

TITLE 10

ANIMAL CONTROL¹

CHAPTER

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CHAPTER 1

DEFINITIONS

SECTION

10-101. Enumerated.

10-101. Enumerated. As used in this title the following terms shall mean:

(1) "Animal shelter." Any premises designated by action of the City of Maryville for the purpose of impounding and caring for all animals found running at large in violation of this title.

(2) "Animal control officer." The person or persons employed or designated by the city manager as the municipality's enforcement officer.

(3) "At large." Any animal shall be deemed to be at large when he is off the property of his owner and not under control of a competent person.

(4) "Exposed to rabies." An animal has been exposed to rabies within the meaning of this title if it has been bitten by, or been exposed to, any animal known to have been infected with rabies.

(5) "Kennel." Any person, group of persons, or corporations engaged in breeding, buying, selling, or boarding dogs or cats.

(6) "Owner." Any person, group of persons, or corporation owning, keeping, or harboring animals.

(7) "Restraint." A dog or cat is under restraint within the meaning of this title if he is controlled by a leash, under control of a competent person and obedient to that person's commands, on or within a vehicle being driven or parked on the streets, or within the property limits of its owner or keeper.

(8) "Spayed female." Any bitch which has been operated upon to prevent conception. (1985 Code, § 3-101)

¹Charter reference: art. II, § 1(27).

CHAPTER 2

DOGS AND CATS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs or cats to wear collars, choke chains, or harness with tags.
- 10-203. Running at large prohibited.
- 10-204. [Deleted.]
- 10-205. Noisy dogs prohibited.
- 10-206. Nuisance defined; actions constituting a nuisance.
- 10-207. Ignorance of a dog's or cat's habits no defense.
- 10-208. Leash requirement in certain areas of city parks or property.
- 10-209. Dogs and cats in food service establishments.
- 10-210. Dogs killing waterfowl.
- 10-211. Pet shop inspections.
- 10-212. Confinement of dogs or cats suspected of being rabid.
- 10-213. Seizure or disposition of dogs and cats.
- 10-214. Court proceedings against dog or cat owners.
- 10-215. Injured or killed dogs or cats.
- 10-216. Inspections of premises.
- 10-217. Dead animals.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor within the City of Maryville any dog over three (3) months of age or any cat over three (3) months of age without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 to 68-8-114) or other applicable law. (1985 Code, § 3-201)

10-202. Dogs or cats to wear collars, choke chains, or harness with tags. It shall be unlawful for any person to own, keep, or harbor within the City of Maryville any dog or cat which does not wear a collar, choke chain, or harness with a tag evidencing the vaccination and registration as required by the preceding section. (1985 Code, § 3-202)

10-203. Running at large prohibited. It shall be unlawful for any person to permit any dog or cat owned by him or under his control or which may be found habitually on premises occupied by him to run at large within the corporate limits. (1985 Code, § 3-203)

10-204. [Deleted.] (1985 Code, § 3-204, as deleted by Ord. #2008-37, Sept. 2008)

10-205. Noisy dogs prohibited. It shall be unlawful for any person to keep or harbor any dog which, by loud and frequent barking, whining, or howling disturbs the peace and quiet of any neighborhood. (1985 Code, § 3-205)

10-206. Nuisance defined; actions constituting a nuisance. (1) The actions of a dog or cat constitute a nuisance when a dog or cat disturbs the rights of, threatens the safety of, or damages the property of or injures the person of a member of the general public, or interferes with the ordinary use and enjoyment of their property.

(2) It shall be unlawful for any person to own, keep, possess, or maintain a dog or cat in such a manner as to constitute a public nuisance. By way of example and not a limitation, the following acts or actions by an owner or possessor of an animal are hereby declared to be a public nuisance and, therefore, unlawful:

(a) Failure to exercise sufficient restraint necessary to control a dog or cat.

(b) Allowing or permitting a dog or cat to damage the property of any one other than its owner, including, but not limited to, turning over garbage containers or damaging gardens, shrubs, lawns, flowers, or vegetables.

(c) Maintaining a vicious dog or cat. (See § 10-204 of this code.)

(d) Maintaining dogs or cats in an unsanitary environment which results in offensive odors or is dangerous to the animal or the public health, welfare, or safety.

