



Legislation Text

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EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL

Introduced by: Councilman Curran

A BILL ENTITLED

AN ORDINANCE concerning
Animal Control and Protection - Vicious Animals and Fighting Dogs

FOR the purpose of prohibiting the keeping, training, selling, or breeding of fighting dogs; providing for the investigation and disposition of dogs believed to be attack dogs or fighting dogs; repealing an authorization for certain enforcement officers to kill suspected vicious animals found at large; consolidating existing provisions relating to vicious animals; adjusting the requirements for holding pregnant animals and animals under investigation; defining certain terms; setting certain penalties; clarifying and conforming related provisions; and generally relating to animal control and protection.

BY repealing and reordaining, with amendments
Article - Health
Section(s) 10-701, 10-702(g), 10-703, 10-801, 10-804, 10-805, and 10-1102(e)
Baltimore City Revised Code
(Edition 2000)

BY transferring, with amendments
Article - Health
Section(s) 10-704, and 10-706
to
Section 10-703
Baltimore City Revised Code
(Edition 2000)

BY repealing
Article - Health
Section(s) 10-705
Baltimore City Revised Code

(Edition 2000)

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

Baltimore City Revised Code

Article - Health

Title 10. Animal Control and Protection

Subtitle 7. Attack Dogs AND FIGHTING DOGS; Dangerous and Vicious Animals

§ 10701. Attack dogs AND FIGHTING DOGS.

(a) “Attack dog” defined.

In this section, “attack dog” means a dog that is trained to attack on command.

(B) “FIGHTING DOG” DEFINED.

IN THIS SECTION, “FIGHTING DOG” MEANS A DOG THAT HAS BEEN CONDITIONED OR TRAINED TO FIGHT OTHER DOGS AND EXHIBITS EXTREME AGGRESSION TOWARDS OTHER DOGS.

[(b)](C) Keeping or training prohibited.

No person may keep or train any attack dog OR FIGHTING DOG in the City.

(D) BREEDING, SELLING OR PROVIDING ATTACK OR FIGHTING DOGS PROHIBITED.

NO PERSON MAY BREED, SELL, OR OTHERWISE PROVIDE DOGS TO OTHERS FOR USE AS ATTACK OR FIGHTING DOGS IN THE CITY.

(E) DETERMINATION THAT ATTACK OR FIGHTING DOGS ARE BEING BRED, SOLD, OR PROVIDED

(1) WHEN AN INVESTIGATION BY THE OFFICE RESULTS IN A REASONABLE BELIEF THAT ONE OR MORE DOGS ARE BEING BRED, SOLD, OR OTHERWISE PROVIDED FOR USE AS ATTACK OR FIGHTING DOGS, THE OFFICE MAY IMPOUND THE DOG OR DOGS FOR EVALUATION IN ACCORDANCE WITH THIS SECTION.

(2) THE OFFICE MAY CONSIDER THE FOLLOWING IN DETERMINING WHETHER ATTACK OR FIGHTING DOGS ARE BEING BRED, SOLD, OR PROVIDED:

(I) THE CIRCUMSTANCES OF THE INCIDENT RESULTING IN A DOG’S IMPOUNDMENT;

(II) THE PRESENCE OF ANY UNALTERED DOGS, PREGNANT DOGS, OR PUPPIES AT A GIVEN LOCATION;

(III) ANY PRIOR HISTORY OF LITTERS OF PUPPIES PREVIOUSLY IMPOUNDED FROM THE LOCATION OR FROM THE SAME OWNER OR CUSTODIAN;

(IV) DOCUMENTS RELATING TO BREEDING, BLOODLINES, OR TRANSACTIONS;

(V) THE PHYSICAL CONDITION OF ANY DOGS AT A GIVEN LOCATION;

(VI) THE PRESENCE OF DOG BREEDING OR DOG FIGHTING PARAPHERNALIA AT THE PREMISES WHERE THE DOG WAS RETRIEVED OR RESIDES; AND

(VII) ANY OTHER INFORMATION THE COMMISSIONER DEEMS APPROPRIATE OR PERTINENT TO CONSIDER.

(F) DETERMINATION THAT A DOG IS AN ATTACK DOG OR FIGHTING DOG.

(1) WHEN AN INVESTIGATION BY THE OFFICE RESULTS IN A REASONABLE BELIEF THAT A DOG IS AN ATTACK DOG OR FIGHTING DOG, THE OFFICE MAY IMPOUND THE DOG FOR EVALUATION IN ACCORDANCE WITH THIS SECTION.

