COUNTY COUNCIL

OF

TALBOT COUNTY, MARYLAND

2019 Legislative Session, Legislative Day No. : February 26, 2019

Bill No.: 1408

Expiration Date: May 2, 2019

Introduced by: Mr. Lesher, Mr. Pack, Ms. Price

A BILL TO AMEND CHAPTER 15 (ANIMALS), ARTICLE 1 (ANIMAL CONTROL) OF THE TALBOT COUNTY CODE TO CREATE A LICENSURE REQUIREMENT FOR BOARDING, BREEDING, TRAINING, ANIMAL RESCUE AND PET SALE FACILITIES, TO REQUIRE THAT SUITABLE SHELTERS BE PROVIDED TO DOMESTICATED ANIMALS IN TIMES OF EXTREME WEATHER CONDITIONS, AND TO REGULATE THE TETHERING OF DOGS AND CATS

By the Council: February 26, 2019

Introduced, read first time, ordered posted, and public hearing scheduled on Tuesday, March 26, 2019 at 6:30 p.m. at the Bradley Meeting Room, South Wing, Talbot County Courthouse 11 N. Washington Street, Easton, Maryland 21601.

By Order Susan W. Moran
Susan W. Moran, Secretary

A BILL TO AMEND CHAPTER 15 (ANIMALS), ARTICLE 1 (ANIMAL CONTROL) OF THE TALBOT COUNTY CODE TO CREATE A LICENSURE REQUIREMENT FOR BOARDING, BREEDING, TRAINING, ANIMAL RESCUE AND PET SALE FACILITIES, TO REQUIRE THAT SUITABLE SHELTERS BE PROVIDED TO DOMESTICATED ANIMALS IN TIMES OF EXTREME WEATHER CONDITIONS, AND TO REGULATE THE TETHERING OF DOGS AND CATS

WHEREAS, the Talbot County Animal Control Board has recommended changes to Chapter 15 (Animals), Article 1 (Animal Control) of the Talbot County Code to provide additional protections for animals within Talbot County, as detailed below; and

WHEREAS, the County Council believes that such recommendations are appropriate.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND, that:

SECTION ONE: The above recitals are incorporated as if fully set forth herein;

SECTION TWO: Upon introduction of this Bill, a public hearing will be scheduled and advertised in a newspaper of general circulation in the County advising the public of the date, time, place and purpose of the public hearing for receipt and consideration of public comment;

SECTION THREE: BE IT ENACTED by the Talbot County Council, that Chapter 15, Article 1 of the Talbot County Code is hereby amended as set forth below:

KEY

Boldface.....Heading or defined term

Underlining.....Added to law by Bill

~~Strikethrough~~.....Deleted from law by Bill

* * * ..... Existing law unaffected

ARTICLE I
Animal Control

§ 15-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings defined in this section:

. . .

ANIMAL RESCUE FACILITY - An organization or person(s) who regularly maintains ten (10) or more animals at one time for the purpose of rehabilitation and/or re-homing.

. . .

BOARDING FACILITY - A Facility with capacity to house ten (10) or more dogs and/or cats in exchange for payment.

BREEDING FACILITY - A Facility operated by persons who own or house six (6) or more unaltered female dogs or cats over the age of six (6) months with the intent to breed and produce at least three (3) litters of puppies or kittens each calendar year for sale.

. . .

DIRECTOR - The Executive Director of the Animal Control Authority.

EXTREME WEATHER CONDITIONS - Temperatures below 32 degrees Fahrenheit or above 85 degrees Fahrenheit, or during an active weather warning issued by the National Weather Service or Talbot County Department of Emergency Services.

. . .

PET SALE FACILITY - A pet store which sells animals for profit including, but not limited to, dogs and cats.

. . .

RECORDS - Any evidence accounting an act or occurrence in the past, in written or electronic form.

. . .