(e) Maintaining property in a manner that is offensive, annoying, or dangerous to the public health, safety, or welfare because of the number, type, variety, density, or location of the dogs or cats on the property.

(f) Maintaining a dog or cat that is diseased or dangerous to the public health.

(g) Maintaining a dog or cat that habitually or repeatedly chases, snaps at, attacks, or barks at pedestrians, bicycles, or vehicles.

(h) Failure to confine a female dog while in heat for twenty-four (24) days in a building or secure enclosure in such a manner that she will not be in contact with another dog, or create a nuisance by attracting other dogs. This subsection shall not be construed to prohibit the intentional breeding of dogs within an enclosed area on the premises of the owner of the dog which is being bred.

(3) Any dog, cat or other animal which has been determined by the animal control officer to be a public nuisance based on the criteria found in sub-section (2) of this section, and which has been found at large and impounded at the City of Maryville Animal Control Facility may not be redeemed by the owners, unless such impoundment and boarding fees as established by resolution of the city council are paid. However, if said dog, cat or other animal

is impounded for a third or subsequent offense, redemption must be authorized by any court having jurisdiction. (1985 Code, § 3-206)

10-207. Ignorance of dog's or cat's habits no defense. It shall be the duty of any person owning, maintaining, or harboring any dog or cat to maintain close personal supervision of said animal and ignorance of the habits or character of the dog or cat on the part of such person shall be no defense in actions arising under this chapter. (1985 Code, § 3-207)

10-208. Leash requirement in certain areas of city parks or property. It shall be unlawful for any person who owns or has possession, charge, or custody of any dog to take the dog into or allow the dog to enter any public park or public property in the city without having the dog at all times under restraint of a leash in all areas of the parks or property where signs are posted requiring a leash. Where signs are not posted requiring a leash, the dog shall at all times be under control of the owner or other person having custody of the dog. (1985 Code, § 3-208)

10-209. Dogs and cats in food service establishments. No dog or cat shall be permitted or kept for any period of time in any room in which food is prepared, processed, stored, or sold in any restaurant or other food service establishment licensed by the city. This section shall not apply to guide dogs accompanied by blind customers of such establishments nor to police patrol dogs accompanied by a police officer in the course of his duties. (1985 Code, § 3-209)

10-210. Dogs killing waterfowl. Any dog found in the act of killing waterfowl in the city may be summarily destroyed by the animal control officer or any police officer if such animal cannot be apprehended after reasonable effort. (1985 Code, § 3-210)

10-211. Pet shop inspections. The animal control officer or any police officer of the city shall have the right to inspect any pet shop within the city to determine whether the pet shop is in compliance with the provisions of this chapter and other ordinances of the city.

The chief of police, with the approval of the city manager, shall have the authority to set standards of cleanliness, humane treatment, and any other reasonable factor regarding the operation of a pet shop. (1985 Code, § 3-211)

10-212. Confinement of dogs or cats suspected of being rabid. If any dog or cat has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the animal control officer or chief of police may cause such dog or cat to be confined or isolated for a period of ten (10) days. (1985 Code, § 3-212)

10-213. Seizure or disposition of dogs and cats. Any dog or cat found running at large may be seized by the animal control officer or any police officer and placed in an animal shelter provided or designated by the city council. If said dog or cat is wearing a tag or if it is known that the dog or cat has an owner, the dog or cat may be held at the animal shelter for ten (10) days, if not claimed sooner. The owner, if known, shall be notified in person, by telephone, or by a post card addressed to the last known mailing address to appear within ten (10) days and redeem his or her dog or cat by paying the pound fee, in accordance with a schedule approved by the city council, or the dog or cat will be humanely destroyed or sold. If said dog or cat is not wearing a tag and it is not known that the dog or cat has an owner, it may be humanely destroyed or sold unless legally claimed by the owner within five (5) days. No dog or cat shall be released in any event from the animal shelter unless or until such dog or cat has been vaccinated against rabies and has a tag evidencing such vaccination placed on its collar.

