

TITLE 10

ANIMAL CONTROL

CHAPTER

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2. DOGS.
3. OWNERSHIP AND CONTROL OF VICIOUS DOGS.

CHAPTER 1

IN GENERAL

SECTION

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10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. It shall be unlawful for any person knowingly to permit any dog or cat owned by him or under his control to run at large within the corporate limits.¹ (1989 Code, § 3-101)

10-102. Pen or enclosure to be kept clean. 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. It shall be unlawful for any person to own, keep, or harbor any dog or cat which does not wear a tag evidencing the vaccination and registration required by § 10-109 below. (1989 Code, § 3-102)

10-103. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water,

¹State law reference

Tennessee Code Annotated, §§ 44-8-108, 68-8-108, and 68-8-109.

shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1989 Code, § 3-103)

10-104. Keeping in such manner as to become a nuisance prohibited. No animal, fowl or reptile shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1989 Code, § 3-104, modified)

10-105. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (1989 Code, § 3-105)

10-106. 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 health officer or by any police officer and confined in a pound provided or designated by the governing body. 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. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound or shelter costs, or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of commissioners.

The animal shelter shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of commissioners, to cover the costs of impoundment and maintenance. (1989 Code, § 3-106, modified)

10-107. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this chapter, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1989 Code, § 3-107)

10-108. Swamp fever (Coggins test) vaccination required. It shall be unlawful for any person to own, keep, or harbor any pony, horse, or other member of the horse family without having the same vaccinated against swamp fever (Coggins test), and maintaining written evidence of the same. (1989 Code, § 3-108, modified)

10-109. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat 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). (1989 Code, § 3-109)

CHAPTER 2**DOGS****SECTION**

10-201. Shelby County Ordinance 82 (as amended) effective within the city.

10-202. Maintenance of Ordinance 82.

10-201. Shelby County Ordinance 82 (as amended) effective within the city. Said ordinance 82, hereinafter referred to as the "Shelby County Animal Control Ordinance", and the provisions contained therein shall also be effective within the corporate limits of the City of Lakeland and shall be enforced by the appropriate Memphis/Shelby County departments, divisions, and/or agencies concerned. Such enforcement being subject to any existing and/or future agreements entered into between the respective entities involved. (1989 Code, § 3-201)

10-202. Maintenance of Ordinance 82. The city manager/city recorder shall maintain a current "Shelby County Animal Control Ordinance" in separate city files within city hall and shall make said ordinance available for public review during normal city hall office hours. (1989 Code, § 3-202)

CHAPTER 3

OWNERSHIP AND CONTROL OF VICIOUS DOGS

SECTION

- 10-301. Definitions.
- 10-302. Procedure for declaring a dog vicious.
- 10-303. Notification of vicious dog declaration.
- 10-304. Hearing on vicious dog declaration.
- 10-305. Appeal from vicious dog declaration.
- 10-306. Requirements for keeping a vicious dog.
- 10-307. Impoundment.
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- 10-309. Notice of impoundment.
- 10-310. Hearing on impoundment and/or destruction.
- 10-311. Exceptions.
- 10-312. Change of status.
- 10-313. Change of ownership.
- 10-314. Guard dogs.
- 10-315. Dog fighting.
- 10-316. Right of entry.
- 10-317. Penalties.

10-301. Definitions. For the purpose of this chapter the following terms shall have the following meanings.

(1) “Guard dog” means any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog.

(2) “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.

(as added by Ord. #07-107, Aug. 2007)

10-302. Procedure for declaring a dog vicious. (1) An animal control officer, police officer or any adult person may request under oath that a dog be classified as vicious as defined in § 10-301 by submitting a sworn, written complaint. Upon receipt of such complaint, the city manager shall notify the owner of the dog, 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 may:

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

(b) Determine that the dog is vicious and order the owner to comply with requirements for keeping a vicious dog set forth in § 10-306, and if the dog is impounded, release the dog 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 is vicious, the city manager may cause the dog to be humanely destroyed.

