

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

1995 Legislative Session

Bill No. _____ CB-28-1995

Chapter No.

Proposed and Presented by Chairwoman MacKinnon (by request - County Executive)

Introduced by

Co-Sponsors

Date of Introduction

BILL

AN ACT concerning

Animal Control

For the purpose of abolishing the Commission for Animal Control, providing for the enforcement of provisions relating to animal control, providing for certain appeals, and generally relating to animal control.

BY repealing:

SUBTITLE 3. ANIMALS.

Sections 3-107, 3-108, 3-109, 3-110, 3-111, and 3-112,
The Prince George's County Code
(1991 Edition, 1994 Supplement).

BY repealing and reenacting with amendments:

SUBTITLE 3. ANIMALS.

Sections 3-101, 3-103, 3-104, 3-106, 3-115, 3-117,
3-118, 3-119, 3-120, 3-121, 3-123, 3-125, 3-127,
3-132, 3-133, 3-135, 3-136, 3-137, 3-140, 3-141,
3-144, 3-148.03, 3-176, 3-180, and 3-185,
The Prince George's County Code
(1991 Edition, 1994 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 3-107 through 3-112, inclusive, of the Prince George's County Code,

comprising all of Division 3, "Commission for Animal Control", be and the same are hereby repealed:

SUBTITLE 3. ANIMALS.

DIVISION 3. [COMMISSION FOR ANIMAL CONTROL] RESERVED.

[Sections 3-107 through 3-112, inclusive.] Reserved.

SECTION 2. BE IT FURTHER ENACTED that Sections 3-101, 3-103, 3-104, 3-106, 3-115, 3-117, 3-118, 3-119, 3-120, 3-121, 3-123, 3-125, 3-127, 3-132, 3-133, 3-135, 3-136, 3-137, 3-140, 3-141, 3-144, 3-148.03, 3-176, 3-180, and 3-185 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 3. ANIMAL CONTROL.

DIVISION 1. DEFINITIONS.

Sec. 3-101. Definitions.

(a) As used in and for the purposes of this Subtitle, the following words and phrases shall have the meanings assigned to them herein:

* * * * *

(5) [**Commission for Animal Control** or **Commission** shall mean the Commission for Animal Control established pursuant to this Subtitle.] Reserved.

* * * * *

(35) **Public nuisance animal** shall mean any animal which unreasonably (1) annoys humans, (2) endangers the life or health of other animals or persons, or (3) gives offense to human senses; or which substantially interferes with the rights of the citizens, other than its owner, to enjoyment of life or property. The term "public nuisance animal" shall mean and include, but is not limited to, any animal which:

* * * * *

(J) Has been found by the [Commission for Animal Control] Administrator after notice to its owner and a hearing, to be a public nuisance animal by virtue of being a menace to the public health, welfare, or safety.

* * * * *

Sec. 3-103. Administrator of Animal Control; duties and responsibilities.

(a) The Administrator of Animal Control shall have operational responsibility for carrying out the duties prescribed in this Subtitle and for enforcing the provisions of this Subtitle. The Administrator shall be the Chief Animal Control [Warden] Officer and Supervisor of the Animal Control Facility.

Sec. 3-104. Personnel of Animal Control Program; duties.

* * * * *

(b) Animal Control [Wardens] Officers are authorized and empowered as follows:

* * * * *

(3) To administer emergency assistance or first aid to injured animals which come into the custody of the County, without the consent of the owner or owners of such animals. For this purpose, neither the individual Animal Control [Warden] Officer administering such emergency assistance or first aid, or Prince George's County, Maryland, or any of its employees or agents shall be liable for acts committed or omitted in the course of rendering such emergency assistance or first aid;

* * * * *

Sec. 3-106. Fees for boarding and care of animals; security.

* * * * *

(e) (1) A person claiming an interest in any animal confined pursuant to Sections 3-122, 3-123, 3-131 through 3-138, 3-140, 3-141, 3-175, 3-176, 3-180 through 3-182, or Division 7 of this Subtitle may prevent disposition of the animal after the required holding period, pending a [Commission for Animal Control] hearing before the Administrator of designee of the Administrator, by posting a bond, cash or corporate surety, with the Administrator prior to the expiration of the required holding period in an amount sufficient to secure payment for all reasonable expenses incurred in caring and providing for the animal, including estimated medical care, for at least thirty (30) days; {provided,} however, that such bond, cash or corporate surety, shall not prevent the Administrator from disposing of such animal at the end of the thirty (30) day period covered by the bond, cash or corporate surety, unless the person claiming an interest posts an additional bond, cash or corporate surety, with the Administrator to secure payment of reasonable expenses for an additional thirty (30) days,

and does so prior to the expiration of the first 30-day period. Additional thirty (30) day extensions may be granted provided additional bond, cash or corporate surety, is posted prior to the extension of the previous posting. The amount of the bond shall be determined by the Administrator based on the current rate for board and on the condition of the animal after examination of the animal by a licensed veterinarian. At the conclusion of the case, the bond shall be forfeited to the County, except that the person claiming interest shall be entitled to a refund of the amount remaining after settlement of any reasonable expenses, fees, including veterinary fees, and fines.

