

**BALTIMORE CITY HEALTH DEPARTMENT
VICIOUS DOG HEARING BOARD**

Public Comment:

The Baltimore City Health Commissioner accepted public comments on the proposed Vicious Dog Hearing Board Procedure Regulations during the period of November 7, 2008 to December 8, 2008. One response was received, which supported the creation of such a board.

HEARING PROCEDURE REGULATIONS

I. AUTHORITY

Baltimore City Revised Code, Article-Health, Section 10-707.

II. DEFINITIONS

A. **Aggrieved Party** – The subject dog owner or keeper.

B. **Alleged Victim** – A human being alleged or alleging to have been bitten or attacked by the subject dog, or the owner of an animal that is alleged to have been bitten or attacked by the subject dog.

C. **Board** – The Vicious Dog Hearing Board.

D. **Hearing Record** – All objects, documents, electronic media, attendance records and recorded testimony admitted into evidence at the hearing and the attendance roll taken at the hearing.

E. **Interested Party** – A person personally or specially affected by the outcome. More than the general public.

F. **Party** – The Bureau of Animal Control, aggrieved party, alleged victim, complainant, and any other interested party.

G. **Person** – A human being (his next friend, if a minor; or estate, if now deceased), a firm, association, company, partnership, corporation, or other legal entity.

III. NOTICE OF HEARING

A. A hearing shall be instituted upon the filing of a written investigation report by the Bureau of Animal Control.

- B. A hearing shall be scheduled by the Board within a reasonable time after a request for a hearing is received. Every effort should be made to hold the hearing within ten (10) working days of receipt of the investigation report by the Chairperson of the Board and notice to the owner of the subject dog.
- C. The Board shall notify the Aggrieved Party and Alleged Victim by:
 - 1. certified mail, return receipt requested and regular mail; or
 - 2. personal delivery to the home address; or
 - 3. posting on the property, if the notice is returned unclaimed or refused or is designated undeliverable by the post office.
- D. The Board shall notify the complainant(s) and other parties by regular mail.
- E. The notice shall contain the date, time, place, purpose and nature of the hearing.
- F. If a Party is going to be represented by an attorney, the Party shall notify the Bureau of Animal Control prior to the hearing.

IV. HEARING OBJECTIVES

The objectives of the hearing are:

- A. To conduct a public hearing on the question of whether the subject dog is a vicious dog or dangerous dog, as defined in the Baltimore City Revised Code, Article-Health, Title 10 (and as it may be amended from time to time.).
- B. To make written findings of fact, conclusions of law, and a decision/order.
- C. If a subject dog is deemed to be a vicious dog:
 - 1. the Board:
 - a. shall direct the Commissioner to immediately euthanize the dog; and
 - b. may require the Aggrieved Party to pay all costs of impoundment; and
 - c. may refer the matter to the State's Attorney for prosecution.

2. the Board shall issue a decision/order consistent with 1.a. through c., above.

D. If a subject dog is deemed to be a dangerous dog:

1. the Board:
 - a. shall require the Aggrieved Party to take whatever corrective actions the Board finds necessary or appropriate; and
 - b. may require the Aggrieved Party to pay all costs of impoundment.
2. the Board shall issue a decision/order consistent with 1.a. through b., above.

E. If a subject dog is deemed not to be a vicious dog or a dangerous dog, to issue a decision/order dismissing the case.

V. CORRECTIVE ACTIONS FOR DANGEROUS DOGS

Unless otherwise ordered by the Board, every dangerous dog must be:

- A. maintained in a building or secure enclosure on the premises of its owner or keeper; and
- B. whenever outside of the building or enclosure:
 1. securely caged; or
 2. muzzled and leashed.
- C. neutered or spayed at the owner's expense, unless medically contraindicated.
- D. permanently identified by injecting an identification microchip at the Bureau of Animal Control, using standard veterinary procedures and practices.