When, because of its viciousness or apparent infection with rabies, a dog or cat running at large cannot be safely impounded, it may be summarily destroyed by the animal control officer or any police officer. (1985 Code, § 3-213, as replaced by Ord. #2008-36, Sept. 2008)

10-214. Court proceedings against dog or cat owners. If a dog or cat is impounded, the animal control officer, or any police officer, may institute proceedings in the city court on behalf of the city against the owner charging the owner with a violation of this chapter. Nothing in this section shall be construed as preventing any person from instituting a proceeding in the city court for violation of this chapter where there has been no impoundment. (1985 Code, § 3-214)

10-215. Injured or killed dogs or cats. Dogs or cats injured or killed in the streets shall be considered as running at large, and the animal control officer or any police officer may remove all such animals. The owner of any injured dog or cat shall be liable for impoundment costs or veterinarian charges. The public works department may remove dead animals from any right of way. (1985 Code, § 3-215)

10-216. Inspections of premises. For the purpose of making inspections to ensure compliance with the provisions of this chapter, the animal control officer or any police officer shall be authorized to enter, at any reasonable time, any pet shop, food handling service or restaurant, or any other premises where he has reasonable cause to believe a dog or cat is being kept in violation of this chapter. (1985 Code, § 3-216)

10-217. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify

the health officer and dispose of such animal in such manner as the health officer shall direct. (as added by Ord. #2013-24, Oct. 2013)

CHAPTER 3

ANIMALS IN GENERAL

SECTION

- 10-301. Running at large prohibited.
- 10-302. Vicious animals other than dogs and cats.
- 10-303. Improper care of animals prohibited.
- 10-304. Livestock and poultry prohibited from residing within corporate limits; exceptions.
- 10-305. Cleanliness of pens or enclosures; adequate food, water and shelter, etc. to be provided to animals and fowls; exceptions.
- 10-306. [Deleted.]
- 10-307. Seizure and disposition of animals.
- 10-308. Prohibition of horses in public parks and exceptions.
- 10-309. Abandonment.

10-301. Running at large prohibited. It shall be unlawful for any owner of any cows, swine, sheep, horses, donkeys, mules or goats, or other livestock, or any chickens, ducks, geese, turkeys, or other domestic fowl to knowingly or negligently permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1985 Code, § 3-301)

10-302. Vicious animals other than dogs and cats. No one shall keep, possess, or harbor a vicious animal in the city. It shall be the duty of any animal control officer or policeman to impound any such animal, and if impoundment cannot be made with safety to the animal control officer, police officer, or other citizens, the animal may be destroyed without notice to the owner, keeper, or possessor. (1985 Code, § 3-302)

10-303. Improper care of animals prohibited. (1) No person owning or keeping an animal or fowl shall fail to provide it with the minimum care, nor shall such person keep an animal or fowl under unsanitary conditions or in an enclosure that is overcrowded, unclean, or unhealthy.

(2) Except for emergencies or circumstances beyond the owner's control, an animal or fowl is deprived of minimum care if it is not provided with care sufficient to preserve the health and well being of the animal considering the species, breed, and type of animal or fowl. Minimum care includes, but is not limited to the following requirements:

- (a) Food of sufficient quantity, quality, and nutrition to allow for normal growth or maintenance of body weight and health.
- (b) Open or adequate access to potable water in sufficient quantities to satisfy the animal's needs. Snow or ice is not an adequate

water source. Fowl shall at all times be provided with receptacles kept constantly with clean water.

(c) Access to a barn, doghouse, or other shelter sufficient to protect the animal from the elements.

(d) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect, or disease.

(3) An enclosure is overcrowded unless its area is at least the square of the length of the animal in inches (from tip of nose to base of tail) plus six inches (6") for each animal confined therein, and the height must allow for each animal to fully stand upright.

(4) An enclosure is unclean when it contains an excessive amount of animal waste.

(5) An enclosure is unhealthy when its condition is likely to cause illness or injury to the animal or fowl. (1985 Code, § 3-303, as replaced by Ord. #2008-38, Sept. 2008)

10-304. Livestock and poultry prohibited from residing within corporate limits; exceptions. As further set forth in title 14 of the Maryville City Code, livestock and poultry are not permitted to reside within the corporate limits except as legal pre-existing, non-conforming uses unless specifically approved by the board of zoning appeals as a special exception use. Livestock shall be defined to include, but not be limited to, cattle, horses, mules, swine, goats, sheep, llamas and donkeys. Poultry is defined to include, but not be limited to, chickens, hens, roosters or turkeys. (1985 Code, § 3-304, as deleted by Ord. #2008-38, Sept. 2008, and replaced by Ord. #2014-08, Feb. 2014)

