

11-1029. Hearing on disposition of abused and vicious animals; forfeiture; exception

A. A peace officer, county enforcement agent or ANIMAL CONTROL OFFICER ~~peace officer who has responsibility for animal control in a municipality~~ who has impounded an animal pursuant to section 11-1014 ~~or 13-2910~~, on a showing of probable cause ~~that the animal has been cruelly mistreated or cruelly neglected~~ or that the animal is vicious or may be a danger to the safety of any person or other animal, may request a disposition hearing before a justice of the peace or city magistrate to determine whether the animal ~~has suffered cruel mistreatment or cruel neglect as defined in section 13-2910~~ or is vicious. The hearing shall be set within fifteen business days after the request has been filed.

B. The officer or agent who has requested a hearing under subsection A of this section shall serve the order on the owner of the animal either by personal service on the owner or by leaving a copy of the order with a person of suitable discretion at the owner's residence or place of business. Proof of service shall be filed with the court. ~~If the owner fails to appear at the hearing or if the justice of the peace or city magistrate determines that the animal is being cruelly mistreated or cruelly neglected~~ or determines the animal is vicious, the justice of the peace or city magistrate may order the animal forfeited to the officer or agent ~~to be made available for adoption or for transfer to a legally incorporated humane society, COUNTY ANIMAL SHELTER or approved rescue agency or humanely destroyed.~~ The owner shall pay impound fees and any other costs for boarding or necessary veterinary care. IF THE JUSTICE OF THE PEACE OR CITY MAGISTRATE DETERMINES THAT THE ANIMAL IS NOT VICIOUS, THE COURT MAY ORDER THE ANIMAL TO BE RETURNED TO THE OWNER, EXCEPT THAT IF THE OWNER FAILS TO APPEAR AT THE HEARING, THE COURT MAY ORDER THE ANIMAL FORFEITED TO THE OFFICER OR AGENT FOR TRANSFER TO A LEGALLY INCORPORATED HUMANE SOCIETY, COUNTY ANIMAL SHELTER OR APPROVED RESCUE AGENCY IN ORDER TO BE MADE AVAILABLE FOR ADOPTION OR HUMANE DESTRUCTION.

C. This section does not apply to the seizure of an equine pursuant to section 3-1721 or to a city, town or county that adopts or has adopted an ordinance or resolution providing for the forfeiture of ~~an~~ A VICIOUS animal IN THE CASE THAT THE ADOPTED ORDINANCE OR RESOLUTION IMPOSES REQUIREMENTS AS OR MORE STRINGENT THAT THIS SECTION ~~that has suffered cruel mistreatment or cruel neglect.~~

13.2910.10 AUTHORITY TO SEIZE; NOTIFICATION; BONDING; EXCEPTION

A. ANY PEACE OFFICER, COUNTY ENFORCEMENT AGENT OR ANIMAL CONTROL OFFICER MAY ENTER AND SEIZE AN ANIMAL FROM AN ENCLOSED AREA, YARD, STRUCTURE OUTSIDE OF A RESIDENCE, OR VEHICLE IF THE ANIMAL IS IN PLAIN VIEW AND THERE IS PROBABLE CAUSE TO BELIEVE THAT THE ANIMAL IS SUFFERING FROM CRUEL MISTREATMENT, NEGLECT OR ABANDONMENT IN VIOLATION OF SECTION 13-2910, OR, IF PROBABLE CAUSE EXISTS TO BELIEVE THAT AN ANIMAL IS SUFFERING FROM CRUEL MISTREATMENT, NEGLECT OR ABANDONMENT IN VIOLATION OF SECTION 13-2910, A PEACE OFFICER MAY ENTER A RESIDENCE OR DWELLING FOR THE SOLE PURPOSE OF

SEIZING THE ANIMAL. A PEACE OFFICER, COUNTY ENFORCEMENT AGENT OR ANIMAL CONTROL OFFICER MAY USE REASONABLE FORCE TO ACCESS THE ANIMAL AND SHALL NOT BE HELD LIABLE FOR RESULTING DAMAGE TO PROPERTY.