SUITABLE SHELTER - A heated or properly ventilated shed, garage, or outbuilding that has a floor, a roof, and four walls, one of which shall contain a doorway. The following shall not be considered proper shelter: (1) a crawl space which is under a building or part of a building, (2) the space under or inside of a vehicle, (3) any structure made from pressure treated wood which contains the chemicals arsenic or chromium, (4) a floor consisting of wire or chain link, or (5) any structure made from cardboard or other materials that are easily degraded by the elements. However, for rabbits only, a shelter may have a wire floor with its openings no larger than ½ inch by 1 inch. Additionally, at the discretion of the Animal Control Authority, a doghouse fitting the requirements of a properly insulated doghouse or a heated doghouse, may be considered a suitable shelter depending upon the body condition and breed of the dog in question.

TETHERING - Form of restraint which means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

TRAINING FACILITY - A Facility housing and caring for animals (usually dogs) for a finite period of time in order to train the animals for the owners in exchange for payment.

UNATTENDED - In this Chapter, Unattended shall mean not readily available to provide for an animal.

VICIOUS ANIMAL - Any animal that (1) Attacks or injures a domestic animal or person; or (2) Exhibits aggressive or dangerous behavior while it is not adequately confined or restrained. ~~Any animal that poses a physical threat to persons or to domestic or farm animals by virtue of its specific training or demonstrated fierce or dangerous behavior. With regard to persons, "physical threat" means conduct that places a person in reasonable apprehension of imminent, severe injury and includes any attempt to inflict such injury.~~ No animal belonging to a government agency shall be deemed a vicious animal for conduct occurring while the animal is acting in the official performance of its authorized duties.

§ 15-3. Licenses.

A. License required.

The owner or custodian of any dog or cat over four months of age shall obtain a license for the dog or cat as provided in this chapter. However, fees for individual licenses for dogs and cats who reside at a licensed Boarding, Breeding, Training, Animal Rescue and/or Pet Sale Facility shall be waived.

. . .

§ 15-3.1. Boarding, Breeding, Training, Animal Rescue, and/or Pet Sale Facility License

A. The owner of a Boarding, Breeding, Training, Animal Rescue and/or Pet Sale Facility shall be required to obtain a license from the Animal Control Authority to operate such Facility.

B. The Animal Control Authority shall conduct an inspection of the Facility each calendar year and such inspection shall include any Records of the Facility related to the care of animals and supplies for such animals, any Records contained in the holding Facility that are required to be kept by federal, State, or County law within the previous 12 months and documentation that any animal held on the premises within the 12 months prior to inspection had (1) received veterinary care during their time at the Facility and (2) received rabies vaccinations. If a violation of this Chapter is found upon such inspection, the Animal Control Authority shall have continuing authority to re-inspect until compliance is achieved.

C. Minimum Standards: In addition to the other requirements of this Chapter, a Facility shall comply with the minimum standards established in this section, the application of which shall be in conformity with individual species requirements and common veterinary practices, to include, but not be limited to, the following.

(1) Food and water.

(a) All animals shall be supplied with sufficient and wholesome food and potable water.

(b) All food and water containers shall be clean and so placed that the animals cannot readily tip them over.

(2) Quarters.

(a) All animals and animal quarters shall be kept in a clean and sanitary condition.

(b) Floors of buildings, runs, and walls shall be of a material that will permit proper cleaning and disinfecting.

(c) Adequate lighting, ventilation and temperatures shall be maintained.

(d) Proper washing and disinfecting of crates, runs, walls and other areas where animals are housed shall be done regularly.

(3) No escape.

(a) Animals housed in a Facility shall be maintained in quarters so constructed as to prevent their escape.

(b) All reasonable precautions shall be taken to protect the public from the animals and the animals from the public.

(4) Size of cage. Each cage shall be of sufficient size that an animal will have room to stand, turn, and stretch to the animal's full length.

(5) Exercise. All animals housed in Facilities shall be properly exercised in accordance with the age and species of the animal.

(6) Illness or Injury.

(a) If an animal in a Facility demonstrates signs of illness or disease, the animal shall be isolated in a manner that will prevent the spread of the illness or disease to other animals.

(b) The owner or lessee of a Facility shall provide or cause to be provided appropriate care for sick, diseased, or injured animals.

(c) The owner or lessee of a Facility shall provide or cause to be provided appropriate veterinary care for sick, diseased, or injured animals within 24 hours of the onset of the injury or illness.

D. License Application Filing Requirements

Every application for a new or renewal license shall be made to the Animal Control Authority and shall be accompanied by the specified license fees. The application shall contain the following:

(1) The type of license desired.