10-305. Cleanliness of pens or enclosures; adequate food, water and shelter, etc. to be provided to animals and fowls. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition, and it shall be unlawful for the owner thereof to keep the same otherwise. It shall be unlawful for any person to allow any animal or fowl of any kind to be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health, safe condition, and wholesomeness. Only livestock or poultry that are legal pre-existing, non-conforming uses may reside at a location within the corporate limits unless approved by the board of zoning appeals as a special exception use. (1985 Code, § 3-305, as replaced by Ord. #2014-08, Feb. 2014)

10-306. [Deleted.] (1985 Code, § 3-306, as deleted by Ord. #2015-16, Feb. 2015)

10-307. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may

be seized by the animal control officer or by any police officer of the city and confined in a pound provided or designated by the City of Maryville. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address, and the animal or fowl will be humanely destroyed or sold if not claimed within ten (10) days. If the owner is not known, a notice describing the impounded animal or fowl will be posted at the entrance to the animal shelter. The notice shall state that the impounded animal or fowl must be claimed within ten (10) days by paying the pound costs or the same will humanely be destroyed or sold. If not claimed by the owner within the specified period, the animal or fowl shall be sold or humanely destroyed. (1985 Code, § 3-307)

10-308. Prohibition of horses in public parks and exceptions. It shall be unlawful for any person who owns or has possession, charge, control or custody of any horse or other mammal of the genus Equus to take the same into, allow the same to enter, or to permit the same to be ridden in, any public park in the city, except during special events occurring at any public park which events have been approved by the city manager or chief of police, or their designee, and which approval specifically authorizes the time and presence of such animals in said park or parks. (Ord. #97-35, May 1997)

10-309. Abandonment. It shall be unlawful for any person to abandon an animal that is under his or her ownership or care. If an animal is found abandoned, the animal may be impounded. Abandonment consists of:

- (1) Leaving an animal for a period of in excess of twenty-four (24) hours without providing for the feeding and watering of said animal and for someone to check on the animal's condition.
- (2) Leaving an animal by a roadside.
- (3) Leaving an animal on either public or private property without the property owner's consent.

Any person convicted of violating this section will be subject to a maximum penalty of fifty dollars (\$50.00) per animal, per violation. Each animal abandoned is a separate violation. (as added by Ord. #2008-39, Sept. 2008)

CHAPTER 4

CONTROLS AND ENFORCEMENT

SECTION

- 10-401. Animal shelter.
- 10-402. Rabies control.
- 10-403. Reports of bite cases.
- 10-404. Responsibilities of veterinarians.
- 10-405. Exemptions.
- 10-406. Inspections of premises.
- 10-407. Interference with animal control officer.
- 10-408. Records of animal control officer.

10-401. Animal shelter. The word "shelter" as used in title 10 of the Maryville Municipal Code shall refer to the Animal Control Facility operated by the City of Maryville. (1985 Code, § 3-401)

10-402. Rabies control. (1) Every animal or rodent which bites a person shall be promptly reported to the animal control officer. It shall thereupon be securely quarantined at the direction of the animal control officer for a period of ten (10) days and shall not be released from such quarantine except by written permission of the animal control officer. At the discretion of the animal control officer, such quarantine may be on the premises of the owner, at the shelter designated as the city animal shelter, or at the owner's option and expense, in a veterinary hospital of his choice. In the case of stray animals, or in the cases of animals whose ownership is not known such quarantine shall be at the shelter designated as the animal shelter.

(2) The owner upon demand by the animal control officer shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for supervised quarantine, the expense of which shall be borne by the owner. Said animal may be reclaimed by the owner if it is adjudged free of rabies, upon payment of the required fees, and upon compliance of the licensing provisions set forth in § 10-201.

(3) When rabies has been diagnosed in an animal under quarantine or rabies suspected by a licensed veterinarian, and the animal dies while under such observation, the animal control officer shall immediately send the head of such animal to the state health department for pathological examination, and shall notify the proper public health officer of the city of the diagnosis.

(4) When one or both reports indicate a positive diagnosis of rabies, the animal control officer shall recommend an area-wide quarantine for a period of sixty (60) days, and upon the invoking of such quarantine, no pet animal shall be taken into the streets or permitted to be in the streets during such period of

quarantine. During such quarantine, no animal may be taken or shipped from the city without written permission of the animal control officer.

