

TITLE 10**ANIMAL CONTROL**¹**CHAPTER**

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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 or goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle or livestock, or cats to knowingly or negligently permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1995 Code, § 10-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl, except dogs, cats and other domesticated animals enumerated in the preceding section to come within one thousand feet (1,000') of any residence, place of business, or public street without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1995 Code, § 10-102, modified)

¹Wherever this title mentions dogs, it pertains to dogs and cats.

10-103. 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. (1995 Code, § 10-103)

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl of any kind shall 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 for food if so intended. (1995 Code, § 10-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1995 Code, § 10-105)

10-106. Rabies control. The rabies control program shall be under the control and supervision of the health officer. (1995 Code, § 103-107, modified)

10-107. Appointment of a rabies control officer. A rabies control officer and such deputies or other persons as may be required shall be employed to take and impound all animals and fowl running at large in violation of any provision of this code and to manage the animal shelter. (1995 Code, § 10-108, modified)

10-108. Impoundment and disposition of animals. It shall be the duty of the rabies control officer of the city to take up and impound all animals and fowl running at large in violation of any provision of this code. Upon the impounding of any such animal or fowl, the rabies control officer shall notify the owner thereof, if known. If such owner does not redeem his animal or fowl from the pound, show evidence of rabies vaccination, and the proper license, if required, and pay the impoundment fee as hereinafter stated and maintenance charge of ten dollars (\$10.00) per day within five (5) days, the animal or fowl shall be disposed of by sale, or if no purchasers, by gift, under terms imposed by the rabies control officer, or by humane destruction. In case of the impoundment of any animal or fowl of unknown ownership, such animal shall be kept for five (5) days and if not redeemed by the owner by showing evidence of rabies vaccination, and the proper license, if required, paying the impoundment fee as hereinafter stated and maintenance charge of ten dollars (\$10.00) per day, said animal or fowl shall be disposed of by sale, or if no purchasers, by gift, under terms imposed by the rabies control officer, or by humane destruction. When in the opinion of the rabies control officer any animal or fowl is diseased and there is danger of this disease being transmitted to other animals, fowls, or persons, then the rabies control officer may

immediately destroy said animal. (1995 Code, § 10-109, as amended by Ord. #2014-11, Aug. 2014)

10-109. Disposition of proceeds of sale. All sums arising from the sale or collection of an adoption fee of any animal or fowl as hereinbefore provided, after paying the impoundment fee, maintenance charge, and cost of making the sale, shall be paid to the owner, if known. If the owner is not known, the unclaimed remainder shall be turned over to the city clerk who shall hold such sums subject to the claim of the proper owner. All such moneys remaining unclaimed in the hands of the city clerk for a period of six (6) months shall be forfeited to the use of the city. (1995 Code, § 10-110, modified)

CHAPTER 2

DOGS

SECTION

- 10-201. Definitions.
- 10-202. Enforcement.
- 10-203. Animals becoming nuisance; vicious animals.
- 10-204. Impoundment.
- 10-205. Confinement of certain dogs and other animals.
- 10-206. Rabies control.
- 10-207. Reports of bite cases.
- 10-208. Responsibilities of veterinarians.
- 10-209. Investigation.
- 10-210. Interference.
- 10-211. Veterinarians.

10-201. Definitions. As used in this chapter the following terms shall mean:

(1) "Animal pound." Any premises designated by action of the city for the purpose of impounding and caring for all animals found running at large in violation of this chapter.

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

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

(4) "Kennel." Any person, group of persons, or corporation engaged in breeding, buying, selling, or boarding dogs.

(5) "Nuisance." A dog shall be considered a "nuisance" if it barks, howls, bites, attempts to bite, chases pedestrians or moving vehicles, or rummages through receptacles for trash and garbage.

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

(7) "Rabies control officer." The person or persons employed or designated by the city as its enforcement officer.

(8) "Restraint." A dog is under restraint within the meaning of this chapter if he is:

(a) Secured by a leash under the control of a person or

(b) On or within a vehicle being driven or parked on the streets.