(2) Whenever it is claimed that the true intent and meaning of this Code have been misconstrued or wrongly interpreted, the owner may appeal from the decision of the Administrator to the Board of Administrative Appeals for Prince George's County, Maryland. Notice of such appeal shall be in writing and filed within thirty (30) days after the decision is rendered by the Administrator.

(3) A person seeking judicial review of an order or action of the [Commission for Animal Control] Board of Appeals, pursuant to Title 7 of the Maryland Rules, shall post a bond, cash or corporate surety, in the amount of \$500.00 with the court to cover all charges for the care, feeding, housing, and veterinary fees.

* * * * *

Sec. 3-115. Violation notices.

(a) Whenever in this Subtitle any act or condition is prohibited or is made or declared to be unlawful or an offense, or whenever in this Subtitle the doing of any act or the maintenance of any condition is required or the failure to do any act or the maintenance of any condition is declared to be unlawful, the violation of any such provision of this Subtitle may be evidenced and notice thereof may be given by the issuance by an Animal Control [Warden] Officer or a police officer of a uniform notice of violation or uniform citation, on a form to be designated and approved by the County Executive. A police officer or a duly authorized Animal Control [Warden] Officer witnessing a violation shall be authorized to issue such uniform notice of violation or uniform citation.

(b) the notice of violation shall contain and specify:

(1) The violation with which such person is charged, with reference to the Section of this Subtitle which applies to the violation;

(2) The [addresses] address of the [offices] office of the [Commission and of the Administrator]; and

(3) A notice that the person charged may [apply to the Commission for a hearing to consider the charges] notify the Administrator of an election to stand trial or may pay the civil penalty assessed;

(4) A place in which a person may endorse the notice by signing his name and stating his address, indicating his receipt thereof and [willingness to appear before the Commission] election to stand trial if the violation is contested.

* * * * *

(d) [The person serving notice shall make proof of his service to the Commission promptly and, in any event, within the time during which the person served must request a hearing before the Commission. Failure to make proof of service to the Commission, however, shall not affect the validity of the violation notice or citation.

(e) The person served with a violation notice or uniform citation may, in lieu of [requesting a hearing before the Commission] electing to stand trial, pay to Prince George's County, Maryland, through the Administrator, the amount of the civil penalty stated upon the face of the uniform violation notice or uniform citation, which amount shall be as set forth in Section 3-116, below.

[(f) Notwithstanding the provisions of Subsection (e), above, the Commission, in its discretion, may review any violation notice or citation filed, and treat the same as any written complaint of a violation of this Subtitle. If the Commission determines that there is reason to believe that action other than or in addition to a civil penalty is required, it may give notice of a public hearing to investigate the matter and require the attendance of the person charged at such hearing upon due notice to appear before the Commission at the hearing.]

Sec. 3-117. Elections available to person receiving citation.

(a) A person receiving an Animal Control violation notice or citation must elect one of the following:

(1) To pay the fine provided for in the citation to the Administrator within ten (10) days of receipt of the violation notice or citation; or

(2) To submit an election to stand trial to the Administrator [Within] within ten (10) days of receipt of the citation [, submit a written request for a hearing and for dismissal of the citation by the Commission; and to pay the fine should the Commission fail to dismiss the citation].

(3) The failure of the person charged to [note a timely appeal to the Commission] elect to stand trial or to pay the amount of the civil penalty within the time [for appeal] specified shall constitute an admission of liability for the amount of the civil penalty.

Sec. 3-118. Duty of charging officer.

(a) Each officer or Animal Control [Warden] Officer who issues a violation notice or citation to an alleged violator shall:

(1) Promptly file the original copy with the Administrator; and

(2) Appear for the hearing of such citation should it proceed to hearing.

Sec. 3-119. Duty of the Administrator upon receiving violation notice.

(a) Upon receiving the original copy of a violation notice or citation issued to a person alleged to have violated this Subtitle, the Administrator shall:

(1) [Promptly give notice of receipt of the violation notice or citation to the Commission; and

(2)] Maintain a record of the violation notice or citation; and

[(3) Notify the Commission of payment of the fine if the fine is received within the period for appeal to the Commission; and

(4)] (2) Notify the [Commission] District Court of an election to [appeal to the Commission. Upon receipt of notification of an appeal, the Commission shall schedule and give notice of a hearing] stand trial.