During this quarantine period and as long afterward as he decides it is necessary to prevent the spread of rabies, the city health officer shall require that all dogs or cats, three (3) months of age and older, shall be vaccinated against rabies with a canine rabies vaccine approved by the Biologics Control Section of the U. S. Department of Agriculture. The types of approved canine anti-rabies vaccine to be used and the recognized duration of immunity for each shall be established by the city health officer. All vaccinated dogs or cats shall be restricted (leashing or confinement on enclosed premises) for thirty (30) days after vaccination. During the quarantine period, the city health officer shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency canine rabies vaccination clinics strategically located throughout the area of the health jurisdiction.

No dog or cat which has been impounded by reason of its being a stray, unclaimed by its owner, shall be allowed to be adopted by the animal shelter during the period of rabies emergency quarantine, except by special authorization of the city health officer and the animal control officer.

(5) Dogs or cats bitten by a known rabid animal shall be immediately destroyed or if the owner is unwilling to destroy the exposed animal, strict isolation of the animal in a kennel for six (6) months shall be enforced. If the dog or cat has been previously vaccinated, within time limits established by the city health officer or Public Health Service based on the kind of vaccine used, revaccination and restraint (leashing and confinement) for thirty (30) days shall be carried out.

(6) In the event there are additional cases of rabies occurring during the period of the quarantine, such period of the quarantine may be extended for an additional six (6) months.

(7) No person shall kill, or cause to be killed, or remove from the corporate limits, any rabid animal, any animal suspected of having been exposed to rabies, or any animal which has bitten a human, except as herein provided, without written permission from the animal control officer.

(8) The carcass of any dead animal exposed to rabies shall upon demand be surrendered to the animal control officer.

(9) The animal control officer shall direct the disposition of any animal found to be infected with rabies.

(10) No person shall fail or refuse to surrender any animal for quarantine or destruction as required herein when demand is made therefor by the animal control officer.

(11) That each and every provision of this chapter relative to rabies control shall be applicable to all animals and rodents and the owners thereof in the City of Maryville. (1985 Code, § 3-402)

10-403. Reports of bite cases. It shall be the duty of every physician or other medical practitioner to report to the animal control officer the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control. (1985 Code, § 3-403)

10-404. Responsibilities of veterinarians. It shall be the duty of every licensed veterinarian to report to the animal control officer any animal considered by him to be a rabies suspect. (1985 Code, § 3-404)

10-405. Exemptions. (1) Hospitals, clinics, and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this title except where expressly stated.

(2) The licensing and vaccination requirements of this title shall not apply to any dog belonging to a non-resident of the city and kept within the city for not longer than thirty (30) days, provided all such dogs shall at all times while in the city be kept within a building, enclosure, or vehicle, or be under restraint by the owner. (1985 Code, § 3-405)

10-406. Inspections of premises. For the purpose of discharging the duties imposed by this title and to enforce its provisions, the animal control officer or any police officer is empowered to enter upon any premises upon which a dog or cat is kept or harbored and to demand the exhibition by the owner of such dog or cat or the exhibition of the license for such dog or cat. It is further provided that the animal control officer may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and to take possession of such animal, when in his opinion, it is required to insure humane treatment to such animal. (1985 Code, § 3-406)

10-407. Interference with animal control officer. No person shall interfere with, hinder, or molest the animal control officer in the performance of any duty imposed by this title or seek to release any animal in the custody of the animal control officer except as provided in this title. (1985 Code, § 3-407)

10-408. Records of animal control officer. (1) It shall be the duty of the animal control officer to keep or cause to be kept accurate and detailed records of the licensing, impoundment, and disposition of all animals coming into his custody.

(2) It shall be the duty of the animal control officer to keep or cause to be kept accurate and detailed records of all bite cases reported to him and his investigation of same. (1985 Code, § 3-408)

CHAPTER 5**VICIOUS DOGS AND CATS****SECTION**

- 10-501. Definitions.
- 10-502. Procedure for declaring a dog or cat vicious.
- 10-503. Notification of vicious dog or vicious cat declaration.
- 10-504. Hearing on vicious dog declaration or vicious cat declaration.
- 10-505. Appeal from vicious dog declaration or vicious cat declaration.
- 10-506. Requirements for keeping a vicious dog or cat.
- 10-507. Impoundment.
- 10-508. Notice of impoundment.
- 10-509. Hearing on impoundment and/or destruction.
- 10-510. Exceptions.
- 10-511. Change of status.
- 10-512. Change of ownership.