(9) "Spayed female." Any bitch which has been operated upon to prevent conception. (1995 Code, § 10-201)

10-202. Enforcement. The provisions of this chapter shall be enforced by the rabies control officer. (1995 Code, § 10-202, modified)

10-203. Animals becoming nuisance; vicious animals. Whenever in the judgment of the rabies control officer a dog is allowed by the owner to become a nuisance, such animal shall be impounded with the concurrence of the judge and disposed of as provided under § 10-109 hereof.

Whenever any dog becomes vicious as against persons or other animals, in the judgment of the rabies control officer, the owner thereof shall keep the same adequately muzzled at all times when not adequately isolated and confined by the owner. (1995 Code, § 10-203)

10-204. Impoundment. (1) Dogs running at large may be impounded by the rabies control officer or he, at his discretion, may cite the owners of such dogs, if known, to appear in court to answer charges of violation of this chapter. In deciding whether to impound the dogs or cite the owners the rabies control officer shall take into consideration the area problem, if any, whether or not the dog has previously been reported as a nuisance, and the rabies season.

(2) Immediately upon impounding dogs, the rabies control officer shall make every reasonable effort to notify the owners of such dogs so impounded. (1995 Code, § 10-204, modified)

10-205. Confinement of certain dogs and other animals. (1) The owner shall confine within a building or secure enclosure every fierce, dangerous, or vicious dog, and not take such dog out of such building or secure enclosure unless such dog is securely muzzled.

(2) Every female dog in heat shall be kept confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel, in such manner that such female dog cannot come in contact with another dog, except for intentional breeding purposes.

(3) Any animal described in the foregoing subsections of § 10-205 of this chapter, found at large shall be impounded by the rabies control officer.

(4) Any dog impounded for being a public nuisance may not be redeemed unless such redemption is authorized by any court having jurisdiction.

(5) When in the judgment of the rabies control officer an animal should be destroyed for humane reasons, such animal may not be redeemed. (1995 Code, § 10-205)

10-206. Rabies control. (1) Every animal or rodent which bites a person shall be promptly reported to the rabies control officer, and shall thereupon be securely quarantined at the direction of the rabies control officer for a period of ten (10) days and shall not be released from such quarantine except by written permission of the rabies control officer. At the discretion of the rabies 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 case 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 rabies 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 with the licensing provisions set forth in this chapter.

(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 rabies 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 rabies control officer may 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 permission of the rabies control officer.

During this quarantine period and as long afterward as he decides it is necessary to prevent the spread of rabies, the rabies control officer shall require that all dogs, 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 rabies control officer. All vaccinated dogs shall be restricted (leashing or confinement on enclosed premises) for thirty (30) days after vaccination. During the quarantine period, the rabies control 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.

(5) Dogs bitten by a known rabid animal shall immediately be destroyed or if the owner is not willing to destroy the exposed animal, strict isolation of the animal in a kennel for six (6) months shall be enforced. If the dog has been previously vaccinated, within time limits established by the rabies control officer based on the kind of vaccine used, revaccination and restraint (by 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 remove from the city limits, any rabid animal, any animal suspected of having been exposed to rabies, or any animal which has

bitten a man, except as herein provided, without written permission from the rabies control officer.

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

(9) The rabies 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 rabies 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 Fayetteville. (1995 Code, § 10-206, modified)

10-207. Reports of bite cases. It shall be the duty of every physician or other medical practitioner to report to the rabies control officer the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful for rabies control. (1995 Code, § 10-207)

10-208. Responsibilities of veterinarians. It shall be the duty of every licensed veterinarian to report to the rabies control officer any animal considered by him to be a rabies suspect. (1995 Code, § 10-208)

10-209. Investigation. For the purpose of discharging the duties imposed by this chapter and to enforce its provisions, the rabies control officer or any police officer is empowered to enter upon any premises upon which a dog is kept or harbored and to demand the exhibition by the owner of such dog and the license for such dog. It is further provided that the rabies 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. (1995 Code, § 10-209)

10-210. Interference. No person shall interfere with, hinder, or molest the rabies control officer in the performance of any duty imposed by this chapter or seek to release any animal in the custody of the rabies control officer except as herein provided. (1995 Code, § 10-210)

