

(II) THE NEW OWNER'S NAME, ADDRESS, PHONE NUMBER, AND EMAIL ADDRESS;

(III) THE ADDRESS WHERE THE ANIMAL WILL RESIDE;

(IV) AN ACKNOWLEDGMENT THAT, AFTER TRANSFERRING THE ANIMAL TO THE NEW OWNER, THE CURRENT OWNER WILL MAKE NO ATTEMPT TO REGAIN OWNERSHIP OR POSSESSION OF THE ANIMAL FOR THE REMAINDER OF THE ANIMAL'S LIFE;

(V) ANY OTHER INFORMATION THAT THE OFFICE REQUIRES; AND

(VI) THE CURRENT OWNER'S NOTARIZED SIGNATURE; AND

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1 (2) WITHIN THE SAME 5-DAY PERIOD, THE NEW OWNER MUST PROVIDE AN AFFIDAVIT
2 TO THE OFFICE, ON THE FORM DESIGNATED BY OFFICE, THAT INCLUDES THE
3 FOLLOWING:

4 (I) THE NAME, BREED, AGE, WEIGHT, AND PHYSICAL DESCRIPTION OF THE
5 ANIMAL;

6 (II) THE NEW OWNER’S NAME, ADDRESS, PHONE NUMBER, AND EMAIL ADDRESS;

7 (III) THE ADDRESS WHERE THE ANIMAL WILL RESIDE;

8 (IV) AN ACKNOWLEDGMENT THAT, AFTER THE TRANSFER OF THE ANIMAL TO
9 THE NEW OWNER, THE NEW OWNER ACCEPTS PERMANENT OWNERSHIP AND
10 POSSESSION OF THE ANIMAL;

11 (V) AN ACKNOWLEDGMENT THAT, AFTER THE TRANSFER OF THE ANIMAL TO
12 THE NEW OWNER, THE NEW OWNER WILL NOT TRANSFER THE ANIMAL BACK
13 TO THE CURRENT OWNER FOR THE REMAINDER OF THE ANIMAL’S LIFE;

14 (VI) AN ACKNOWLEDGMENT THAT THE NEW OWNER CONSENTS TO AN
15 INSPECTION OF THE ADDRESS WHERE THE ANIMAL WILL RESIDE PRIOR TO
16 THE TRANSFER OF THE ANIMAL;

17 (VII) ANY OTHER INFORMATION THAT THE OFFICE REQUIRES; AND

18 (VIII) THE NEW OWNER’S NOTARIZED SIGNATURE.

19 (C) *OFFICE TO VERIFY AFFIDAVITS AND SUITABILITY OF NEW OWNER.*

20 (1) BEFORE TRANSFERRING THE ANIMAL TO THE PROPOSED NEW OWNER, THE OFFICE
21 MUST:

22 (I) VERIFY THE INFORMATION PROVIDED IN THE AFFIDAVITS PROVIDED PURSUANT
23 TO SUBSECTION (B) OF THIS SECTION;

24 (II) VERIFY THAT THE PROPOSED NEW OWNER MEETS THE OFFICE’S STANDARDS
25 FOR ANIMAL ADOPTION; AND

26 (III) VERIFY THE SUITABILITY OF THE NEW ENVIRONMENT FOR THE ANIMAL.

27 (2) IF THE OFFICE, IN ITS SOLE DISCRETION, DETERMINES THAT ANY INFORMATION
28 CONTAINED IN THE NOTARIZED AFFIDAVITS IS FALSE, OR THAT ANOTHER OF THE
29 REQUIREMENTS OF SUBSECTION (C) (1) OF THIS SECTION CANNOT BE MET, THE OFFICE
30 MAY IMMEDIATELY CONFISCATE THE ANIMAL.

31 (D) *RECLAIMING ANIMAL TO BE TRANSFERRED.*

32 AFTER THE OFFICE’S VERIFICATION AND APPROVAL OF THE NOTARIZED AFFIDAVITS, THE
33 NEW OWNER MUST RECLAIM THE ANIMAL IN ACCORDANCE WITH § 10-805 {“ RECLAIMING

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1 ANIMAL”} OF THIS TITLE WITHIN 72 HOURS OF NOTICE OF THE APPROVAL FROM THE
2 OFFICE.

3 (E) *CONFISCATION FOR FAILURE TO COMPLY.*

4 FAILURE TO COMPLY WITH ANY OF THE REQUIREMENTS OF THIS SECTION MAY RESULT IN
5 THE IMMEDIATE CONFISCATION BY THE OFFICE OF THE ANIMAL FOR WHICH A LICENSE HAS
6 BEEN DENIED, SUSPENDED, OR REVOKED.