Sec. 3-120. Recovery of Civil Penalties.

All civil penalties assessed by police officers or Animal Control [Wardens] Officers, [or imposed by the Commission] pursuant to this Subtitle, shall be due and payable immediately, unless the person charged shall note a timely appeal [to the Commission or a court of proper

jurisdiction]. In the event that any penalty [ordered to be paid by the Commission or] forfeited by failure to [appeal or to attend a hearing] stand trial is not paid within thirty (30) days of the violation notice [or the Commission's order, whichever is later], the [Commission] Administrator shall refer the matter to the Office of Law. The Office of Law shall institute appropriate civil proceedings to recover the amount of the penalty. All penalties recovered pursuant to this Subtitle in a civil proceeding brought by the Office of Law shall be paid to and become the property of Prince George's County, Maryland.

Subdivision 2. Impoundment and Disposition of Animals.

Sec. 3-121. Notice of violation.

In addition to or in lieu of impounding an animal found at large, an Animal Control [warden] Officer or police officer or other duly appointed law enforcement officer may issue to a known owner of such animal a notice of violation as provided for in Section 3-115 herein.

Sec. 3-123. Impounding by private persons.

Any person may take up any animal found running at large within the County and deliver it to an Animal Control [Warden] Officer or other authorized person for impounding, or he may deliver the animal to the Animal Control Facility.

Sec. 3-125. Interference with impounding of animals.

No person shall willfully prevent or obstruct the impounding of any animal in violation of any of the provisions of this Subtitle by an Animal Control [Warden] Officer or police officer, nor shall any person take or attempt to take any animal out of the Animal Control Facility without the consent of the Administrator, nor shall any person knowingly impound or attempt to impound any animal not legally liable to impoundment. Any violation of this Section is a misdemeanor punishable pursuant to Section 1-123 of this Code.

Sec. 3-127. Injured animals; prompt euthanasia.

When a seriously injured, diseased or suffering animal is taken into custody by an [animal control warden] Animal Control Officer, and the owner cannot be promptly identified or contacted, a veterinarian shall be consulted and the animal may be taken to a veterinarian for an examination. The cost of any veterinary examination or consultation shall be an obligation of the owner of the animal. If, after consultation with the veterinarian, the

Administrator determines that the animal should be destroyed for humane reasons or to protect the public from imminent danger to persons or property, the Administrator may promptly authorize euthanasia or other humane destruction of the animal without regard to any time limitations established in this division. For the purpose of this section, neither the Administrator, nor his designee, nor Prince George's County, Maryland, nor any of its employees or agents shall be liable for acts committed or omitted with regard to a veterinarian consultation and/or euthanizing an animal.

Sec. 3-132. Public nuisance conditions and animals; procedures; appeals.

(a) No owner or custodian of an animal or operator of any animal holding facility shall fail to abate a nuisance caused by any animal owned by him or under his control nor shall any person fail to abate a public nuisance condition found to exist upon the premises owned or controlled by him, after having been notified by an Animal Control [Warden] Officer [or other law enforcement officer, in accordance with Section 3-115 herein, or after having been ordered to abate the nuisance by the Commission as provided herein]. Any person failing to abate such a nuisance after the [Commission] Administrator has ordered him to do so shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not in excess of One Thousand Dollars (\$1,000.00) and by imprisonment for not in excess of ninety (90) days, or both. In addition, the [Commission] Administrator, after due notice and a public hearing as required by this Subtitle, may impose civil penalties as prescribed in Section 3-115 herein.

(b) Any animal having been declared to be a public nuisance animal shall, [when required by the Commission and] upon demand by the Administrator, be delivered by his owner to the custody of the County. No owner of a public nuisance animal shall refuse to surrender such animal to the County. A public nuisance animal which has been impounded by the County may be redeemed by the owner only upon those conditions established by the [Commission] Administrator for that particular animal. In addition to any special conditions imposed by the [Commission] Administrator, the owner of a public nuisance animal shall comply with the provisions of Section 3-128 herein.

(c) Any animal found to be unredeemable shall be disposed of in accordance with Section 3-127 herein. No animal may be destroyed or otherwise disposed of pending the

outcome of any appeal from an order of the [Commission] Administrator pursuant to Section 3-111. The Administrator shall retain custody of the animal pending the appeal, and the expense of the care, feeding, and any necessary veterinary care for the animal shall be charged to and be the obligation of the owner of the animal, and shall be collected pursuant to the provisions of Section 3-106 herein.