(2) THE OFFICE SHALL EVALUATE THE DOG TO DETERMINE WHETHER A DOG IS AN ATTACK DOG OR FIGHTING DOG. IN MAKING THIS DETERMINATION, THE OFFICE SHALL CONSIDER:

(I) THE CIRCUMSTANCES OF THE INCIDENT RESULTING IN THE DOG'S IMPOUNDMENT;

(II) THE NATURE AND SEVERITY OF ANY INJURIES TO HUMANS OR ANIMALS REPORTEDLY INFLICTED BY THE DOG;

(III) ANY PRIOR HISTORY OF THE DOG BITING OR CAUSING INJURY;

(IV) THE BEHAVIOR OF THE DOG TOWARDS HUMANS AND OTHER DOGS;

(V) THE DOG'S RESPONSE TO COMMANDS;

(VI) THE PHYSICAL CONDITION OF THE DOG INCLUDING SCARS OR WOUNDS CONSISTENT WITH THOSE FOUND ON FIGHTING DOGS;

(VII) THE PRESENCE OF DOGFIGHTING PARAPHERNALIA AT THE PREMISES WHERE THE DOG WAS RETRIEVED OR RESIDES;

(VIII) WHETHER THE ANIMAL CAN REASONABLY BE REHABILITATED AND SOCIALIZED AS A COMPANION ANIMAL; AND

(IX) ANY OTHER INFORMATION THE COMMISSIONER DEEMS APPROPRIATE OR PERTINENT TO CONSIDER.

(3) WHEN DEEMED NECESSARY BY THE OFFICE, AN ASSESSMENT BY AN ANIMAL BEHAVIORIST MAY ALSO BE CONSIDERED, BUT IS NOT REQUIRED.

(4) A DOG EVALUATED IN ACCORDANCE WITH THIS SECTION MAY BE HUMANELY

EUTHANIZED IF:

(I) IT IS DETERMINED BY THE OFFICE TO BE AN ATTACK DOG OR FIGHTING DOG,

(II) IT IS REASONABLY BELIEVED TO BE INCAPABLE OF REHABILITATION AND SOCIALIZATION AS A COMPANION ANIMAL, AND

(III) ITS CONTINUED SHELTERING IS EITHER:

(A) CAUSING UNDUE STRESS OR HARM TO THE ANIMAL, OR

(B) MAY RESULT IN HARM OR INJURY TO THE CARETAKER OF THE ANIMAL.

(5) A DOG EVALUATED IN ACCORDANCE WITH THIS SECTION THAT IS DETERMINED BY THE OFFICE TO BE AN ATTACK DOG OR FIGHTING DOG, BUT THAT IS REASONABLY BELIEVED BY THE OFFICE TO BE CAPABLE OF REHABILITATION AND SOCIALIZATION AS A COMPANION ANIMAL, MAY BE PERMANENTLY PLACED BY THE OFFICE WITH A RESCUE GROUP SPECIALIZING IN REHABILITATION OF SUCH ANIMALS IF THE RESCUE ORGANIZATION HAS THE IMMEDIATE CAPACITY TO ACCEPT THE ANIMAL.

(6) IF A DOG IS DETERMINED BY THE OFFICE TO BE AN ATTACK DOG OR FIGHTING DOG, THE OFFICE MUST NOTIFY THE OWNER OF THE DOG OF THE DETERMINATION IN WRITING.

(G) REQUEST FOR HEARING.

(1) IF AN OWNER OR CUSTODIAN IS AGGRIEVED BY THE OFFICE'S DETERMINATION THAT A DOG IS AN ATTACK DOG OR FIGHTING DOG, HE OR SHE MAY REQUEST A HEARING UNDER SUBTITLE 10 {"HEARINGS AND JUDICIAL REVIEW"} OF THIS TITLE.

(2) THE REQUEST FOR A HEARING SHALL NOT OPERATE AS A STAY ON THE OFFICE'S DISPOSITION OF THE ANIMAL UNDER §10701(F) {"DETERMINATION THAT A DOG IS AN ATTACK DOG OR FIGHTING DOG"} OF THIS TITLE.

[(c)] (H) Exception.

This section does not apply to a dog owned by and working for law enforcement or other governmental agency.

§ 10702. Dangerous animals.

(g) Exceptions.

This section does not apply to:

(1) an animal show or zoological park licensed under this title and regulated by a Maryland or federal agency;
[or]

(2) a laboratory where scientific research is carried out under regulation of a Maryland or federal agency; OR

(3) A DOG THAT HAS BEEN DETERMINED BY THE OFFICE UNDER §10701 {“ATTACK DOGS AND FIGHTING DOGS”} OF THIS SUBTITLE TO BE AN ATTACK DOG OR FIGHTING DOG.