(3) Nothing in this section shall be construed to require a dog to be declared vicious prior to taking action under state law. (as added by Ord. #07-107, Aug. 2007)

10-303. Notification of vicious dog declaration. (1) Within five (5) days after declaring a dog vicious, the city manager shall notify the owner by certified mail or personal delivery of the dog's designation as a vicious dog and of the requirements for keeping a vicious dog as set forth in § 10-306. The city manager also notify the Shelby County Sheriff's Department of the designation of any dog as a vicious dog.

(2) The notice shall inform the owner that he or she may request, in writing, a hearing to contest the city manager's finding and designation within five (5) days after delivery of the vicious dog declaration notice. (as added by Ord. #07-107, Aug. 2007)

10-304. Hearing on vicious dog declaration. The city manager shall hold a hearing within ten (10) days after receiving the owners written request for such a hearing. The city manager 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 dog's viciousness. Criteria to be considered in the hearing shall include but not be limited to the following:

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

(3) A determination at the hearing that the dog is in fact a vicious dog as defined in § 10-301 shall subject the dog and its owner to the requirements of this section.

(4) Failure of the owner to request a hearing shall result in the dog being finally declared a vicious dog and shall subject the dog and its owner to the requirements of this section. (as added by Ord. #07-107, Aug. 2007)

10-305. Appeal from vicious dog declaration. If the city manager determines that a dog is vicious at the conclusion of a hearing conducted under § 10-304, that decision shall be final unless the owner of the dog appeals the decision to circuit court. (as added by Ord. #07-107, Aug. 2007)

10-306. Requirements for keeping a vicious dog. The owner of a vicious dog shall be subject to the following requirements:

(1) **Confinement.** All vicious dogs shall be securely confined in doors or in an enclosed and locked pen or structure upon premises of the owner that is suitable to prevent the entry of children and is designed to prevent the dog 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 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 be kept in any one (1) pen or structure.

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

(3) **Number of vicious dogs per residence.** Only one (1) dog that has been declared vicious may reside per residence.

(4) **Leash and muzzle.** The owner of a vicious dog shall not allow the dog to go outside its kennel, pen, or structure unless the dog 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. The muzzles must not cause injury to the dog or interfere with its vision or respiration but must prevent the dog from biting any human being or animal.

(5) **Signs.** The owner of a vicious dog shall display in a prominent place on the owners premises, clearly visible warning sign reading "Beware of Vicious Dog." The sign shall be legible 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. Similar signs shall be posted on the dog's kennel, pen

or structure. Each sign shall be at least twelve inches (12") by twelve inches (12") in size.

(6) **Insurance.** The owner of a vicious dog shall obtain public liability insurance of at least one hundred thousand dollars (\$100,000.00), per dog, insuring the owner for any damage or personal injury that may be caused by the vicious dog. 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 canceled, terminated or expired. The owner must provide proof of the insurance to the city manager. If there is a lapse in insurance or a cancellation, the owner shall be in violation of this chapter. (as added by Ord. #07-107, Aug. 2007)

10-307. Impoundment. When a dog has severely attacked a human being or domesticated animal, and a police officer witnessed the attack or witnessed the injuries caused by the attack, such dog shall be impounded. (as added by Ord. #07-107, Aug. 2007)

10-308. Tranquilizer gun usage. Any law enforcement officer, that has met the training qualifications with tranquilizer gun usage, is allowed to use a tranquilizer gun to put any vicious animal down if the law enforcement officer deems it necessary in capturing the animal. (as added by Ord. #07-107, Aug. 2007)

10-309. Notice of impoundment. Within five (5) days of impoundment of a dog under § 10-307, the city manager shall notify the dog's owner, if known, in writing of the impoundment. (as added by Ord. #07-107, Aug. 2007)

10-310. Hearing on impoundment and/or destruction. (1) The owner of an impounded dog shall have the right to file, within five (5) days after receiving notice, a written request for a hearing before the city manager to contest the impoundment.