(d) As an alternative, if any person shall fail to abate a public nuisance animal or public nuisance condition after the [Commission] Administrator has ordered him to do so, the Administrator [or the Commission] may refer the matter to the Office of Law for appropriate legal action. The Office of Law, without limitation, and in addition to and not in lieu of any other available remedies, may seek ex parte, temporary and permanent injunctive relief and other relief in a court of competent jurisdiction to abate any nuisance or to correct any condition whereby the actions of an animal, or the actions or inactions of its owner or custodian, cause or threaten any substantial and immediate danger to any person or property or to the public health and safety.

Sec. 3-133. Sanitary conditions for animal husbandry.

(a) All persons keeping or raising fowl or animals within the County, whether for commercial purposes or otherwise, shall keep the same at all times in a clean and sanitary condition and free from obnoxious odors.

(b) The premises upon which are kept any fowl or animals, including but not limited to rodents, cattle, horses, sheep, swine or goats, shall be subject to inspection by Animal Control [Wardens] Officers. Such premises shall be subject to regulations with respect to the maintenance of sanitary conditions, care and feeding of animals and their young, provision of veterinary care, and other matters as may be promulgated by the Director, pursuant to recommendations from the [Commission] Administrator.

Sec. 3-135. Animals at large prohibited.

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(e) Any Animal Control [Warden] Officer, police officer or other agent authorized or empowered to perform any duty under this Subtitle may pursue any animal at large or running at large and may go upon any premises for impounding the animal at large or running at large.

If the animal returns to the premises of its owner, the Animal Control [Warden] Officer or officer may pursue the animal upon the unenclosed exterior premises of the owner. If the owner or custodian takes the animal within the enclosed interior portion of his premises, the [animal] Animal Control [Warden] Officer or police officer shall direct the owner or custodian to surrender the animal for impoundment. No person, after having been directed by an Animal Control [Warden] Officer or law enforcement officer to surrender an animal for impoundment, shall fail to surrender the animal immediately. Failure to surrender an animal for impoundment upon demand by an Animal Control [Warden] Officer or law enforcement officer is a misdemeanor and upon conviction thereof, the violator may be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment not to exceed thirty (30) days in the County Detention Center, or both. In addition to the criminal penalty hereby imposed, the [Commission] Administrator may impose civil penalties pursuant to Section 3-110 and Section 3-116 herein.

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Sec. 3-136. Vicious animals.

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(b) It shall be the duty of the Police Department and of the Administrator to receive and investigate complaints concerning vicious animals. Whenever an animal complained against shall be reasonably deemed by a police officer or the Administrator to be a vicious animal, the officer or Administrator [shall report the fact to the Commission in the form of a written complaint and] shall be authorized and empowered to impound the animal pending a hearing if he reasonably believes that the owner of the animal is not capable of restraining the animal from attacking, biting or injuring any human being or other animal pending a full hearing on whether the animal is vicious.

(c) Whenever an animal has been impounded pursuant to this Section, the owner shall be notified within forty-eight (48) hours of the impoundment of a right to a [preliminary] hearing. [The preliminary hearing shall be scheduled within seventy-two (72) hours of a written request by the owner. This hearing may be conducted by a hearing officer designated by the Commission and shall be for the sole purpose of determining whether the owner of the

animal is capable of restraining the animal from attacking, biting or injuring any human being or other animal until it can be determined at a full hearing conducted by the Animal Control Commission whether the animal is vicious.]

(d) [If it is determined that the animal may be returned to the custody of the owner, the Commission may impose such requirements of conditions as are deemed necessary to restrain the animal and the owner shall be required to pay the costs and maintenance expenses incurred during the time that the animal was impounded.

(e) If the Commission determines that continuing impoundment is necessary, the owner, shall be responsible for all costs and maintenance expenses incurred.

(f) Any person who alleges that an animal is vicious may file a verified complaint with the [Animal Control Commission] Administrator that states in clear language why the animal is vicious. This verified complaint shall identify where the animal is located and describe the animal which is the subject of the complaint. The Administrator shall investigate the complaint and may impound the animal in accordance with Subsections (b) [through (d)] and (c) of this Section.

[(g)] (e) [he Commission] A Hearing Officer, appointed by the Director, shall conduct a public hearing upon the question of whether the animal is a vicious animal [in accordance with the provisions of Section 3- 110 of this Subtitle].

