

Excerpts from:

Montgomery County Code
Chapter 5.
(as amended by Bill 28-98, passed by Council April 27, 1999)

ANIMAL CONTROL.
ARTICLE I. GENERAL PROVISIONS

5-203. Public Nuisance and Other Violations.

(a) *Violation.* An owner must not:

- (1) Allow a dog or unaltered cat to be at large.
- (2) Allow an animal to damage or defecate on property outside the owner's property. An animal may defecate on public property or the common area of property in which the owner shares an interest if the owner immediately removes and disposes of the feces by a sanitary method approved by the Division. This paragraph does not affect any right of a common ownership community to regulate or ban animals from the community's property.
- (3) Allow an animal to enter private property without the property owner's permission. The property owner may capture the trespassing animal humanely and promptly notify animal control or other appropriate law enforcement authorities, or humanely transport the animal to an animal control shelter.
- (4) Allow a female dog or cat in heat to be outside a building or other secure enclosure that prevents attraction of other animals.
- (5) Allow an animal to cause an unsanitary, dangerous, or offensive condition because of the size or number of animals in a single location or because a facility is not appropriate for the animal or properly maintained.
- (9) Refuse or fail to obtain a license for a dog, cat, or ferret as required by State law or this Chapter.
- (10) Allow an animal to act in any other way that the Director, the Board or an animal control officer finds would cause any other public nuisance established by regulation. An action prohibited by the regulation is a violation even if the action does not qualify as a public nuisance because the owner has not received notice described in subsection (b)(1).

(b) *Public nuisance.* An owner must not allow an animal to create a public nuisance by:

(1) behavior described in subsections (a)(1), (2), (3), (4), (6), (8), (9), or (10) occurring after the owner received notice from the County in any form (such as an oral warning from a Division employee) of a violation because of the same behavior; or

(2) any behavior described in subsections (a)(5) or (7).

(c) *At large.* An animal is at large if it is outside the premises of its owner and not leashed or otherwise restrained to prevent unwanted contact with a person or another animal. For purposes of this Chapter or any other animal control law, the common area of a homeowners' association, condominium, or cooperative is not the owner's premises. A dog participating in a qualified activity is not at large unless the dog leaves the activity.

ARTICLE III. ENFORCEMENT, PENALTIES, AND APPEALS.

5-301. General provisions.

(a) *Who may enforce.* The Director, an animal control officer, the Board, and any other person authorized by regulation issued under method (2) may enforce an animal control law. In this Article, an "animal control law" includes a State animal control law, this Chapter, and, for noise from an animal source, Chapter 31B.

(b) *Forms of enforcement.* The Director or an animal control officer may enforce an animal control law by issuing a citation or other lawful order. To exercise its authority, the Board must issue a written order that explains the factual and legal basis for the order.

(c) *Types of enforcement.*

(1) Except as provided in paragraph (2), the Director or an animal control officer may, to enforce an animal control law or protect the health or safety of an animal, a person, or the public:

(A) seize, impound, and dispose of an animal; or

(B) take any other action necessary (or order an owner to take any other action necessary) to enforce the law. The Board may order the Director or an animal control officer to take an action described in this paragraph.

(2) The Director or an animal control officer must not destroy an animal under paragraph (1) unless:

(A) the Board has ordered the destruction of the animal; or

(B) destruction of the animal is necessary to prevent an immediate threat to public health or safety.

(3) A citation or order may require an owner to act or refrain from acting to prevent or

stop a violation of an animal control law.

(d) *Warrants.* An animal control officer may enforce an animal control law by searching private property and seizing evidence or animals, under State law or a warrant issued by a court.

(e) *Interference with enforcement.* A person must not interfere or attempt to interfere with any County officer, employee, or agent enforcing an animal control law.

(f) *Failure to follow or appeal an order.* An owner who, without justification, does not follow or appeal a legal order issued under this Chapter has abandoned and forfeited to the County any animal that is the subject of the order.

(g) *Concealing ownership.* A person must not conceal or falsely deny ownership of an animal to any person authorized to enforce an animal control law.

5-302. Special Enforcement Provisions Regarding Specific Offenses.

(a) *Dangerous or potentially dangerous animals.*

(1) An animal control officer immediately may seize, impound, and humanely euthanize, at the owner's expense, an animal that the Director, an animal control officer, or the Board finds is dangerous or potentially dangerous and poses an immediate threat to public health or safety. If an owner requests a hearing within 5 days after the County notifies the owner of any action under this paragraph, the Board must hold a hearing after the fact on the action and may order the County to pay reasonable compensation if the action was not justified.

(2) If the animal poses no immediate threat, the owner may, within 5 days after the County notifies the owner about the violation, appeal the violation or action to the Board; and request a hearing . The County must not dispose of the animal during the 5-day period for filing an appeal, or while an appeal is pending.

(b) *Public nuisance and other violations.* An animal control officer may enforce Section 5-203 if the officer observes a violation or receives a complaint under oath from at least one witness to a violation. The Board, the Director, or an animal control officer may order any action necessary to abate a public nuisance or any other violation of Section 5-203.

5-303. Impoundment.

(a) *Generally.* The Director, an animal control officer, or the Board may enforce an animal control law or protect the health or safety of a person, an animal, or the public by impounding (or for the Board, ordering the Director to impound) an animal at an animal control shelter or other

facility approved by the Director.

(b) *Notice of impoundment.* The Director promptly must make a reasonable effort to locate and notify the owner of an impounded animal. The notice must inform the owner of applicable requirements

5-305. Penalties.

(a) *General penalty.* Unless otherwise provided in this Chapter or State law, a violation of this Chapter is a Class B violation. For any penalty under this Chapter, each day the violation continues, and each paragraph of Section 5-203(a), is a separate violation. A person convicted of violating a State animal control or anti-cruelty law is not subject to civil penalties for violating County law based on the same prohibited acts or omissions.

(b) *Violation of an order of the Board.* A violation of an order issued by the Board is a Class A civil violation. Each day the violation continues is a separate violation.

(c) *Penalties.* A violation of:

(1) Section 5-201 is a Class A civil violation for which the penalty must not exceed the maximum penalty allowed by State law for the equivalent offense under State law;

(2) Section 5-202 is a Class A violation

(3) any paragraph of Section 5-203(a) that is not also a violation of Section 5-203(b) is a Class B violation (\$100); and

(4) Section 5-203(b) is a Class A violation. (\$500)