Unless otherwise ordered by the Board, every owner must agree to comply with the following:

- A. The owner(s) shall indemnify, defend and hold harmless the Mayor and City Council of Baltimore, the Baltimore Animal Rescue and Care Shelter, Inc., their officials, employees, agents, volunteers and contractors from any and all claims, demands, suits, and actions, including attorneys' fees and court costs, connected therewith, brought against the Mayor and City Council of Baltimore, the

Baltimore Animal Rescue and Care Shelter, Inc., their officials, employees, agents, volunteers, and contractors arising as a result of any activities caused by the direct or indirect, willful, or negligent act or omission of the owner(s) concerning the dog or arising from the activities of the dog.

B. The owner(s) shall immediately notify the Bureau of Animal Control of any allegation or incident of an attack or bite by the dog against a human or animal or the dog being loose and unconfined. If any future attack or bite by the dog against a human or animal occurs (as determined solely by an investigation of the Bureau of Animal Control), the owner(s) shall immediately release the dog to the Bureau of Animal Control for impoundment.

C. Upon reasonable notice to the owner(s), the Bureau of Animal Control or an agent of the City shall have the right to conduct an inspection(s) of the premises, including the interior of the house, to ensure that the owner(s) are complying with the corrective actions.

D. Owner(s) shall immediately notify the Bureau of Animal Control in writing if the dog dies. Prior to the dog being assigned a new owner or the dog residing at a different location than the premises, the owner(s) shall notify the Bureau of Animal Control. Further, the owner(s) shall notify the Bureau of Animal Control of the new address and telephone number prior to the owner(s) changing addresses (i.e. residences). If dog has a new owner, the owner(s) shall provide the Bureau of Animal Control with the name, address, and telephone number of the new owner. As a condition of a license for the dog being granted to a new owner in Baltimore City, the new owner shall be required to consent to the corrective actions of the Board.

Any or all of the following actions, though not exclusive, also may be considered by the Board as corrective action for a dog the Board deems dangerous:

A. Indoors, when not alone, the dog shall be under the control of a person eighteen (18) years or older who is physically and mentally able to control the dog.

B. Exterior doors of the house shall be modified so a door automatically closes after a person proceeds through it.

C. When outdoors, the dog must be attended and kept within a locked fenced area from which it cannot escape.

D. When outdoors, the dog must be attended and kept on a leash no longer than four (4) feet and under the control of a person eighteen (18) years of age or older who is physically and mentally able to control the dog.

E. When outdoors, the dog must be attended and muzzled. Such muzzle shall not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

F. Outdoors and unattended, the dog must be confined to an escape-proof enclosure of the following description:

1. See "Acceptable Standards For Proper Animal Care for Enforcement of Anti-Cruelty Laws" promulgated by the Health Commissioner.
2. Any gates within such enclosure shall be lockable and of such design as to prevent the entry of children or the escape of the dog; and when the dog is confined to such enclosure and unattended such locks shall be kept locked.
3. The enclosure may be required to have double exterior walls to prevent the insertion of fingers, hand or other objects.

G. The dog shall remain on the premises at all times unless the dog needs veterinary care, treatment, examination, grooming, or training.

H. The owner shall place a sign or signs of a description and in places directed by the Bureau of Animal Control, advising the public of the presence and tendencies of said dog.

I. The owner and his/her dog shall attend training sessions conducted by a animal behaviorist, board certified veterinary behaviorist or other recognized expert in the field and completion of training or any other treatment as deemed appropriate by such expert. The owners of the dog shall be responsible for all costs associated with the evaluation and training ordered under this section. The owner shall provide acceptable proof to the Bureau of Animal Control that the dog and its owner attended and completed all training sessions.

J. The owner shall procure liability insurance or a bond in an amount to be determined by the Board, but in no case in an amount of less than fifty thousand dollars (\$50,000.00), covering the medical and or veterinary costs resulting from future actions of the dog (a determination of liability shall be made in accordance with the laws of the State of Maryland). The Mayor and City Council of Baltimore, its elected/appointed officials, employees, and agents shall be covered, by endorsement, as an additional insured as respects to liability arising out of any activities of the dog. The owner(s) of the dog shall furnish to the City a "Certificate of Insurance", with a copy of the additional insured endorsement as verification that coverage is in force. The City reserves the right to require a complete copy of the insurance policy or bond at any time.