(2) The particular place for which the license is desired, designating the street name and number, and also a description of the portion of the building in which the business will be conducted.

(3) The name and residence address of all of the individuals who own a percentage of the business.

(4) A statement that neither the business nor any one of the individual owners nor any employee of the business has ever been convicted of a felony or of a misdemeanor involving cruelty to animals in the State of Maryland, any other state, or of the United States or any foreign country.

(5) A statement that neither the business nor any one of the individual owners has had their ability to care, train, or breed animals revoked or suspended.

(6) An inspection of the Facility by the Animal Control Authority must occur before a license can be issued.

E. Decision

(1) After reviewing the application and performing the required inspection, the Animal Control Authority shall make a determination whether or not to issue a license. If the Animal Control Authority is not willing to issue a new or renewal license without a public hearing, the Animal Control Authority shall request that the Animal Control Board hold a public hearing on such applications, and the decision to issue such license shall be made by the Animal Control Board after such hearing.

(2) The Animal Control Authority shall be authorized, but not required, to provide the Board with a recommendation on new or renewal license applications, including conditions, limitations, and restrictions to ensure that the Facility complies with applicable law. The Board shall consider these recommendations before making a decision on the application.

(3) The Board shall approve an application for a Facility unless the Board finds that:

(a) The license application is incomplete;

(b) The applicant has made false, inaccurate, incomplete or incorrect statements in connection with the application;

(c) The business, the individual owners of the business, or any one of the employees of the business has been convicted of a felony or of a misdemeanor involving cruelty to animals in the State of Maryland, any other state, or of the United States or any foreign country and/or has had their ability to care, train, or breed animals revoked or suspended and the Board believes that such history should prohibit the involvement of the business or individual owner from the care of animals.

(d) There are other substantial reasons in the discretion of the Board why the license should not be issued, in which event the Board shall deny the license.

F. Suspension or Revocation of License:

(1) General provisions.

(a) Any license issued under the provisions of this section may be revoked or suspended for any period by the Animal Control Board for any cause which, in the judgment of the Board, is necessary to promote the health and welfare of animals. A license may be revoked or suspended by the Board based upon, but not limited to, any of the following findings:

(i) Conviction by the owner or any one of the employees of the Facility of a criminal violation involving the mistreatment or neglect of animals. However, a conviction by an employee is only grounds for a revocation or suspension if the underlying events for the criminal violation occurred on the property of the Facility;

(ii) Any finding of fact in a criminal proceeding that would be sufficient to sustain a judgment or verdict of guilt for any violation of State law related to the mistreatment or neglect of animals by the owner or an employee of the Facility, regardless of whether that finding is stricken and probation before judgment is granted.

(iii) The Facility is found to be maintained in an unsanitary or inhumane manner; or

(iv) The Facility repeatedly and willfully violates any provision of State law or the Talbot County Code related to animals.

(2) For purposes of this section, a conviction is deemed to have occurred whenever a person accused of a crime pleads guilty or nolo contendere, or is found guilty of an offense.

(3) Procedure for revocation or suspension. The Animal Control Board may, on recommendation of the Animal Control Authority, revoke or suspend any license issued under the provisions of this section. Such action shall not be taken until the Board has conducted a hearing upon the complaint, notice of which shall be mailed or delivered to the license holder at least ten (10) days before the hearing. In a hearing under this section, the Animal Control Authority shall be the first to present evidence to the Board; the license holder shall then present its evidence, to be followed by any further evidence to be presented by the Animal Control Authority. The Board may also receive public comment. Within thirty (30) days of the hearing, the Board shall issue its decision, setting forth its findings.

(G) Appeals.

(1) Appeals from decisions of the Board related to § 15-3.1(E) or (F) shall be to the Circuit Court for Talbot County, in accordance with the Maryland Rules of Procedure applicable to administrative appeals.

(2) The decision approving, suspending, revoking, restricting, or refusing to approve, suspend, revoke or restrict any license or licensee shall be subject to appeal in the manner provided in this section.