§ 10703. Vicious animals [Definition].

[(a) In general.

In this subtitle, the following terms have the meanings indicated.]

[(b)] (A) “Vicious animal” DEFINED.

(1) In general.

“Vicious animal” means any animal that:

(i) has severely bitten or attacked a human being or another animal; or

(ii) has been previously deemed dangerous, and subsequently bitten or attacked a human being or other animal so that the Health Commissioner determines that the animal should be immediately euthanized to protect the health, safety, or welfare of the public.

(2) Exclusions [Instigation by other.

“Vicious animal” does not include an animal that has bitten or attacked if the injury, OR damage, was sustained by one who:

(i) at the time was committing a willful trespass or other tort on the premises occupied by the owner or custodian of the animal;

(ii) was tormenting, abusing, or assaulting the animal;

(iii) in the past has been observed or reported to have tormented, abused, or assaulted the animal; or

(iv) was committing or attempting to commit a crime.

(3) Exclusions [Protecting self or others or in pain.

“Vicious animal” does not include an animal that has bitten or attacked if the animal was:

(i) protecting or defending itself, its young, or another animal;

(ii) responding to pain or injury; or

(iii) protecting or defending a human being within the immediate vicinity of the animal from physical attack or assault.

[§ 10704. Vicious animals [Hearing.]

(B) VICIOUS ANIMALS HEARING.

The Animal Hearing Panel must determine if an animal is a vicious animal in accordance with the hearing procedures of Subtitle 10 of this title.

[§ 10705. Vicious animals At large.

If an animal enforcement officer, police officer, or humane officer finds an animal at large, and if the animal enforcement officer, police officer, or humane officer reasonably believes that the animal is a vicious animal and that the animal cannot be taken up or tranquilized and impounded, the animal enforcement officer, police officer, or humane officer may kill the animal.]

[§ 10706. Vicious animals Keeping prohibited.]

[(a) In general.] (C) VICIOUS ANIMALS KEEPING PROHIBITED.

No person may keep in the City any animal that the Animal Hearing Panel determines to be a vicious animal.

[(b) Exception] (D) EXCEPTIONS.

This [subtitle] SECTION does not apply to:

- (1) an animal owned by and working for a law enforcement or other governmental agency OR
- (2) A DOG THAT HAS BEEN DETERMINED BY THE OFFICE UNDER §10701 {“ATTACK DOGS AND FIGHTING DOGS”} OF THIS SUBTITLE TO BE AN ATTACK DOG OR FIGHTING DOG.

Subtitle 8. Impoundment

§ 10801. Authority to impound.

An animal enforcement officer, police officer, humane officer, or other person authorized and contracting with the City to do so may impound any animal:

- (1) found at large;
- (2) whose owner or custodian does not have the required license or permit for the animal;
- (3) that is found without a license tag required by this title;
- (4) that poses a threat to public health, safety, or welfare;
- (5) reasonably believed to be a dangerous or vicious animal;
- (6) REASONABLY BELIEVED TO BE AN ATTACK DOG OR FIGHTING DOG;

[(6)] (7) placed at risk by its health or environment;

[(7)] (8) that is abandoned;

[(8)] (9) that is prohibited in the City;

[(9)] (10) reasonably believed to be a public nuisance animal;

[(10)] (11) whose owner or custodian is in violation of this title; or

[(11)] (12) whose owner or custodian is in violation of any other animal control or protection law, rule, or regulation of this City or State.

§ 10804. Holding period; Hearing.

(a) In general.

EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, [The] THE impounded animal must be kept for at least 72 hours, unless sooner reclaimed by its owner or custodian or otherwise required by law.

(b) Dangerous or vicious animal.

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

(C) ATTACK DOG OR FIGHTING DOG.

IF THE OFFICE REASONABLY BELIEVES THAT THE ANIMAL IS AN ATTACK DOG OR FIGHTING DOG, THE OFFICE MUST EVALUATE THE ANIMAL AND MAY DISPOSE OF THE ANIMAL IN LESS THAN 72 HOURS IN ACCORDANCE WITH § 10701 {"ATTACK DOGS AND FIGHTING DOGS"} OF THIS TITLE.

(D) PREGNANT ANIMALS.

(I) THIS SUBSECTION APPLIES TO:

(A) UNLICENSED, PREGNANT CATS OR DOGS;

(B) PREGNANT CATS OR DOGS THAT ARE IMPOUNDED FROM AN UNLICENSED COMMERCIAL FACILITY, BREEDING FACILITY, OR ANIMAL FANCIER; AND

(C) ANY OFFSPRING BORN WHILE IN THE CARE AND CUSTODY OF THE OFFICE.