10-211. Veterinarians. No veterinarian shall administer a rabies vaccination to the dog of any owner whose residence is within the corporate limits of Fayetteville without requiring proof of a current year's license for the dog. (1995 Code, § 10-211)

CHAPTER 3

ORDINANCE REGULATING DANGEROUS DOGS

SECTION

- 10-301. Authorization.
- 10-302. Purpose and intent.
- 10-303. Definitions.
- 10-304. Procedure for declaring a dog dangerous.
- 10-305. Notification of dangerous dog declaration.
- 10-306. Hearing on dangerous dog declaration.
- 10-307. Appeal from dangerous dog declaration.
- 10-308. Keeping of dangerous dogs.
- 10-309. Permit and tag required for a dangerous dog.
- 10-310. Notification of intent to impound.
- 10-311. Immediate impoundment.
- 10-312. Impoundment hearing.
- 10-313. Destruction.
- 10-314. Appeal from order of humane destruction.
- 10-315. Change of ownership.
- 10-316. Continuation of dangerous dog declaration.

10-301. Authorization. This ordinance is enacted pursuant to the general police power, the authorities granted to cities and towns by the Tennessee State Constitution. (1995 Code, § 10-301)

10-302. Purpose and intent. The purposes of this ordinance are to promote the public health, safety, and general welfare of the citizens of the City of Fayetteville. It is intended to be applicable to "dangerous" dogs, as defined herein, by ensuring responsible handling by their owners through registration, confinement, and liability insurance. (1995 Code, § 10-302, as amended by Ord. #2014-10, Aug. 2014)

10-303. Definitions. When used in this ordinance, the following words, terms, and phrases, and their derivations shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) "Animal control officer" means any person employed or appointed by the city who is authorized to investigate and enforce violations relating to animal control or cruelty under the provision of this ordinance.
- (2) "At large" means that a dog is not under the direct control of the owner.
- (3) "Dangerous dog" means any dog that, because of its aggressive nature, training or characteristic behavior, presents a risk of serious physical

harm or death to human beings, or would constitute a danger to human life, physical well-being, or property if not kept under the direct control of the owner. This definition shall not apply to dogs utilized by law enforcement officers in the performance of their duties. The term "dangerous dog" includes any dog that according to the records of either the city, animal shelter, the city department of animal control, or any law enforcement agency:

(a) Has aggressively bitten, attacked, endangered, or inflicted severe injury on a human being on public or private property, or when unprovoked, has chased or approached a person upon the street, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by any of the above referenced authorities;

(b) Has more than once severely injured or killed a domestic animal while off the owner's property; or

(c) Has been used primarily or in part for the purpose of dog fighting, or is a dog trained for dog fighting.

(4) "Direct control" means immediate, continuous physical control of a dog such as by means of a leash, cord, secure fence, or chain of such strength to refrain the dog and controlled by a person capable of restraint within a vehicle. If the controlling person is at all times fully and clearly within unobstructed sight and hearing of the dog, voice control shall be considered direct control when the dog is actually participating in training or in an official showing, obedience, or field event. Direct control shall not be required of dogs actually participating in a legal sport in an authorized area or to government police dogs.

(5) "Director" means the animal control officer.

(6) "Impoundment" means the taking or picking up and confining of an animal by any police officer, animal control officer or any other public officer under the provisions of this ordinance.

(7) "Muzzle" means a device constructed of strong soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

(8) "Owner" means any person, partnership, corporation or other legal entity owning, harboring or keeping any animal, or in the case of a person under the age of eighteen (18), that person's parent or legal guardian. An animal shall be deemed to be harbored if is fed or sheltered for three (3) or more consecutive days. The definition shall not apply to any veterinary clinic or boarding kennel.

(9) "Sanitary condition" means a condition of good order and cleanliness to minimize the possibility of disease transmission.

