

ARTICLE II. ANIMAL CONTROL AUTHORITY

Section 2. Animal Control Authority – Creation; duties, powers.

(a) There is an Animal Control Authority for the County. The Authority shall be vested with and shall possess all of the powers and duties specified in this Ordinance and all powers necessary to properly carry out fully the provisions of this Ordinance. The jurisdiction and powers created under this Ordinance shall extend to any and all Persons owning, leasing, harboring, sheltering, or controlling any animal within the County, whether resident or nonresident.

(b) The Authority shall meet as necessary to conduct hearings, as set forth in Section 6 of this Ordinance.

(c) The Authority may adopt a set of rules to govern its own hearings and procedures, and shall make them readily available to the public.

(d) The Authority shall submit an annual report to the Board and the Agency concerning the performance of its responsibilities hereunder.

Section 3. Animal Control Authority – Composition; term of office.

(a) The Authority shall consist of five (5) members appointed by the Board. All but one of the members must be residents of Washington County.

(b) The Board shall make reasonable efforts to provide the following representation on the Authority, but lack of such representation does not invalidate or in any way compromise the validity of the Authority: one member who is a Veterinarian or veterinary technician; one member of the agricultural community; one member of the legal profession; one sworn officer from the Sheriff's Department; and one member from the general public. The Authority may also have two (2) or more alternate members.

(c) The members of the Authority shall be appointed by the Board for staggered terms of up to three (3) years or to fill the unexpired term of a member who has vacated a position before the end of his or her term. No member shall serve more than two (2) consecutive terms unless otherwise approved by the Board.

(d) The members of the Authority shall elect a chair that shall serve for a term of one (1) year or until the expiration of his or her own term as a regular member of the Authority, whichever period is shorter.

- (e) The Department shall provide the Authority with a recording secretary.

Section 4. Animal Control Authority – Duties of chair.

(a) The chair may call special hearings at any time. Each member shall be notified of such special hearing and shall be given the opportunity to attend. Any meeting may be canceled upon consent of a simple majority of all members.

(b) The chair shall appoint from the membership a vice-chair to serve in his or her absence.

(c) The chair or, in his or her absence, the vice-chair, shall preside at all hearings of the Authority.

Section 5. Animal Control Authority – Quorum.

The presence of three (3) Authority members shall constitute a quorum. Any decision, resolution, or finding shall be construed as the act of the Authority if passed by a majority of those members constituting the quorum.

Section 6. Animal Control Authority – hearings; procedures; and orders

- (a) The Authority may conduct a hearing when:

(1) A Citation is filed with the Authority by an Animal Control Officer, alleging that a Person has violated or permitted an animal to violate the provisions of this Ordinance;

(2) A Complaint is filed with the Authority by an Individual other than an Animal Control Officer, alleging that a Person has violated or permitted an animal to violate the provisions of this Ordinance;

(3) A Citation is filed with the Authority by an Animal Control Officer or a Complaint is filed with the Authority by an Individual, alleging that a Person has failed to comply with an outstanding order of the Authority;

(4) An Owner timely appeals an impoundment pursuant to the provisions of this Ordinance; or

(5) It is necessary for the Authority to resolve any other controversy over which it has responsibility under this Ordinance.

(b) The Authority shall hear and decide cases referred by the Agency concerning the enforcement of this Ordinance, including the abatement of a nuisance caused by one or more Public Nuisance Animals.

(c) The Authority shall conduct a hearing when a person has been served with a Complaint or when a Person who has been served with a Citation charging a violation of the provisions of this Ordinance files a written request for a hearing before the Authority within fifteen (15) business days after receipt of a Citation. Instructions for requesting a hearing before the Authority shall be printed on all form Citations.

(d) The Authority shall not have the power to hear or decide any cases that involve matters arising strictly under any applicable zoning ordinance.

(e) The Authority shall give notice in writing by regular mail to the complainant and the Person charged with or appealing a Citation or Complaint of the time and place of the hearing, providing all parties with a minimum of ten (10) days notice of the hearing. The Authority shall also send notice by personal delivery or by certified mail, return receipt requested, to the Person charged. If the notice sent by regular mail is not returned and if the personal delivery or certified mail receipt indicates that the Person charged is at the address given, it shall be presumed that the Person has received notice of the hearing.

(f) Any hearing held pursuant to this Ordinance shall be conducted in public. Strict rules of evidence shall not apply. The Authority may hear any evidence that is relevant and probative of the matters set forth in the Citation or Complaint, but shall not be required to hear irrelevant or merely cumulative evidence. Hearsay evidence is admissible if credible and of sufficient probative force to be considered, in the judgment of the Authority.

(g) The charging Animal Control Officer, the complainant, and the Person charged by the Citation or Complaint may appear in person or, if not an Individual, by agent or by attorney. Failure of the complainant to appear shall result in the dismissal of the case by the Authority, unless a postponement is granted by the Authority for good cause shown. Upon request by the Person charged by the Citation or Complaint, the Agency shall disclose all documents in its file relating to the Citation or Complaint and provide a copy of same to the Person within five (5) business days of the request (except that the identity of a complainant who has been assured confidentiality may be redacted). Strict rules of evidence shall not apply to a hearing before the Authority, and hearsay testimony may be accepted if the Authority deems it to be sufficiently credible and probative. The Agency may present its case without the presence of the charging

Animal Control Officer if the charging Animal Control Officer has left the employ of the Agency or is unavailable due to serious illness or injury.

