

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

1. IN GENERAL.
2. DOGS AND CATS.
3. VICIOUS DOGS.

CHAPTER 1**IN GENERAL****SECTION**

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
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- 10-104. Adequate food, water, and shelter, etc., to be provided.
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- 10-106. Seizure and disposition of animals.
- 10-107. Inspections of premises.
- 10-108. Violations and penalty.

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.

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (1997 Code, § 10-101, modified)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within one thousand feet (1,000') of any residence, place of business, or public street, as measured in a straight line. (1997 Code, § 10-102, modified)

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. (1997 Code, § 10-103)

10-104. 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, 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. (1997 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. (1997 Code, § 10-105)

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 any police officer or other properly designated officer or official and confined in a pound provided or designated by the board of mayor and aldermen. 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 humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance. (1997 Code, § 10-107, modified)

10-107. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this title, the designated animal control officer, his authorized representative, or any police officer, 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. (1997 Code, § 10-108)

10-108. Violations and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation continues shall constitute a separate offense.

CHAPTER 2

DOGS AND CATS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs 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 suspected of being rabid.
- 10-207. Seizure and disposition of dogs.
- 10-208. Destruction of vicious or infected dogs running at large.
- 10-209. Violations and penalty.

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 the provisions of the "Tennessee Anti-Rabies Law" (*Tennessee Code Annotated*, §§ 68-8-101 to 68-8-113) or other applicable law.

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section.

10-203. Running at large prohibited.¹ It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits.

Any person knowingly permitting a dog to run at large, including the owner of the dog, may be prosecuted under this section even if the dog is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

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.

¹State law reference

Tennessee Code Annotated, § 68-8-107.

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.

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly designated officer or official may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid.

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the board of mayor and aldermen. If the dog is wearing a tag or found to be implanted with a microchip, 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 by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, or the dog will be sold or humanely destroyed. If the dog is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and has a tag evidencing such vaccination placed on its collar.

Any new owner adopting a dog that has not been spayed or neutered must pay a twenty-five dollar (\$25.00) deposit before a dog may be released, as required by the Tennessee Spay/Neuter Law.¹

¹State law reference

Tennessee Code Annotated, § 44-17-501, *et seq.*, "The Tennessee Spay/Neuter Law," prohibits persons from adopting a dog or cat from an agency (pound, animal shelter, etc.) operated by a municipality unless the dog or cat was already spayed or neutered, was spayed or neutered while in the custody of the agency, or the new owner signs a written agreement to have the animal spayed or neutered within 30 days of the adoption if the animal is sexually mature, or within 30 days after the animal reaches six (6) months of age if it is not sexually mature.

Before an agency may release an animal which has not been spayed or neutered it must collect a twenty-five dollar (\$25.00) deposit from the new owner to ensure compliance with the law. If the new owner does not comply with the law, the deposit is forfeited and the agency may file a petition in court to force the new owner to either comply with the

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10-208. Destruction of vicious or infected dogs running at large.

When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any policeman or other properly designated officer.

10-209. Violations and penalty. Any violation of this chapter shall constitute a civil offense and, upon conviction thereof, shall be punished by a fine. A list of fine amounts are as follows:

(1) First offense \$67.00

(2) Second offense \$77.00

(3) Third offense \$87.00

(4) Fourth offense and any thereafter shall be considered a continuous nuisance and the dog(s) will not be released to the owner(s) or keeper(s).

¹(...continued)

law or return the animal.

An agency may not spay or neuter a dog or cat that is returned to its original owner within seven (7) days of its being taken into custody by the agency.

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. Reckless dog owner.
- 10-307. Violations and penalties.
- 10-308. Deleted.

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

(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. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded in the ground no less than two feet (2').

(2) "Vicious dog" shall mean any dog which attacks or bites a person or a domestic animal on any public or private property without provocation or justification or any dog owned or harbored primarily or in part for the purpose of fighting.

