

TITLE 10

ANIMAL CONTROL¹

CHAPTER

1. IN GENERAL.
2. DOGS, CATS & RABIES CONTROL.
3. VICIOUS DOGS.

CHAPTER 1

IN GENERAL

SECTION

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- 10-106. Right of entry.
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10-101. Definitions. Wherever in this chapter the following terms are used, they shall have the meanings respectively ascribed to them in this section.

(1) "Animals and fowls" as specifically named herein, by whatever name they might be called, includes every age, and sex of each of the herein named species of animals and fowls.

(2) "Keeper" refers to any person, firm, or corporation owning, keeping, having, using or maintaining any of the animals or fowls herein referred to.

(3) "Person" includes any individual, firm, or corporation.

(4) "Approval" means approval by the director of health pursuant to power granted to him in this chapter.

(5) "Rodent-proof" is a state or condition not conducive to entry, feeding, or harboring of rodents.

(6) "Sanitary" means a condition of good order and cleanliness which precludes the probability of disease transmission.

(7) "Director of health" refers to the legal health authority of the community or his authorized representative. (1983 Code, § 3-101)

10-102. Application of chapter. No person shall keep, maintain, or cause to be kept any horses, mules, donkeys, cattle, chickens, turkeys, ducks, geese,

¹Charter reference

Corporate Powers: art I, § 1.04(o)

goats, sheep, hares, or similar animals or fowls either domesticated or non-domesticated except under conditions hereinafter set forth in the provisions of this chapter. (1983 Code, § 3-102)

10-103. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any horses, mules, donkeys, cattle, chickens, turkeys, ducks, geese, goats, sheep, horses, dogs, cats or similar animals or fowls, either domesticated or non-domesticated, to knowingly or negligently permit any of them to run at large in any street, alley or unenclosed lot within the corporate limits. (1983 Code, § 3-103)

10-104. Swine prohibited within the corporate limits. It shall be unlawful for any person to keep confined or to let run at large any hog or hogs, pig or pigs, within the corporate limits. (1983 Code, § 3-104)

10-105. Accommodations for animals to be kept clean. No animals or fowls described in section 10-102 of this chapter shall be kept in any place in which manure or liquid discharges from such animals or fowls shall collect or accumulate to any degree of offensiveness. Such manure and liquids shall be at once removed to some proper place of disposal and/or effectively stored between periods of removal in closed containers which shall provide for the maximum practical fly, rodent and other control.

Stalls, stables, pens, yards, and appurtenances in which such animals and fowls are kept shall at all times be maintained in a clean and wholesome condition, so that no offensive odor shall be allowed to escape therefrom, and no rodents, flies or other insects will be able to breed therein or become attracted thereto.

Buildings, pens, yards, and appurtenances constructed for the purpose of housing and impounding animals and fowls shall be located with the view of adequate drainage and constructed so as to facilitate routine cleaning. (1983 Code, § 3-108)

10-106. Right of entry. It shall be the duty of any authorized representative of the City of Winchester to enter onto any premise, public or private, at any reasonable hour of the day to make inspections for the purpose of carrying out the provisions of this chapter. (1983 Code, § 3-109, as amended by Ord. #601, Nov. 1989)

10-107. Cruelty to animals. (1) No person having charge of any animal and no keeper of any pound, kennel, coop, pen, veterinary hospital, or other such places where animals or fowls may be kept or impounded shall allow the same or any animal therein by reason of want of care, food, ventilation, or cleanliness or otherwise to be or to become dangerous or detrimental to human life, health or welfare.

(2) Any person tying a box, can or paper bag to a dog's tail or any other animals tail or otherwise willfully and maliciously hurting or needlessly teasing or worrying or wounding animals or in any way mistreating them, shall be deemed guilty of a misdemeanor. (1983 Code, § 3-110)

10-108. Impoundment. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the director of health or by any police officer and confined in a pound provided or designated by the city council. 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 costs or the same will be sold or humanely destroyed. 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 city council.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the city council, to cover the costs of impoundment and maintenance. (1983 Code, § 3-111)

CHAPTER 2

DOGS, CATS AND RABIES CONTROL

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs and cats to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs and cats suspected of being rabid.
- 10-207. Seizure and disposition of dogs and cats.
- 10-208. Summary destruction authorized.