7 **§ 10-224. Reapplication after denial or revocation.**

8 Any person who is denied a license or permit under this title, or WHO has had a license or
9 permit revoked under this title, may not reapply FOR ANY LICENSE OR PERMIT UNDER THIS
10 TITLE for:

11 (1) [1 year] 3 YEARS; or

12 (2) if the person was convicted of cruelty to, or neglect of, animals, 5 years.

13 ***Subtitle 8. Impoundment***

14 **§ 10-804. Holding period; Hearing.**

15 (a) *In general.*

16 The impounded animal must be kept for at least 72 hours, unless sooner reclaimed by its
17 owner or custodian or otherwise required by law.

18 (b) *Dangerous or vicious animal.*

19 If the Office reasonably believes that the animal is a dangerous or vicious animal, the
20 Office must hold the animal pending a hearing under Subtitle 10 of this title.

21 (C) *INVESTIGATIONS.*

22 (1) IF THE OFFICE REASONABLY BELIEVES THAT THE RETURN OF AN ANIMAL PRIOR TO THE
23 DISPOSITION OF A CASE WOULD BE DETRIMENTAL TO THE ANIMAL’S HEALTH AND
24 WELFARE, THE OFFICE MAY HOLD AN IMPOUNDED ANIMAL FOR MORE THAN 72 HOURS
25 WHILE CONDUCTING AN INVESTIGATION OF:

26 (I) POSSIBLE VIOLATIONS OF FEDERAL, STATE, OR LOCAL LAWS OR REGULATIONS
27 GOVERNING THE PROPER CARE AND TREATMENT OF ANIMALS; OR

28 (II) A COMPLAINT UNDER §10-108 {“INSPECTIONS, INVESTIGATION OF
29 COMPLAINTS, AND IMPOUNDMENT”} OF THIS TITLE.

30 (2) IF THE NEEDS OF AN ANIMAL HELD UNDER THIS SECTION CANNOT BE PROVIDED FOR AT
31 THE OFFICE, OR THE OFFICE DETERMINES THAT IT WOULD BENEFIT THE ANIMAL’S
32 HEALTH OR WELFARE TO DO SO, THE ANIMAL MAY BE TEMPORARILY:

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- 1 (I) HELD AT A HUMANE ORGANIZATION;
- 2 (II) PLACED WITH A FOSTER CUSTODIAN; OR
- 3 (III) HOUSED AT ANOTHER APPROPRIATE LOCATION.

4 (3) WHENEVER AN ANIMAL IS BEING TEMPORARILY HELD AT A LOCATION OTHER THAN
5 THE OFFICE, AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE OFFICE MAY
6 KEEP THE LOCATION CONFIDENTIAL IF THE OFFICE REASONABLY BELIEVES THAT
7 DISCLOSURE OF THE LOCATION COULD RESULT IN HARM TO EITHER THE ANIMAL OR
8 THE TEMPORARY CUSTODIAN.

9 [(C)] (D) *Request for hearing.*

10 If the owner or custodian is aggrieved by the animal's impoundment, he or she may
11 request a hearing under Subtitle 10 of this title.

12 ***Subtitle 10. Hearings [and Judicial Review]***

13 [*Part III. Administrative and Judicial Review*]

14 **§ 10-1008. Appeal to Commissioner.**

15 (a) *Right to seek.*

16 (1) If a party is aggrieved by the decision of the Panel, the party may appeal the decision
17 to the Commissioner as provided in this section.

18 (2) Title 2, Subtitle 3 {"Administrative Hearings"} of this article does not apply to this
19 appeal.

20 (b) *Time and manner of request.*

21 The appeal must be in writing and submitted to the Commissioner within 10 days of the
22 Panel's decision.

23 (c) *Final decision.*

24 (1) The Commissioner may modify the Panel's decision within 10 days of the appeal, in
25 which case the decision of the Commissioner is [the] final [decision of the
26 Department].

27 (2) If the Commissioner does not modify the Panel's decision within 10 days of the
28 appeal, the decision of the Panel [becomes the] IS final [decision of the Department].

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PART III. COSTS OF CARE PENDING FINAL DECISION

§ 10-1009. OFFICE TO HOLD ANIMAL.

IF AN IMPOUNDED ANIMAL’S OWNER OR CUSTODIAN REQUESTS A HEARING BEFORE THE PANEL, OR APPEALS A DECISION OF THE PANEL, THE OFFICE MAY CONTINUE TO HOLD AND CARE FOR THE IMPOUNDED ANIMAL WHILE ITS CASE IS BEFORE THE PANEL, AND, IF THE PANEL’S DECISION IS APPEALED, WHILE THE COMMISSIONER IS CONSIDERING THE APPEAL.