(10) "Under restraint" means that an animal is secured by leash, led under the control of a person physically capable of restraining the animal and obedient to that person's commands, or securely enclosed within the real

property limits of the owner's premises. (1995 Code, § 10-303, as amended by Ord. #2014-10, Aug. 2014)

10-304. Procedure for declaring a dog dangerous. (1) An animal control officer or any adult person may request under oath that a dog be classified as dangerous as defined in § 10-303(3) by submitting a sworn, written complaint on a form approved by the animal control officer. Upon receipt of such complaint, the director shall notify the owner of the dog 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 director may:

(a) Determine that the dog is not dangerous, 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 dangerous and order the owner to comply with the requirements for keeping dangerous dogs set forth in § 10-308, and if the dog is impounded, release the dog to its owner after the owner has paid all fees incurred for the impoundment. If all impoundment fees have not been paid within ten (10) business days after a final determination that a dog is dangerous, the director may cause the dog to be humanely destroyed. (1995 Code, § 10-304)

10-305. Notification of dangerous dog declaration. (1) Within five (5) business days after the declaring a dog dangerous, the director shall notify the owner by certified mail of the dog's designation as a dangerous dog and any specific restrictions and conditions for keeping the dog, as set forth in § 10-308 of this ordinance. The animal control officer also shall notify the city administrator and the police chief of the designation of any dog as a dangerous dog and specify any particular requirements or conditions placed upon the dog owner.

(2) The notice shall inform the dog owner that he may request, in writing, a hearing to contest the director's finding and designation within five (5) business days after delivery of the dangerous dog declaration notice.

(3) If the director cannot with due diligence locate the owner of a dog that has been seized pursuant to this ordinance, the director shall cause the dog to be impounded for not less than five (5) business days. If after five (5) days, the owner fails to claim the dog, the director may cause the dog to be humanely destroyed. (1995 Code, § 10-305)

10-306. Hearing on dangerous dog declaration. (1) The city administrator shall hold a hearing within fifteen (15) business days after receiving the dog owner's written request for such a hearing. The city administrator shall provide notice of the date, time and location of the hearing to the dog owner by certified mail and to the complainant by regular mail.

(2) At a hearing, all interested persons shall be given the opportunity to present evidence on the issue of the dog's dangerousness. Criteria to be considered in a hearing required by this section shall be included but not to be limited to the following:

- (a) Provocation,
- (b) Severity of attack or injury to a person or domestic 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 a hearing that the dog is in fact a dangerous dog as defined in § 10-303(3) shall subject the dog and its owner to the provisions of this ordinance.

(4) Failure of the dog owner to request a hearing shall result in the dog being finally declared a dangerous dog and shall subject the dog and its owner to the provisions of this ordinance. (1995 Code, § 10-306)

10-307. Appeal from dangerous dog declaration. If the city administrator determines that a dog is dangerous at the conclusion of a hearing conducted under § 10-306, that decision shall be final unless the dog owner applies to a court of competent jurisdiction for any remedies that may be available within ten (10) days after receiving notice that the dog has been finally declared dangerous. The appeal must be a trial de novo and shall be civil proceeding for the purpose of affirming or reversing the city administrator's determination of dangerousness. (1995 Code, § 10-307)

10-308. Keeping of dangerous dogs. The keeping of a dangerous dog as defined in § 10-303(3) shall be subject to the following requirements:

(1) **Leash.** No person having charge, custody, control or possession of a dangerous dog shall allow the dog to exit its kennel, pen or other proper enclosure unless such dog is securely attached to a leash not more than four feet (4') in length. No such person shall permit a dangerous dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person capable of controlling the dog is in physical control of the leash.

(2) **Muzzle.** It shall be unlawful for any owner or keeper of a dangerous dog to allow the dog to be outside of its proper enclosure unless it is necessary for the dog to receive veterinary care or exercise. In such cases, the dog shall wear a properly fitted muzzle to prevent it from biting humans or other animals. Such muzzle shall not interfere with the dog's breathing or vision.

(3) **Confinement.** Except when leashed and muzzled as provided in this section, a dangerous dog shall be securely confined indoors or confined in a locked pen or other secure enclosure that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. The enclosure shall

include shelter and protection from the elements and shall provide adequate exercise room, light and ventilation. The enclosed structure shall be kept in a clean and sanitary condition and shall meet the following requirements:

(a) The structure must have secure sides and a secure top, or all sides must be at least eight feet (8') high;

(b) The structure must have a bottom permanently attached to the sides or the sides must be embedded not less than one foot (1') into the ground; and

(c) The structure must be of such material and closed in such a manner that the dog cannot exit the enclosure on its own.