10-501. Definitions. (1) "Vicious dog" means:

(a) Any dog with a known propensity, tendency, or disposition to attack without provocation, to cause serious injury, or to otherwise threaten the safety of human beings or domestic animals; or

(b) Any dog which, without provocation, has attacked or bitten a human being or domestic animal; or

(c) Any dog owned or harbored primarily, or in part for the purpose of dog fighting, or any dog trained for dog fighting.

(2) "Vicious cat" means:

(a) Any cat with a known propensity, tendency, or disposition to attack without provocation, to cause serious injury, or to otherwise threaten the safety of human beings or domestic animals; or

(b) Any cat which, without provocation, has attacked or bitten a human being or domestic animal. (as added by Ord. #2008-37, Sept. 2008)

10-502. Procedure for declaring a dog or cat vicious. (1) An animal control officer, police officer, or any adult person may request under oath that a dog or cat be classified as vicious as defined in § 10-501 by submitting a sworn, written complaint. Upon receipt of such complaint, the city manager (or his designee) shall notify the owner of the dog or cat, in writing, that a complaint has been filed and that an investigation into the allegations as set forth in the complaint will be conducted.

(2) At the conclusion of an investigation, the city manager (or his designee) may:

(a) Determine that the dog or cat is not vicious and, if the dog or cat is impounded, waive any impoundment fees incurred and release the dog or cat to its owner; or

(b) Determine that the dog or cat is vicious and order the owner to comply with the requirements for keeping a vicious dog or cat set forth in § 10-506, and if the dog or cat is impounded, release the dog or cat to its owner after the owner has paid all fees incurred for impoundment. If all impoundment fees have not been paid within ten (10) days after a final determination that the dog or cat is vicious, the city manager (or his designee) may cause the dog or cat to be humanely destroyed.

(c) Nothing in this chapter shall be construed to require a dog or cat to be declared vicious prior to taking action under state law. (as added by Ord. #2008-37, Sept. 2008)

10-503. Notification of vicious dog or vicious cat declaration.

(1) Within five (5) days after declaring a dog or cat vicious, the city manager (or his designee) shall notify the owner by certified mail or personal delivery of the dog's or cat's designation as a vicious dog or vicious cat and other requirements for keeping a vicious dog or vicious cat as set forth in § 10-506. The city manager (or his designee) shall also notify the City of Maryville Animal Control Facility of the designation of any dog as a vicious dog or the designation of any cat as a vicious cat.

(2) The notice shall inform the owner that he or she may request, in writing, a hearing to contest the city manager's finding (or that of this designee) and designation within five (5) days after delivery of the vicious dog declaration or vicious cat declaration notice. (as added by Ord. #2008-37, Sept. 2008)

10-504. Hearing on vicious dog declaration or vicious cat declaration. (1) The city manager (or his designee) shall hold such a hearing within ten (10) days after receiving the owner's written request for such a hearing. The city manager (or his designee) shall provide notice of the date, time, and location of the hearing to the owner by certified mail or personal delivery and to the complainant by regular mail.

(2) At a hearing, all interested parties shall be given the opportunity to present evidence on the issue of the animal's viciousness. Criteria to be considered at a hearing shall include but not be limited to the following:

- (a) Provocation;
- (b) Severity of attack or injury to a person or animal;
- (c) Previous aggressive history of the dog or cat;
- (d) Observable behavior of the dog or cat;
- (e) Site and circumstances of the incident; and
- (f) Statements from interested parties.

(3) A determination at the hearing that the dog or cat is in fact a vicious dog or vicious cat as defined in § 10-501 shall subject the dog or cat and its owner to the requirements of this chapter.