§ 10-1010. EXPENSES OF HOLDING ANIMAL.

(A) *IN GENERAL.*

IF AN ANIMAL IS HELD UNDER § 10-1009 {“OFFICE TO HOLD ANIMAL”} OF THIS SUBTITLE WHILE A REQUESTED HEARING OR APPEAL IS PENDING, ALL COSTS FOR CARE OR OTHER EXPENSES OF THE ANIMAL INCURRED BY THE OFFICE FROM THE TIME OF IMPOUNDMENT THROUGH THE COMMISSIONER’S FINAL DECISION ARE A PERSONAL DEBT DUE TO THE CITY OR ITS AGENT BY THE OWNER OR CUSTODIAN OF THE ANIMAL.

(B) *OFFICE TO CALCULATE.*

THE OFFICE OR ITS AGENT MUST, WITHIN A REASONABLE TIME OF THE FINAL DECISION, CALCULATE THE COST, WHICH MAY INCLUDE:

- (1) FOOD, VETERINARY CARE, AND OTHER NECESSITIES THAT A RESPONSIBLE OWNER OR CUSTODIAN WOULD PROVIDE FOR THE ANIMAL; AND
- (2) OTHER COSTS, SUCH AS STAFFING AND ADMINISTRATIVE EXPENSES, AS ALLOWED BY RULE OR REGULATION OF THE COMMISSIONER.

(C) *TIME, METHOD OF PAYMENT.*

- (1) THE OWNER OR CUSTODIAN MUST PAY THE COSTS CALCULATED BY THE OFFICE WITHIN 72 HOURS OF RECEIVING NOTICE FROM THE OFFICE OR ITS AGENT OF THE AMOUNT.
- (2) THE PAYMENT MUST BE MADE IN CASH ~~OR BY BOND~~ OR OTHER METHOD ACCEPTABLE TO THE DIRECTOR OF FINANCE.

(D) *ADMINISTRATIVE REVERSAL.*

IF THE FINAL DECISION OF THE COMMISSIONER OVERTURNS THE IMPOUNDMENT, THE CITY MAY NOT CHARGE THE OWNER OR CUSTODIAN FOR ANY COSTS INCURRED UNDER THIS SECTION.

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1 **[§ 10-1009. Judicial and appellate review.**

2 (a) *Judicial review.*

3 A party aggrieved by a final decision under this title may seek judicial review of that
4 decision by petition to the Circuit Court for Baltimore City in accordance with the
5 Maryland Rules of Procedure.

6 (b) *Appellate review.*

7 A party to the judicial review may appeal the Circuit Court's final judgment to the Court
8 of Special Appeals in accordance with the Maryland Rules of Procedure.]

9 **[§ 10-1010. Holding animal pending appeals.**

10 (a) *Office to hold animal.*

11 The Office may continue to hold and care for an animal impounded under this title until
12 all appeals are completed.

13 (b) *Expenses of holding animal.*

14 All costs for care or other expenses of the animal incurred by the Office from the time of
15 the impoundment to that final decision of the Court are a personal debt due to the City or
16 its agent by the owner or custodian of the animal.]

17 **[§ 10-1011. Costs of care pending judicial review.**

18 (a) *Prepayment of estimated costs required.*

19 If an animal's owner or custodian petitions for judicial review of the final decision of the
20 Department, the animal's owner or custodian must prepay to the City or its agent the
21 estimated cost of caring for the animal for each 30-day period during the review,
22 beginning on the date of the petition for review.

23 (b) *Office to estimate.*

24 The Office or its agent must estimate the cost, which may include:

25 (1) food, veterinary care, and other necessities that a responsible owner or custodian
26 would provide for the animal; and

27 (2) other costs, such as staffing and administrative expenses, allowed by rule or
28 regulation of the Commissioner.

29 (c) *Time, method of payment.*

30 (1) The owner or custodian must prepay the estimated costs within 10 days of receiving
31 notice from the Office or its agent of the amount.

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1 (2) The prepayment must be made in cash or by bond or other method acceptable to the
2 Director of Finance.

3 (d) *Judicial reversal.*

4 If the final decision of the Court overturns the impoundment, the City must reimburse the
5 owner or custodian for all payments made by the owner or custodian for the care of the
6 animal during impoundment.]

7 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
8 are not law and may not be considered to have been enacted as a part of this or any prior
9 Ordinance.

10 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
11 after the date it is enacted.

Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,

this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City