VI. HEARING GENERALLY

A. The Hearing shall be conducted by three (3) Board members.

- B. Hearing shall be open to the public unless at least two (2) Board members vote to conduct a closed hearing or to seal portions of the hearing record for any reason that public court hearing, trial or other proceeding may be closed or sealed.
- C. The Board may determine, by majority vote, who shall be deemed an interested party.
- D. The Board shall make an audiotape recording of the hearing and compile and label the hearing record. Said tape shall be considered the official tape of the hearing. Unless permitted by majority Board vote, no additional audio, video or other recording shall be made of the hearing.
- E. At any time during the proceedings, but prior to the issuance of a final decision/order, any presiding Board member may inspect any relevant premises. All parties present at the hearing shall have reasonable notice of the inspection, and shall be given the opportunity to be present, and/or to have their attorney present during the inspection.

VII. BOARD MEMBER'S RESPONSIBILITIES

- A. To conduct the hearing in an orderly manner.
- B. To obtain from all parties all relevant evidence.
- C. To provide all parties with the opportunity to present their case in an orderly manner, to call witnesses in their behalf, to cross-examine all other witnesses and to establish any pertinent fact.
- D. To admit all relevant testimony, objects and documents, and compile the hearing record. Any party may examine an object or document prior to its introduction into evidence.
- E. To make findings of fact, conclusions of law, and render a decision/order based upon the hearing record and any inspection.

VIII. ORDER OF HEARING

- A. The Chairperson of the Board, or his/her designated Board member, shall begin the hearing with a statement concerning the purpose of the hearing and the procedure that it will follow.
- B. The Chairperson shall give all persons (and their attorneys) present at the hearing the opportunity to register their full name and address on a sign-in sheet, regardless of whether the person wishes to testify or be considered a party.

- C. A party may represent himself at a hearing or may designate his attorney to represent him.
- D. A party may make an opening statement.
- E. Any Board member may question any witness at any time, and may call any individual as a witness.
- F. A party may testify on his own behalf, and is subject to cross-examination by other parties.
- G. A party may make a closing statement.
- H. Opening statements and closing arguments are not evidence.
- I. Notwithstanding the procedures herein, the Board may, in its discretion, decide the order in which testimony and evidence shall be presented.
- J. In the discretion of the majority vote of the Board, the hearing may be postponed or continued.

IX. RULES OF EVIDENCE

- A. The Board may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.
- B. Formal rules of evidence and formal trial procedures shall not apply to the hearing, except as provided in these procedures.
- C. The Board shall give effect to the rules of privilege recognized by law. The Board may exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence.
- D. The Board may take administrative notice of facts of a general, technical or scientific nature.
- E. Documentary evidence may be admitted in the form of photo imagery, electronic media, copies or excerpts, or by incorporation by reference.

X. DECISIONS AND ORDERS

- A. The Board shall make written findings of fact, conclusions of law, and a decision/order within thirty (30) calendar days of the termination of the hearing.

B. The Board shall hand deliver or mail a copy of the written findings of fact, conclusions of law, and decision/order to all parties.

XI. APPEALS

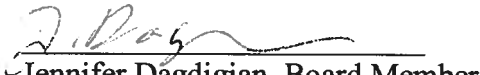
A. A party may appeal the Board's decision/order to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

B. The filing of an appeal does not automatically stay a decision/order of the Board.

The above Hearing Procedure Regulations are hereby adopted by the Vicious Dog Hearing Board:


Ronald Savage, Board Member

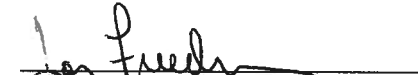
2/04/09
Date


Jennifer Dagdigian, Board Member

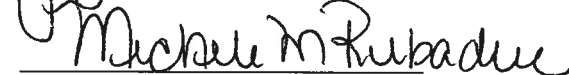
2/4/09
Date


Paul DeSantis, Board Member (Alternate)

2/4/09
Date


Joy Freedman, Board Member

2/04/09
Date


Michelle Rubadue, Board Member

2/25/09
Date

Date Adopted: February 4, 2009
Date Effective: February 4, 2009