[(h)] (f) If the [Commission] Hearing Officer, upon the evidence [before it] presented, finds that the animal complained of is in fact a vicious animal, as defined in Subsection (a), and Section 3-101(a)(41), the [Commission] Director may direct the owner or custodian of the vicious animal to confine the animal and to abate its danger to the public in accordance with Section 3-137 herein, or require the owner or custodian of the vicious animal to surrender the animal to the County and authorize the Administrator to destroy the animal.

[(i)] (g) The Administrator shall maintain a record of all known vicious animals in Prince George's County.

[(j)] (h) If any animal shall be found at large or running at large by an Animal Control Officer or police officer and, in the judgment of the Animal Control Officer or police officer, such animal is dangerous, fierce, or vicious and cannot be taken up or tranquilized and

impounded, such animal may be slain by the Animal Control Officer or police officer.

Sec. 3-137. Vicious animals; restrictions.

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(i) The owner of a vicious animal shall comply with any other requirements or conditions imposed by the [Commission] Administrator.

Sec. 3-140. Strays and unwanted animals.

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(b) Any stray animal found by any individual shall forthwith be delivered to the Animal Control Facility or to an Animal Control [Warden] Officer.

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Sec. 3-141. Theft of animals.

(a) No person except an Animal Control [Warden] Officer or law enforcement officer acting in the course of his duties shall intentionally entice, take or carry away any dog, cat or other pet or animal without the owner's consent.

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Sec. 3-144. Disposal of animal carcasses.

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(c) In addition to other assigned duties, Animal Control [Wardens] Officers shall collect all dead animals found on County-owned property or highways and the Administrator shall dispose of such carcasses.

Sec. 3-148.03. Same: Penalties; denial; revocation.

* * * * *

(f) [The decision to deny or revoke an animal hobby permit may be appealed to the Commission for Animal Control within 10 days of the date of the letter of denial or revocation. Any such appeal shall be governed by Sections 3-110 and 3-111 of this Subtitle.

(g) Any animals found to be maintained in violation of the standards set forth herein may be subject to impoundment by the County.

Sec. 3-176. Keeping wild or exotic animals.

* * * * *

(e) [The Director shall not issue a permit for the keeping or displaying of any exotic or wild animal except upon the approval and under the conditions established by the Commission.

(f)] The license fee for a wild and exotic animal display license shall be Two Hundred Dollars (\$200.00).

Sec. 3-180. Cruelty.

(a) Whenever it becomes necessary in order to protect any animal from neglect or cruelty, any police officer or Animal Control [Warden] Officer may take possession of it. If an animal is impounded, yarded, or confined and continues without necessary food, water, or proper attention, or is cruelly treated or neglected, any police officer or Animal Control [Warden] Officer may enter into and upon any place in which the animal is impounded, yarded, or confined and supply it with necessary food, water, and attention so long as it there remains, or, if necessary for the health of the animal, may remove the animal and not be liable to any action for that entry or for taking possession of the animal. In all cases the owner or custodian of the animal shall be notified of that action and any administrative remedies which may be available by the person taking possession of the animal. The owner or custodian may file within ten (10) days a petition in writing with the [Commission] Administrator for the return of the animal. If the owner or custodian is notified and fails to file the petition within the time prescribed, or if the owner or custodian is unknown and cannot with reasonable effort be ascertained for a period of twenty (20) days, the animal shall be held to be a stray and be dealt with as such; provided, however, that nothing in this Section shall be construed as permitting the entry into a private dwelling or as permitting the taking of a farm animal without first having obtained the recommendation of a licensed veterinarian.

* * * * *

(c) Any police officer shall upon his own view of any misdemeanor in relation to cruelty to animals make arrests or apply for a charging document permitting the arrest of offenders believed to have violated the ordinances of this County in relation to cruelty to animals. Any Animal Control [Warden] Officer shall upon his or her own view of any

misdemeanor in relation to cruelty to animals apply for a charging document permitting the arrest of offenders believed to have violated the ordinances of this County in relation to cruelty to animals.

Sec. 3-185. Pigeons as a nuisance.

Where a complaint is filed with the [Commission] Administrator [and the Commission] who finds that a private or public nuisance exists with respect to the keeping of pigeons, the [Commission] Administrator may [direct or authorize the Administrator or any party of interest to the complaint to] take appropriate actions consistent with State law. Similarly, the Health Officer may, upon a finding that a pigeon or pigeons are causing a public health hazard, direct or cause appropriate corrective action to be taken to abate such hazard consistent with State law.

SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty- five (45) calendar days after it becomes law and the provisions of Sections 1 and 2 of this Act shall be effective July 1, 1995.

Adopted this ____ day of _____, 1995.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY:

Anne T. MacKinnon
Chairwoman

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____

BY:

Wayne K. Curry
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.