- B. THE PEACE OFFICER, COUNTY ENFORCEMENT AGENT OR ANIMAL CONTROL OFFICER SHALL CAUSE A NOTICE TO BE AFFIXED TO A CONSPICUOUS PLACE WHERE THE ANIMAL WAS SITUATED OR PERSONALLY DELIVER A NOTICE OF THE SEIZURE TO THE OWNER OR KEEPER, IF KNOWN OR ASCERTAINABLE AFTER REASONABLE INVESTIGATION. IF IT IS DETERMINED THAT THE SUFFERING OF THE ANIMAL IS NOT SUCH AS TO REQUIRE HUMANE DESTRUCTION, THE NOTICE SHALL INCLUDE THE FOLLOWING:
1. THE NAME, BUSINESS ADDRESS, AND TELEPHONE NUMBER OF THE PERSON PROVIDING THE NOTICE.
  2. A DESCRIPTION OF THE ANIMAL SEIZED.
  3. THE AUTHORITY AND PURPOSE FOR THE SEIZURE OR IMPOUNDMENT, INCLUDING THE TIME, PLACE, AND CIRCUMSTANCE UNDER WHICH THE ANIMAL WAS SEIZED.
  4. A STATEMENT THAT, IN ORDER TO RECEIVE A POSTSEIZURE HEARING, THE OWNER OR PERSON AUTHORIZED TO KEEP THE ANIMAL, OR HIS OR HER AGENT, SHALL REQUEST THE HEARING BY SIGNING AND RETURNING TO THE COURT AN ENCLOSED DECLARATION OF OWNERSHIP OR RIGHT TO KEEP THE ANIMAL WITHIN TEN DAYS, INCLUDING WEEKENDS AND HOLIDAYS, OF THE DATE OF THE NOTICE.
  5. A STATEMENT THAT THE OWNER IS RESPONSIBLE FOR THE COST OF CARE FOR AN ANIMAL THAT WAS PROPERLY SEIZED OR IMPOUNDED, AND THAT THE OWNER IS REQUIRED TO POST A BOND IN THE AMOUNT OF \$200 PER ANIMAL SEIZED WITH THE COURT TO DEFRAY THE COST OF CARE.
  6. A WARNING THAT IF THE OWNER FAILS TO POST BOND WITHIN TEN DAYS OF THE SEIZURE, THE ANIMAL WILL BE DEEMED ABANDONED AND BECOME THE PROPERTY OF THE SEIZING AGENCY.
- PROOF OF SERVICE SHALL BE FILED WITH THE COURT.
- C. UPON RECEIPT OF A DECLARATION OF OWNERSHIP AND POSTSEIZURE HEARING REQUEST, THE JUSTICE OF THE PEACE OR CITY MAGISTRATE SHALL SET A HEARING DATE WITHIN SEVEN DAYS, NOT INCLUDING WEEKENDS OR HOLIDAYS. AT THE HEARING, THE SEIZING AGENCY SHALL HAVE THE BURDEN OF ESTABLISHING BY A PREPONDERANCE EVIDENCE THAT THE ANIMAL WAS SUBJECTED TO CRUEL MISTREATMENT, NEGLECT OR ABANDONMENT IN VIOLATION OF SECTION 13-2910 OR WILL SUFFER NEEDLESSLY IF HUMANE DESTRUCTION IS DELAYED. UPON THIS FINDING, THE COURT MAY TERMINATE THE OWNER'S RIGHTS IN THE ANIMAL AND TRANSFER SUCH RIGHTS TO THE SEIZING AGENCY OR A DESIGNATED ANIMAL CARE AGENCY. IF AT THE CONCLUSION OF HEARING THE ANIMAL IS NOT FORFEITED UNDER THIS SECTION, THE COURT SHALL ORDER THE BOND EXONERATED AND RETURNED TO THE OWNER.
- D. IF THE OWNER OR PERSON AUTHORIZED TO KEEP THE ANIMAL FAILS TO POST A BOND AS REQUIRED BY SUBSECTION B, PARAGRAPH 5, FAILS

- TO REQUEST A HEARING, OR FAILS TO ATTEND A SCHEDULED HEARING, THE ANIMAL IS DEEMED ABANDONED AND **ALL RIGHTS** OF THE OWNER IN THE ANIMAL ARE TRANSFERRED TO THE SEIZING AGENCY.
- E. THIS SECTION DOES NOT APPLY TO THE SEIZURE OF EQUINE PURSUANT TO SECTION 3-1721 OR TO A CITY, TOWN OR COUNTY THAT ADOPTS OR HAS ADOPTED AN ORDINANCE OR RESOLUTION PROVIDING FOR BONDING AND FORFEITURE OF AN ANIMAL THAT HAS SUFFERED CRUEL MISTREATMENT OR CRUEL NEGLECT IN THE CASE THAT THE ADOPTED ORDINANCE OR RESOLUTION IMPOSES REQUIRMENTS AS OR MORE STRINGENT THAN THIS SECTION RELATING TO THE BONDING AND FORFEITURE OF THE ANIMAL.