(4) Failure of the owner to request a hearing shall result in the dog or cat to being finally declared vicious and shall subject the dog or cat and its owner to the requirements of this chapter. (as added by Ord. #2008-37, Sept. 2008)

10-505. Appeal from vicious dog declaration or vicious cat declaration. If the city manager (or his designee) determines that the dog or cat is vicious at the conclusion of the hearing conducted under § 10-504, that decision shall be final unless the owner of the dog or cat appeals the decision to circuit court in the time and manner provided by state law. (as added by Ord. #2008-37, Sept. 2008)

10-506. Requirements for keeping a vicious dog or cat. The owner of a vicious dog or cat shall be subject to the following requirements:

(1) **Confinement.** All vicious dogs or cats shall be securely confined indoors or in an enclosed and locked pen or structure upon the premises of the owner that is suitable to prevent the entry of children and is designed to prevent the dog or cat from escaping. The pen or structure shall have minimum dimensions of five feet (5') in width and length by ten feet (10') in height and must have secure sides and a secure top attached to the sides. If no bottom is secured to the sides, the sides must be embedded into the ground no less than two feet (2'). All pens or structures must be kept clean and sanitary. The enclosure must provide shelter and protection from the elements and must provide adequate exercise room, light and ventilation. Under no circumstances may a vicious dog or cat be confined by a fence, whether it is electronic, a similar underground wire system, or otherwise. Under no circumstances may more than one (1) dog or cat be kept in any one (1) pen or structure.

(2) **Indoor confinement.** No vicious dog or cat may be kept on a porch, patio or in any part of a house or structure that would allow the dog or cat to exit the structure on its own volition. In addition, no vicious dog or cat may be kept in a house or structure when open windows or screen doors are the only obstacle preventing the dog or cat from exiting the house or structure.

(3) **Number of vicious dogs or cats per residence.** Only one (1) animal that has been declared vicious may be owned per residence.

(4) **Leash and muzzle.** The owner of a vicious dog or cat shall not allow the dog or cat to go outside its kennel, pen, or structure unless the dog or cat is muzzled, under the physical control of a capable adult, and restrained by a leash not more than four feet (4') in length, which shall be bright yellow in color, and of sufficient strength to control the dog or cat. The muzzle must not cause injury to the dog or cat or interfere with its vision or respiration, but must prevent the dog or cat from biting any human being or animal.

(5) Signs. The owner of a vicious dog or cat shall display, in a prominent place on the owner's premises, a clearly visible warning sign reading "Beware of Vicious Dog." The sign shall be readable from the driveway entrance or street. The owner shall also display a sign with a symbol warning children of the presence of a vicious dog or cat. Similar signs shall be posted on the dog's or cat's kennel, pen or structure. The sign shall be at least twelve inches (12") by twelve inches (12") in size.

(6) Insurance. The owner of a vicious dog or cat shall obtain public liability insurance of at least one hundred thousand dollars (\$100,000.00), per dog or cat, insuring the owner for any damage or personal injury that may be caused by the owner's vicious dog or cat. The policy shall contain a provision requiring the city to be notified immediately by the agent issuing the policy in the event that the policy is cancelled, terminated or expired. The owner must provide proof of the insurance to the City of Maryville Animal Control Facility. If there is a lapse in insurance or a cancellation, the owner shall be in violation of this chapter.

(7) Compliance; consequences for failure to comply. (a) For the safety and welfare of the general public, an owner of a vicious dog or cat must comply with the requirements for keeping a vicious dog or cat within the following timeframe:

(i) Immediate. Immediately upon the owner's receipt of the declaration notice, the owner shall comply with the confinement requirements set forth in § 10-506(1) and (2). The owner may continue to keep the vicious dog or cat confined indoors or may, at the owner's option, confine the vicious dog or cat outdoors provided the requirements of § 10-506(1) are met at all times while the vicious dog or cat is confined outdoors.

(ii) Within twenty-four (24) hours. The requirements set forth in § 10-506(4) and (5) must be met within twenty-four (24) hours of the owner's receipt of the declaration notice.

(iii) Within five (5) days. The requirement set forth in § 10-506(3) and (6) must be met within five (5) days of the owner's receipt of the declaration notice.

(iv) Should an owner of a vicious dog or cat choose to contest the city manager's finding (or that of his designee) and designation of his or her dog or cat as vicious and said owner has not complied with the requirements of this section within the allotted timeframe, the vicious dog or cat shall be delivered to the animal shelter for safe-keeping until the contest hearing is heard. The owner shall be responsible for an and all boarding fees for the vicious dog or cat, veterinarian or other professional services which the vicious dog or cat needs as determined by animal control officers, animal shelter staff, or the animal shelter's veterinarian,

and for any and all damage to city property caused by the vicious dog or cat.