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

(5) Signs. All owners, keepers or harborers of dangerous dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog."

(6) Liability insurance, surety bond. The owner of dangerous dog shall present to the animal control officer proof that he/she has procured liability insurance or a surety bond in the amount of not less than one hundred thousand dollars (\$100,000.00) covering any damages or injury that may be caused by such dangerous dog. The policy shall contain a provision requiring that the city be notified immediately by the agent issuing the policy in the event that the insurance policy is cancelled, terminated or expires. The liability insurance or surety bond shall be obtained prior to the issuing of a permit to keep a dangerous dog. The dog owner shall sign a statement attesting that he shall maintain and not voluntarily cancel the liability insurance policy during the twelve (12) month period for which a permit is sought, unless he ceases to own or keep the dog prior to the expiration date of the permit period. In the event that the owner proves to the satisfaction of the animal control officer that insurance is not available, he may pay a non-refundable cash fee in the amount of one thousand dollars (\$1,000.00) to the city.

(7) Animals born of registered dogs. All offspring born of dangerous dogs registered with the animal control officer also must be registered with the department within six (6) weeks of birth.

(8) Notification of escape. The owner or keeper of a dangerous dog shall notify the animal control officer immediately if such dog escapes from its enclosure or restraint and is at large. Such immediate notification shall also be required if the dog bites or attacks a person or domestic animal.

(9) Failure to comply. It shall be unlawful and a misdemeanor for any owner of a dangerous dog registered with the animal control officer to fail to comply with the requirements and conditions set forth in this section. Any dog found to be in violation of this section shall be subject to immediate seizure and

impoundment. In addition, failure to comply with the requirements and conditions set forth in this ordinance shall result in the revocation of the dog's license and the permit providing for the keeping of such animal. (1995 Code, § 10-308)

10-309. Permit and tag required for a dangerous dog. (1) The owner of a dangerous dog shall, within three (3) business days after the classification of the dog as a dangerous or upon acquisition of such a dog, obtain an annual permit from the animal control officer to harbor the dog. The fee for such permit shall be one hundred dollars (\$100.00) per year.

This fee shall include the tag and inspection fee for inspection of the structure for confinement of the animal.

(2) Proof of current rabies vaccination shall be presented in order to obtain the permit.

(3) At the time the permit is issued, a red circular tag shall be issued to the owner of the dangerous dog. The tag shall be worn at all times by the dog to clearly and easily identify it as a dangerous dog.

(4) The permit for maintaining a dangerous dog shall be presented to an animal control officer upon demand. (1995 Code, § 10-309)

10-310. Notification of intent to impound. (1) When the animal control officer or his designee intends to impound a dog declared to be dangerous for violation of § 10-308 he shall notify the owner or custodian of the dog, by certified mail, of the intended impoundment at least five (5) business days prior to the intended impoundment, except as provided in § 10-311.

(2) The notice of intent to impound shall inform the owner or custodian of the dog that he may request in writing, within five (5) business days prior to the intended impoundment, a hearing to contest the intended impoundment and finding of violation.

(3) Upon request by the owner or custodian of the dog for a hearing pursuant to subsection (2), a hearing shall be held within ten (10) business days after the request for a hearing. Notice of the date, time and location of the hearing shall be provided by certified mail to the dog's owner or custodian requesting such hearing.

(4) If the owner or custodian requests a hearing pursuant to subsection (b), no impoundment shall take place until conclusion of the hearing, except as authorized in § 10-311. (1995 Code, § 10-311)

10-311. Immediate impoundment. (1) A dog declared to be dangerous may be immediately impounded without a pre-impoundment hearing when the animal control officer or his designee determines such immediate impoundment is necessary for the protection of public health or safety. Such immediate impoundment may be ordered for violation of § 10-308 or when the dog bites a person or domestic animal.

(2) The owner or custodian of the dog immediately impounded pursuant to subsection (1) shall be notified of the impoundment by certified mail within five (5) business days after the dog's impoundment

(3) The notice of impoundment shall inform the owner or custodian of the dog that he may request, in writing, a hearing to contest the impoundment within five (5) business days after the mailing of the notice of impoundment.