(3) Who may appeal. A licensee, a license applicant, or the Animal Control Authority may appeal a final decision of the Board to the Circuit Court if the licensee, license applicant, or the Animal Control Authority is aggrieved by the decision.

(4) Court costs. The Clerk of the Circuit Court, before docketing an appeal, shall first collect, from the person or persons so appealing, all court costs and a statement from the Board that the costs for getting records and transcripts of proceedings of the hearing before the Board have been paid. Costs may not be assessed against the Board.

(5) Scope of appeal.

(i) Upon the hearing of such appeal, the action of the Board shall be presumed by the court to be proper and to best serve the public interest. The burden of proof shall be upon the petitioner to show that the decision complained of was against the public interest and that the Board's discretion in rendering its decision was not honestly and fairly exercised, or that such decision was arbitrary, or procured by fraud, or unsupported by any substantial evidence, or was unreasonable, or that such decision was beyond the powers of the Board and was illegal. The case shall be heard by the court without the intervention of a jury. If in the opinion of the court it is impracticable to determine the question presented to the court, in the case on appeal, without the hearing of additional evidence, or, if in the opinion of the court, any qualified litigant has been deprived of the opportunity to offer evidence, or if the interests of justice otherwise require that further evidence should be taken, the court may hear such additional testimony to such extent and in such manner as may be necessary or may remand the case to the Board for that purpose.

(ii) In such actions of appeal the Board may be represented by its attorney.

(iii) The Board's decision shall be affirmed, modified, reversed, or remanded to the Board. Costs shall be awarded as in other civil cases.

(6) Further appeals. Further appeals shall be governed by the provisions of Article 2B, § 16-101, Annotated Code of Maryland.

(H) Violations of this section shall not result in monetary penalties.

§ 15-4 Impoundment.

A. Generally. Animal Control personnel may impound any domesticated animal whenever they have reasonable grounds to believe that it is:

(1) Running at large without a license;

(2) Running at large, displaying a current license, in response to a complaint by a landowner or tenant, provided, however, that prior to impoundment an attempt will be made to return the animal to its home;

(3) A public nuisance;

(4) For dogs, cats and rabbits, being subjected to Extreme Weather Conditions without a Suitable Shelter and an owner/guardian is not present to rectify the situation; or

(5) For dogs and cats, being tethered in violation of this Chapter and an owner/guardian is not present to rectify the situation; or

~~(4)~~ (6) An unconfined vicious animal, either unrestrained or un-muzzled; or

~~(5)~~ (7) An unconfined dangerous dog, either unrestrained or un-muzzled.

. . .

§ 15-6 Vicious animals; dangerous dogs; additional penalty.

A. Generally. A vicious animal or dangerous dog must be confined at all times while on the premises of the owner or person in possession of the animal. The animal shall not be taken out of such confinement unless securely muzzled and under restraint. Confinement by electric fence and use of retractable leashes are not allowed for vicious animals and dangerous dogs. While a vicious animal or dangerous dog is off the property where the animal resides, the animal must be kept on a six foot or shorter leash.

B. Basis for declaration. A declaration of vicious animal or dangerous dog shall be based on:

(1) Personal observation;

(2) Observations of animal control officers;

(3) Citizen affidavits concerning the citizen's personal experience with the animal;

(4) Animal control records; or

(5) Other documented information.

. . .

§ 15-8 Civil violations.

Any person who violates any provision of § 15-8 shall be guilty of a municipal infraction. Adjudication of a violation under this section is not a criminal conviction, and it does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

A. All owners shall care for the grounds where their animals are kept so as to prevent the area from becoming a public nuisance or unhealthy for the animals kept thereon.

B. All owners shall exercise care and control over their animals to prevent them from becoming a public nuisance.

C. No owner shall fail or neglect to properly dispose of a dead animal.

D. No owner shall fail to obtain a license as required by this chapter.

E. A person may not:

(1) Overdrive or overload an animal;

(2) Deprive an animal of necessary sustenance;

(3) Cause, procure, or authorize an act prohibited under Subsection E(1) or (2) of this subsection; or

(4) If the person has charge or custody of an animal, as owner or otherwise:

(a) Inflict unnecessary suffering or pain on the animal; or

(b) Unnecessarily fail to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter, or protection from the weather.