(b) Failure of an owner to comply with any of the requirements for keeping a vicious dog or cat, or failure of an owner to continue compliance with said requirements, shall result in the vicious dog or cat being apprehended by the City of Maryville Animal Control Facility or the police department. Said vicious dog or cat shall remain in the custody and control of the division of animal control until such time as the owner can prove, to the city's satisfaction, compliance with the requirements for keeping a vicious dog or cat or until the conclusion of five (5) working days, whichever occurs first. If the vicious dog or cat remains impounded at the conclusion of five (5) working days, said vicious dog or cat shall become the property of the city and may be destroyed. (as added by Ord. #2008-37, Sept. 2008)

10-507. Impoundment. When a dog or cat has severely attacked a human being or domestic animal, and a police officer or animal control officer witnessed the attack or witnessed the injuries caused by the attack, such dog or cat shall be impounded. (as added by Ord. #2008-37, Sept. 2008)

10-508. Notice of impoundment. Within five (5) days of impoundment of a dog or cat under § 10-507, the City of Maryville Animal Control Facility shall notify the dog's owner or cat's owner, if known, in writing of the impoundment. (as added by Ord. #2008-37, Sept. 2008)

10-509. Hearing on impoundment and/or destruction. (1) The owner of an impounded dog or cat shall have the right to file, within five (5) days after receiving notice, a written request for a hearing before the city manager (or his designee) to contest the impoundment.

(2) Upon request by the owner for a hearing pursuant to subsection (1), a hearing shall be held within fourteen (14) days after the request for a hearing. Notice of the date, time, and location of the hearing shall be provided by certified mail or delivered personally to the dog's owner.

(3) The city manager (or his designee) shall issue a decision after the close of a hearing and shall notify the owner in writing of the decision.

(4) After considering all of the relevant evidence, the city manager (or his designee) may request the district attorney general to petition the circuit court to order the destruction of the impounded dog or cat, or may release the dog or cat to its owner conditional on the owner complying with the requirements for keeping a vicious dog or cat as set forth in § 10-506. (as added by Ord. #2008-37, Sept. 2008)

10-510. Exceptions. (1) This chapter shall not apply to any dog used by the police department or law enforcement agency.

(2) No dog or cat shall be declared vicious for injury or damage sustained by a person who was entering the owner's property to commit a burglary, robbery, assault, willful trespass, or other tort or crime.

(3) No dog or cat shall be declared vicious for injury or damage sustained by a person who is teasing, tormenting, abusing, assaulting, or otherwise provoking the dog or cat.

(4) No dog or cat shall be declared vicious solely because it bites or attacks:

(a) A person assaulting its owner, excluding a police officer attempting to subdue or effect the arrest of a subject; or

(b) An unrestrained animal that attacks it or its young while it is restrained in compliance with this chapter. (as added by Ord. #2008-37, Sept. 2008)

10-511. Change of status. The owner of a vicious dog or cat shall notify the City of Maryville Animal Control Facility:

(1) Immediately if the vicious dog or cat is unconfined and on the loose, or has attacked a human being or domestic animal without provocation;

(2) If the owner has moved outside of the city limits, in which case the owner shall give the owner's new address; or

(3) If the dog or cat has died. (as added by Ord. #2008-37, Sept. 2008)

10-512. Change of ownership. (1) If the owner of a vicious dog or cat sells, gives away, or otherwise transfers custody of the vicious dog or cat, the owner shall, within three (3) days, provide the City of Maryville Animal Control Facility with the name, address, and telephone number of the new owner.

(2) The previous owner shall notify the new owner of the animal's designation as a vicious dog or a vicious cat, and, if the new owner resides within the city limits, of the requirements and conditions for keeping a vicious dog or vicious cat as set forth in § 10-506.

(3) If the new owner resides within the city limits, the new owner must obtain the required enclosure prior to the acquisition of the vicious dog or cat or confine the dog or cat indoors.

(4) The new owner must fully comply with the provisions of this chapter, including obtaining liability insurance, prior to the acquisition of the vicious dog or vicious cat. (as added by Ord. #2008-37, Sept. 2008)