(4) Upon request by the owner or custodian of the dog for a hearing under subsection (3), a hearing shall be held within ten (10) business days after such request. Notice of the date, time and location of the hearing shall be provided by certified mail to the dog owner requesting the hearing. (1995 Code, § 10-312)

10-312. Impoundment hearing. (1) If after a hearing on impoundment, the director or his designee finds no violation of § 10-308, or that the dog has not bitten an individual, the dog shall be returned to its owner or custodian if already impounded, or shall not be impounded as intended.

(2) Incident to the findings and conclusions made at the impoundment hearing, the director or his designee may impose reasonable restrictions and conditions for the maintenance of the dog to ensure the health and safety of the public and the animal. Such conditions may include, but shall not be limited to:

(a) Posting of bond or other proof of ability to respond in damages;

(b) Specific requirements as to size, construction and design of a kennel in which to house the dog;

(c) Requirements as to type and method of restraint and/or muzzling of the dog;

(d) Photo identification or permanent marking of the dog for purposes of identification; and

(e) Payment of reasonable fees to recover the costs incurred by the animal control officer in ensuring compliance with this ordinance. (1995 Code, § 10-313)

10-314. Destruction. (1) The animal control officer or his designee may order the destruction of a dog that it determines to be extremely dangerous to public health or safety, a dog that has made an extremely vicious attack upon an individual, or a dog declared dangerous whose owner is unable or unwilling to adequately restrain it.

(2) The director or his designee shall give written notice by certified mail of his intention to destroy such dog to the owner or custodian of the dog, who may request in writing, within ten (10) business days after delivery of such notice, a hearing to contest the intended destruction.

(3) If no hearing is requested pursuant to subsection (2), the dog shall be destroyed pursuant to applicable provisions of law.

(4) If a hearing is requested pursuant to subsection (2), such hearing shall be held within ten (10) business days after the request; and the dog shall not be destroyed prior to the conclusion of the hearing.

(5) The dog owner shall be responsible for payment of all boarding costs and other fees as may be required for the city to humanely and safely keep the animal during any legal proceeding. (1995 Code, § 10-314)

10-314. Appeal from order of humane destruction. If the director or his designee orders a dangerous dog to be humanely destroyed pursuant to § 10-313, that decision shall be final unless the dog owner applies to a court of competent jurisdiction for any remedies that may be available within ten (10) days after receiving notice of the destruction order. If an appeal is timely filed, the director shall suspend the destruction order pending the final determination of the court. The appeal hearing must be a trial de novo and shall be a civil proceeding for the purpose of affirming or reversing the director's destruction order. (1995 Code, § 10-315)

10-315. Change of ownership. (1) Any owner of a dangerous dog who sells or otherwise transfers ownership, custody or residence of the dog shall, within ten (10) business days after such change of ownership or residence, provide written notification to the animal control officer of the name, address and telephone number of the new owner. It also shall be the responsibility of the person transferring ownership or custody of the dog to provide written notification of the dog's classification as dangerous to the person receiving the dog. The previous owner shall furnish a copy of such notification to the animal control officer along with written acknowledgment by the new owner of his receipt of such notification. The animal control officer or his designee shall notify the city administrator and police chief of any changes of ownership, custody or residence of the dog within three (3) business days after receiving the required information from the previous dog owner.

(2) Any person receiving a dog classified as dangerous must obtain the required permit, tag and enclosure prior to acquisition of the dog. The new owner shall comply fully with the provision of this ordinance pertaining to obtaining liability insurance, payment of fees, and maintenance, control and ownership of a dangerous dog. (1995 Code, § 10-316)

10-316. Continuation of dangerous dog declaration. Any dog that has been declared dangerous by any agency or department of this city, another municipality, county, or state shall be subject to the provisions of this ordinance for the remainder of its life. The person owning or having custody of any dog designated as a dangerous dog by any municipality, county, or state government shall notify the animal control officer of the dog's address and conditions of maintenance within ten (10) days of moving the animal into the City of Fayetteville. The restrictions and conditions of maintenance of any dog declared

dangerous by this city, another municipality, county, or state shall remain in force while the dog remains in the city. (1995 Code, § 10-317)