(II) IF AN ANIMAL COVERED BY THIS SUBSECTION (D)'S NEEDS CANNOT BE PROVIDED FOR BY THE OFFICE, OR THE OFFICE DETERMINES IT WOULD BENEFIT THE ANIMAL'S HEALTH OR WELL BEING, THE ANIMAL MAY BE IMMEDIATELY:

(A) PLACED WITH FOSTER CUSTODIANS, OR

(B) HOUSED AT ANOTHER LOCATION OUTSIDE THE CUSTODY OF THE OFFICE.

(III) IF A DETERMINATION IS MADE BY THE OFFICE UNDER SUBSECTION (D)(II) OF THIS SECTION THAT IT WOULD BENEFIT THE ANIMAL'S HEALTH OR WELL BEING, OR THAT THE ANIMAL

WOULD HAVE A BETTER CHANCE OF A POSITIVE OUTCOME, TO PLACE THE ANIMAL WITH A HUMANE ORGANIZATION OR SHELTER THAT ONLY ACCEPTS ANIMALS ON THE CONDITION THAT THEY ARE AVAILABLE FOR PERMANENT PLACEMENT, THE OFFICE MAY TRANSFER THE ANIMAL TO THE CARE AND CUSTODY OF SUCH AN ORGANIZATION AND GRANT IT THE RIGHT TO MAKE THE ANIMAL AVAILABLE FOR PERMANENT PLACEMENT.

(E) INVESTIGATIONS.

(I) THE OFFICE MAY HOLD AN ANIMAL FOR MORE THAN 72 HOURS, EVEN IF THE OWNER OR CUSTODIAN SEEKS TO RECLAIM IT UNDER § 10805 {"RECLAIMING ANIMAL"} OF THIS SUBTITLE, WHILE THE ANIMAL'S CASE IS UNDER INVESTIGATION IF THE OFFICE REASONABLY BELIEVES THAT THE RETURN OF THE ANIMAL PRIOR TO THE DISPOSITION OF ITS CASE WOULD BE DETRIMENTAL TO THE ANIMAL'S HEALTH OR WELL BEING.

(II) IF AN ANIMAL HELD UNDER THIS SUBSECTION (E)'S NEEDS CANNOT BE PROVIDED FOR BY THE OFFICE, OR THE OFFICE DETERMINES IT WOULD BENEFIT THE ANIMAL'S HEALTH OR WELL BEING, THE ANIMAL MAY BE:

(A) HELD AT A PARTNER HUMANE ORGANIZATION,

(B) PLACED WITH FOSTER CUSTODIANS, OR

(C) HOUSED AT ANOTHER LOCATION OUTSIDE THE CUSTODY OF THE OFFICE.

(IV) WHEN AN ANIMAL IS BEING HELD AT A LOCATION OTHER THAN THE OFFICE UNDER THIS SUBSECTION, THE OFFICE MAY HOLD CONFIDENTIAL THE LOCATION OF THE ANIMAL IF THE OFFICE REASONABLY BELIEVES THAT DISCLOSURE OF THE LOCATION COULD RESULT IN HARM TO EITHER THE ANIMAL OR THE TEMPORARY CUSTODIAN.

[(c)] (F) Request for hearing.

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

§ 10805. Reclaiming animal.

(a) Right to reclaim.

SUBJECT TO THE LIMITATIONS IN § 10804 {"HOLDING PERIOD; HEARING"} OF THIS TITLE, the owner or custodian OF AN ANIMAL IMPOUNDED UNDER THIS SUBTITLE has the right to reclaim the animal within 72 hours of the impoundment.

(b) Requisites for reclaiming.

If the owner or custodian seeks to reclaim the animal, the Office may require the owner or custodian to:

(1) provide proof of legal title to or custodianship of the animal or provide an affidavit of legal title or custodianship;

(2) demonstrate that the animal has the required license or permit;

- (3) pay any fees or expenses required by the Office for the care, feeding, housing, and veterinary care of the animal during the impoundment;
- (4) allow the Office to microchip the animal at the owner's or custodian's expense; and
- (5) allow the Office to alter the animal at the owner's or custodian's expense.

Subtitle 11. Penalties

§ 101102. Criminal penalties.

- (e) Attack dogs, FIGHTING DOGS, and vicious dogs: \$1,000 and 6 months.

For a violation of § 10701 {"Attack dogs AND FIGHTING DOGS"} or [§ 10706 {"Vicious animals - Keeping prohibited"}] § 10703 {"VICIOUS ANIMALS"} of this title, the penalty is a fine of not more than \$1,000 or imprisonment for not more than 6 months or both fine and imprisonment for each offense.

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

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

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