10-201. 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 provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated §§ 68-8-101 through 68-8-114) or other applicable law. (1983 Code, § 3-201)

10-202. Dogs and cats to wear tags. 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 section 10-201 above. (1983 Code, § 3-202)

10-203. Running at large prohibited.¹ It shall be unlawful for any person knowingly to permit a dog or cat owned by him or under his control or that may be habitually found on premises owned or occupied by him, to go upon the premises of another or upon a highway, public street or road unless said dog or cat is restrained by a secure leash and held by a responsible person, which is to be interpreted consistent with state law. (1983 Code, § 3-203)

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1983 Code, § 3-204)

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood. (1983 Code, § 3-205)

¹State law reference

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

10-206. Confinement of dogs and 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 director of health, rabies control officer of the city or county or any police officer may cause such dog or cat to be confined or isolated for such time as he deems reasonably necessary to determine if such dog or cat is rabid. (1983 Code, § 3-206)

10-207. Seizure and disposition of dogs and cats. Any dog or cat found running at large may be seized by the officers or persons designated in section 10-206 above and placed in a pound provided or designated by the city council. If said dog or cat is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog or cat by paying a reasonable pound fee, in accordance with a schedule approved by the city council, or the dog or cat will be sold or humanely destroyed. If said dog or cat is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within two (2) days. No dog or cat shall be released in any event from the pound unless or until such dog or cat has been vaccinated and has a tag evidencing such vaccination placed on its collar. (1983 Code, § 3-207)

10-208. Summary destruction authorized. When, because of its viciousness or apparent infection with rabies, a dog or cat found running at large cannot be safely impounded it may be summarily destroyed by the director of health or any policeman.¹ (1983 Code, § 3-208)

¹State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1928).

CHAPTER 3

VICIOUS DOGS

SECTION

- 10-301. Definitions.
- 10-302. Vicious dogs prohibited.
- 10-303. Procedure for determining that a dog is vicious.
- 10-304. Impoundment of vicious dogs.
- 10-305. Court proceedings against the owner.
- 10-306. Court findings.
- 10-307. Guard dogs.
- 10-308. Penalties.

10-301. Definitions. (1) "Confined" shall mean securely confined indoors, within an automobile or other vehicle, or confined in a securely enclosed and locked pen or structure upon the premises of the owner of such dog.

(2) "Muzzle" shall mean a device, constructed of strong, bite-resistant material, which fastens over the mouth of a dog so as to prevent it from biting any person or other animal.

(3) "Physical restraint" shall mean a muzzle and a leash not to exceed six feet (6'). The leash must be controlled by an adult physically capable of controlling such dog. The muzzle must not cause injury to the dog.

(4) "Securely enclosed and locked pen or structure" shall mean a fenced-in area that shall be a minimum of five feet (5') wide, ten feet (10') long, and five feet (5') in height above grade, and with a horizontal top covering said area, all to be at least nine (9) gauge chain link fencing with necessary steel supporting the posts. The floor shall be at least three inches (3") of poured concrete with the bottom edge of the fencing embedded in the concrete or extending at least one foot (1') below grade. The gate must be of the same materials as the fencing, fit securely, and be kept securely locked. The owner shall post the enclosure with a clearly visible warning sign, including a warning symbol to inform children, that there is a dangerous dog on the property. The enclosure shall contain and provide protection from the elements for the dog.