(h) If, after notice is given, the Person charged in a Citation by an Animal Control Officer or in a Complaint filed by an Individual other than an Animal Control Officer:

(1) does not appear, nevertheless, the Authority may hear and determine the matter; or

(2) does not request a hearing, the Authority may deem that the matter has been heard and may impose a civil penalty.

(i) The Authority is authorized and empowered to issue subpoenas upon forms approved by it compelling the attendance of witnesses to testify and to produce evidence at hearings of the Authority. . A subpoena may be issued by the recording secretary or designee with the consent of the chair. Service of a subpoena may be effected by personal delivery or by registered or certified mail. Proof of service shall be filed with the Authority. Upon the failure of an Individual subpoenaed to appear, the Authority may apply to the Circuit Court for an order compelling compliance with the subpoena. Failure to comply with the court's order shall constitute contempt of court and shall be punishable in accordance with Maryland law.

(j) The Authority may administer oaths at hearings held under this section. All hearings shall be recorded.

(k) At the close of all the evidence, the Authority shall deliberate and shall issue written findings of fact, conclusions, and an appropriate order by regular mail to all relevant parties within thirty (30) days after completion of the hearing. If the Authority fails to find that a violation was committed by clear and convincing evidence, it shall dismiss the Citation or Complaint. If the Authority finds that a violation has been committed, or that an Animal is a Public Nuisance Animal, or that a public nuisance condition exists as provided in Section 32, it may impose civil penalties pursuant to Section 45. In lieu of or in addition to imposing civil penalties, it may require appropriate affirmative action, including but not limited to the following:

(1) The mandatory restriction or confinement of the Animal, under such conditions as may be appropriate.

(2) The mandatory destruction or other disposition of the animal if the evidence shows that such action is necessitated by the need for the protection of public health and safety, pursuant to Section 43.

(3) The correction of conditions or methods of animal care, keeping, maintenance, housing or veterinary treatment as the Authority may require in its discretion.

(4) Suspension or revocation of the Kennel license, if any.

(l) The Agency may request the Authority to convene immediately for the purpose of investigating situations of acute emergency. In such case, good faith efforts shall be made to serve notice of this expedited hearing upon the Person charged. The Authority may make such findings and orders as are appropriate to deal with the emergency situation. Such an order shall have effect for a period not to exceed fifteen (15) days, and the Authority shall schedule and hold a hearing in the ordinary course to consider further action as necessary.

(m) The determination of the Authority is a final decision for the purpose of judicial review of an administrative decision.

(n) The Authority shall accept oral or written testimony from an agent of the Cooperative Extension Service on the issue of what are customary and normal animal husbandry practices without the formal requirement of qualification as to expertise.

Section 7. Animal Control Authority – Appeals from Authority orders.

(a) Any party, including the Agency, aggrieved by a final order of the Authority in a contested case, whether such a decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order. Such appeal shall be governed by the provisions of the Maryland Rules pertaining to judicial review of administrative decisions. See Maryland Rules, Section 7-201, *et seq.*

(b) Judicial review of disputed issues of fact shall be confined to the record of the hearing before the Authority. No cases appealed under this Ordinance shall be heard *de novo*.

(c) If the testimony has been recorded but not transcribed before the filing of the petition for judicial review, the first petitioner, unless otherwise ordered by the court, shall pay the expense of transcription in advance, which may be taxed as costs and may be apportioned by the court as provided in Maryland Rule 7-203. The Authority may require the first petitioner to pay for the cost of transcription in advance. The party preparing the transcript shall prepare a certification of costs and the Authority shall include the certification in the record.

Section 8. Animal Control Authority – Compensation; expenses.

The members of the Authority shall be reimbursed for such actual expenses as may be incurred by them and for special costs as may be approved by the Board, subject to budget limitations. The members of the Authority may, but need not be, compensated by the Board.

Section 9. Animal Control Authority – Removal from office.

The Authority may recommend to the Board by majority vote that any member be removed for inefficiency, neglect of duty, or malfeasance. The Board shall consider such recommendation and may take whatever action is deemed proper in its discretion.

ARTICLE III. LICENSING

Section 10. Licenses generally

All Dogs, Kennels and Pet Shops shall be licensed.

Section 11. Licenses generally – Rules and regulations.

The Board may promulgate rules and regulations for the issuance of Dog, Kennel and Pet Shop licenses as deemed desirable for public health and welfare and for the protection of animals. Such rules and regulations may include requirements for humane care of all animals and for compliance with the provisions of this Ordinance and other applicable laws.

Section 12. Licenses generally – Refusal to issue license.

Any license provided for in this Article shall be refused where the applicant is or would be in violation of this Ordinance, land use, or other state or local laws.

Section 13. Licenses generally – Fraudulent use of license or tag.

It shall be unlawful for any Person to use any Dog license, Kennel license, Pet Shop license, or license tag issued to another Person.