F. A person shall provide an owned domestic dog, cat, or rabbit access to a Suitable Shelter which provides adequate protection upon the onset of Extreme Weather Conditions. The space available to the animal in the Shelter shall be maintained in a safe and healthful manner, free of standing water, accumulated waste and debris, protected from flooding and provided with adequate ventilation to allow the animal to remain dry and maintain a normal body temperature and exposure to natural or artificial light and provide adequate protection from the weather conditions at hand.

G. A person must not tether a dog under circumstances that endanger its health, safety, or well-being, as stated below. Failure to provide relief to a dog in distress when exposed to any of the conditions listed below is proof that the dog was improperly, i.e., cruelly, tethered:

(1) Leaving a dog on a tether Unattended at any time;

(2) Tethering a dog between the hours of midnight – 6 a.m.;

(3) Tethering of a dog during a weather emergency, or a dog-control emergency declared by the Director;

(4) Using a tether that weighs more than 1/8 of the dog's body weight;

(5) Using a tether that does not have a swivel attached on each end;

(6) Using a tether that is less than five (5) times the length of the dog, as measured from the tip of its nose to the base of its tail;

(7) Tethering that unreasonably limits a dog's movement;

(8) Tethering under conditions where the dog or tether can become entangled on the tether or some other object;

(9) Tethering that restricts a dog's access to suitable and sufficient food, clean water, and appropriate shelter;

(10) Tethering in unsafe or unsanitary conditions;

(11) Tethering that does not allow a dog to defecate or urinate in an area separate from the area where it must eat, drink, or lie down; or,

(12) Tethering that causes injury, stress, or demonstrable socialization problems.

H. A person shall not tether, chain, fasten, tie, or otherwise restrain a cat to a house, tree, fence, or other stationary or immobile object.

I. Exception. Nothing in this regulation prohibits:

(1) A regimen of restraint that the Director has approved for a particular training or working dog purpose; or

(2) The temporary tethering of a dog incidental to its veterinary care and/or grooming, in accordance with professionally accepted standards.

J. The Animal Control Authority may issue a civil citation for violation of § 15-8E(1) through (4) only when it elects to forego criminal charges for the identical prohibited acts under § 10-604, Criminal Law Article, Md. Ann. Code, as amended or recodified.

K. Violations of § 15-8 (F) shall result in a fine of $500 for the first violation for each involved animal, $1,000 for the second violation with the same animal, and $1,500 for the third violation with the same animal. Violations of § 15-8 (G) and (H) shall result in a fine of $100 for the first violation for each involved animal, $200 for the second violation with the same animal, and $300 for the third violation with the same animal. Procedures for the issuance of such Violations are detailed elsewhere in the Code.

SECTION FOUR: AND BE IT FURTHER ENACTED, that the title and a summary of this Bill shall be published once on the first publication date after enactment of the Bill in accordance with County Charter §213 (c). The title is not a substantive part of this Bill. If the Bill is amended, the title may be administratively revised if required to conform the title to the content of the Bill as finally enacted.

SECTION FIVE: AND BE IT FURTHER ENACTED, that if any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of such Plan which can be given effect without the invalid provision or application, and for this purpose the provisions of this Bill are declared severable.

SECTION SIX: AND BE IT FURTHER ENACTED, that the Talbot County Office of Law, in consultation with and subject to the approval of the County Manager, may make non-substantive corrections to codification, style, capitalization, punctuation, grammar, spelling, and any internal or external reference or citation included in this Ordinance, as finally adopted, that are incorrect or obsolete, with no further action required by the County Council. All such corrections shall be adequately referenced and described in an editor's note following the section affected.

SECTION SEVEN: AND BE IT FURTHER ENACTED, that this ordinance shall take effect sixty (60) days from the date of its passage, with the exception of Section 15-3.1, which will take effect on January 1, 2020.

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PUBLIC HEARING

Having been posted and Notice of time, date, and place of hearing, and Title of Bill No. _____ having been published, a public hearing was held on at _____p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland.

BY THE COUNCIL

Read the third time.

ENACTED: _____

By Order _____
Susan W. Moran, Secretary

Pack -

Divilio -

Callahan -

Price -

Lesher -

EFFECTIVE DATE: _____