(5) "Vicious dog" shall mean any dog which:

(a) Approaches any person in an aggressive, menacing or terrorizing manner or in an apparent attitude of attack if such person is upon any public ways, including streets and sidewalks, or any public or private property; or

(b) Has a known propensity, tendency, or disposition to attack, inflict injury to or to otherwise endanger the safety of persons or domestic animals; or

(c) Without provocation, bites or inflicts injury or otherwise attacks or endangers the safety of any person or domestic animal; or

(d) Is trained for dog fighting or which is owned or kept primarily or in part for the purpose of dog fighting. (as added by Ord. #857, June 2006)

10-302. Vicious dogs prohibited. It shall be unlawful for any person to keep or harbor a vicious dog within the corporate limits of the City of Winchester unless said vicious dog is confined in compliance with this chapter. (as added by Ord. #857, June 2006)

10-303. Procedure for determining that a dog is vicious. (1) Upon his own complaint alleging a dog to be vicious, or upon the receipt of such a complaint signed by one or more residents of Winchester, the animal control officer shall hold a hearing within five (5) days of serving notice to the dog owner. The purpose of the hearing shall be to determine whether such dog is, in fact, vicious. The dog owner shall be notified by a certified letter of the date, time, place, and purpose of the hearing and may attend and have an opportunity to be heard.

(2) In making the determination as to whether a dog is vicious, the animal control officer shall consider, but is not limited to, the following criteria:

- (a) Provocation;
- (b) Severity of attack or injury;
- (c) Previous aggressive history of the dog;
- (d) Observable behavior of the dog;
- (e) Site and circumstances of the incident;
- (f) Age of the victim;
- (g) Statements from witnesses and other interested parties;
- (h) Reasonable enclosures already in place;
- (i) Height and weight of the dog.

(3) Within five (5) days of the hearing, the animal control officer shall determine whether to declare the dog vicious and shall within five (5) days after such determination notify the owner by certified mail of the dog's designation as a vicious dog and the specific restrictions and conditions for keeping the dog. If the dog is declared vicious, its owner shall confine the dog within a secure enclosure and whenever the dog is removed from the secure enclosure it shall be physically restrained, as defined in this chapter. The owner of the vicious dog shall notify residents of all abutting properties, including those across the street, of such findings. This notice to occupants of abutting properties shall be by certified mail, return receipt requested, and shall be at the owner's sole expense. The animal control officer may:

- (a) Vary the minimum requirements of a secure enclosure if the owner's residence cannot accommodate a secure enclosure as defined in this chapter; or

(b) Permit an alternate method of enclosure provided that, in the sole discretion of the animal control officer, such alternate method fulfills the objectives as a secure enclosure.

(4) No dog shall be declared vicious if the threat, injury, or damage was sustained by a person who:

(a) Was committing a crime or willful trespass or other tort upon the premises occupied by the owner of the dog; or

(b) Was teasing, tormenting, abusing, assaulting or provoking the dog; or

(c) Was committing or attempting to commit a crime.

No dog shall be declared vicious as the result of protecting or defending a human being, any other animal, or itself against an unjustified attack or assault. (as added by Ord. #857, June 2006)

10-304. Impoundment of vicious dogs. Any vicious dog, not in compliance with the provisions this chapter, may be taken into custody by the appropriate authorities of the City of Winchester, or agents acting on behalf of the city, and impounded. The dog's owner shall be solely responsible for payment of all boarding fees associated with the impounding of the dog, in addition to any punitive fines to be paid. (as added by Ord. #857, June 2006)

10-305. Court proceedings against the owner. If any vicious dog is impounded, the City of Winchester may institute proceedings in general sessions court charging the owner with violation of this chapter. Nothing in this section, however, shall be construed as preventing the City of Winchester or any citizen from instituting a proceeding for violation of this chapter where there has been no impoundment. (as added by Ord. #857, June 2006)

10-306. Court findings. If a complaint has been filed in general session court against the owner of a dog for a violation of this chapter, the dog shall not be released from impoundment or disposed of except on order of the court, payment of all charges and costs under this chapter, including penalties for violating this chapter. The court may, upon making a finding that the dog is vicious pursuant to this chapter, order the dog to be destroyed in a humane manner. (as added by Ord. #857, June 2006)

10-307. Guard dogs. It shall be unlawful for any person to place or maintain guard dogs in any area of the City of Winchester 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 direct and absolute control of a handler at all times when not confined; and

(3) The owner or other persons 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. #857, June 2006)

10-308. 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. #857, June 2006)