(2) Upon request by the owner for a hearing pursuant to subsection (1), a hearing shall be held within ten (10) 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 shall issue a decision after the close of the hearing and shall notify the owner in writing of the decision.

(4) After considering all of the relevant evidence, the city manager may request the district attorney general to petition the circuit court to order the destruction of the impounded dog, or may release the dog to its owner conditional on the owner complying with the requirements for keeping a vicious dog as set forth in § 10-306.

(5) If state law changes and permits a municipality to order the destruction of a dog as a result of an attack on a person or other animal, then the city manager shall automatically have the power to order the destruction of

said dog under subsection (4) without going through circuit court. (as added by Ord. #07-107, Aug. 2007)

10-311. Exceptions. (1) This chapter shall not apply to any dog used by law enforcement agency.

(2) No dog 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 shall be declared vicious for injury or damage sustained by person who was tormenting, abusing, assaulting, or otherwise provoking the dog.

(4) No dog 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 suspect; or

(b) An unrestrained animal that attacks it or its young while it is restrained in compliance with this chapter. (as added by Ord. #07-107, Aug. 2007)

10-312. Change of status. The owner of a vicious dog shall notify the division of animal control:

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

(2) If the dog has died. (as added by Ord. #07-107, Aug. 2007)

10-313. Change of ownership. (1) If the owner of a vicious dog sells, gives away or otherwise transfers custody of the vicious dog to a new owner who resides within the city limits the City of Lakeland, the owner shall, within three (3) days, provide the city manager with the name, address, and telephone number of the new owner.

(2) If the new owner resides within the city limits, the previous owner shall notify the new owner of the dog's designation as a vicious dog and of the requirements and conditions for keeping a vicious dog set forth in § 10-306.

(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 confine the dog indoors.

(4) If the new owner resides within the city limits, the new owner must fully comply with the provisions of this chapter, including obtaining liability insurance, prior to the acquisition of the vicious dog. (as added by Ord. #07-107, Aug. 2007)

10-314. Guard dogs. It shall be unlawful any person to place or maintain guard dogs in any area of the City of Lakeland for the protection of persons or property unless the following provisions are met:

(1) The guard dog shall be confined, or

(2) The guard dog shall be under the absolute control of a handler at all times when not confined; and

(3) The owner or other person in control of the premises upon which a guard dog is maintained shall post warning signs stating that such a dog is on the premises. At least one (1) such sign shall be posted at each driveway or entranceway to said premises. Such signs shall be in lettering clearly visible from either the curb line or a distance of fifty feet (50'), whichever is lesser, and shall contain a telephone number where some person responsible for controlling such guard dog can be reached twenty-four (24) hours a day. (as added by Ord. #07-107, Aug. 2007)

10-315. Dog fighting. (1) No person shall possess, harbor, or maintain care or custody of any dog for the purpose of dog fighting, nor shall any person train, torment, badger, bait, or use any dog for the reason of causing or encouraging the dog to attack human beings or domesticated animals.

(2) No person shall permit a dog fight to take place upon their premises or premises within their control.

(3) No person shall knowingly be a spectator at a dog fight.

(4) Any dog found on the premises of the dog fight or in the immediate vicinity shall be impounded. (as added by Ord. #07-107, Aug. 2007)

10-316. Right of entry. It is the duty and authority of the Shelby County Sheriff or his authorized representative to enter onto any premises, public or private, to make inspections for the purpose of carrying out the provisions of this chapter. (as added by Ord. #07-107, Aug. 2007)

10-317. Penalties. Any person violating the provisions of this chapter upon conviction shall be fined fifty dollars (\$50.00) and each day of violation shall be deemed a separate violation. (as added by Ord. #07-107, Aug. 2007)