



## ANIMAL ADVISORY COMMISSION RECOMMENDATION 20210208-3-B

Date: February 10, 2021

Subject: Recommendation

Motioned By: Jo Anne Norton

Seconded By: Craig Nazor

### **Recommendation**

*The Animal Advisory Commission, with support of Animal Services Office (ASO) leadership, recommends revised language to correct an apparently unintended substantive change to Section 3-4-7, "Vicious Dog", that gave only one option for a dog deemed vicious, I.e., that the dog can no longer reside within City limits, and to remove language pertaining to bites to people that ASO prosecutes under the "Dangerous Dog Statute". (See attachment)*

### **Description of Recommendation to Council**

*This recommendation gives the family of a dog deemed vicious the option to keep their dog, as it was in Austin from 1908 until the codification error in 2002. Owners of dogs deemed vicious will also have the option to appeal the decision to Municipal Court, the same as dogs deemed "dangerous" under the Dangerous Dog Statute. Language discrepancies within Section 3-4-7 have been rectified.*

### **Rationale:**

*Correcting the error allows families to keep their pets while improving public safety by having restrictions in place to mitigate a similar situation. Adding an appeal process complies with due process requirements and case law.*

### **Vote**

For: 9

Against: 0

Abstain: 0

Absent: 2 with one vacancy

Attest:

AAC Chair

**3-4-7 VICIOUS DOG.**

(A) An owner or handler shall take reasonable measures to protect the public from accidental contact with a dog that, by nature or by training, is dangerous to ~~people or~~ other animals.

(B) ~~[ An owner or handler may not keep or permit a dog to be in the city if the dog has]~~  
For purposes of this section, a vicious dog is a dog that, while running at large, has:

~~[(1) on at least three separate occasions bitten or scratched a person in the city;~~

~~(2) on at least one occasion bitten or scratched a person to an extent that the attending physician has presented an affidavit to the health authority stating that the person's life may have been endangered by the dog; or~~

~~(3) on at least one occasion:]~~

~~[(a) (1) killed a another dog, cat, or other domestic pet, fowl, or livestock,~~  
provided, however, that when the incident occurred, the killed animal was not in violation of a provision of this title relating to the confinement or physical control of animals in the City; or

~~[(b) (2) seriously injured another animal to an extent that an attending veterinarian has presented an affidavit to the health authority stating that the injured animal's life was seriously endangered or taken by the dog, or that the dog caused a significant permanent impairment of the injured animal's basic bodily functions or mobility; provided, however, that when the incident occurred, the injured animal was not in violation of a provision of this title relating to the confinement or physical control of animals in the City.~~

(C) If the Health Authority determines that a dog is a vicious dog as defined in subsection (B), the Health Authority shall notify the owner of that fact.

(D) An owner, not later than the 15<sup>th</sup> day after the date the owner is notified that a dog owned by the owner is a vicious dog, may appeal the determination of the Health Authority to municipal court. An owner may appeal the decision of municipal court in the same manner as appeal for other cases from municipal court.

(E) The owner of a vicious dog shall comply with the following conditions:

(1) restrain the dog at all times on a leash in the immediate control of a person or in an enclosure that prevents the escape or release of the dog;

(2) before taking the dog to a boarding facility, notify the facility that the dog has been determined by the Health Authority to be a vicious dog;

Proposed revision to Section 3-4-7

(3) not later than the 30th day after a person has been provided notice that the dog has been determined by the Health Authority to be a vicious dog:

(a) submit proof to the Health Authority of the dog's current rabies vaccination;  
and

(b) implant a microchip in the dog with the owner's current information.

(F) The Health Authority may enforce a violation of Subsection (E) by issuance of a citation.