(3) "Domestic animal" shall mean an animal of a tamed species commonly kept as pets and includes livestock.

(4) "Owner" shall mean any person, partnership or corporation having a right of property in an animal, or who keeps or harbors a dog, or who has it in his care, or acts as its custodian, or who knowingly permits a dog to remain on any premises occupied by him or her.

(5) "Animal control officer or director" shall mean any person employed or appointed by the Town who is authorized to investigate and enforce violations relating to animal control under the provision of this chapter.

(6) "Properly restrained" shall mean

- (a) Controlled by a competent person by means of a chain, leash, or other like device not to exceed six feet (6') in length,
- (b) Secured within or upon a vehicle being driven or parked, or
- (c) Confined within a proper enclosure.

Properly restrained in or upon a vehicle does not include restraint or confinement that would allow an animal to fall from or otherwise escape the confines of a vehicle or that would allow an animal to have access to persons

outside the vehicle. (modified, as replaced by Ord. #22-463, Nov. 2022 *Ch1_12-01-22*)

10-302. Vicious dogs prohibited. It shall be unlawful for any person to keep or harbor a vicious dog within the Town of Estill Springs unless the vicious dog is confined.

(a) The owner of a vicious dog shall be liable for and shall pay all costs associated with impoundment, removal or euthanasia of said animal.

(b) The owner shall pay any other associated costs incurred. (as replaced by Ord. #22-463, Nov. 2022 *Ch1_12-01-22*)

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 Estill Springs, the animal control officer shall start an investigation of the complaint. Upon completion of the investigation, the animal control officer shall determine whether such dog is, in fact, vicious. The dog owner can be cited into court if said dog is in fact deemed to be vicious.

(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) 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 properly 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.

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

(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 replaced by Ord. #22-463, Nov. 2022 *Ch1_12-01-22*)

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 Town of Estill Springs, or agents acting on behalf of the town, 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 replaced by Ord. #22-463, Nov. 2022 *Ch1_12-01-22*)

10-305. Court proceedings against the owner. If any vicious dog is impounded, the Town of Estill Springs may institute proceedings in city court charging the owner with violation of this chapter. Nothing in this section, however, shall be construed as preventing the Town of Estill Springs or any citizen from instituting a proceeding for violation of this chapter where there has been no impoundment. (as replaced by Ord. #22-463, Nov. 2022 *Ch1_12-01-22*)

10-306. Reckless dog owner. (1) Any person convicted of (a) a violation of the Town of Estill Springs Code of Ordinances chapter on animals three (3) or more times in a twenty-four (24) month period; or

(b) A violation of this Article two (2) or more times in any five (5) year period, shall be declared a reckless dog owner.

(2) The animal control director shall issue a notification of the declaration of reckless dog owner to the person with the following:

(a) Name and address of the person subject to the declaration.

(b) The description, violation and conviction that led to the declaration.

(c) The name and description of all dogs subject to the effects of the declaration.

(d) Instructions on appealing the declaration to the board of mayor and aldermen.

(3) Once declared a reckless dog owner, the person shall not own, keep, possess or harbor a dog for a period of five (5) full years from the date of the declaration.

(4) A person declared to be a reckless dog owner may apply to the animal control director to have the declaration waived after two (2) years upon meeting the following conditions:

(a) The person has no subsequent violations of this chapter of the code.

(b) The person has complied with all the provisions of this act for a period of two (2) years.

(c) The person provides proof to the animal control director of successful completion of a program designed to improve the person's understanding of dog ownership responsibilities and based upon an interview with the animal control director establishes that understanding.

If the animal control director finds sufficient evidence that the person has complied with all conditions in this subsection, the director may rescind the reckless owner declaration subject to conditions that can help to ensure no future violations. If the director declines to remove the declaration, the person aggrieved may appeal to the board of mayor and aldermen within thirty (30) days of that decision. Upon appeal, the person must provide clear and convincing proof that ownership of a dog in the future will be handled responsibly and not in violation of any law or ordinance. (as replaced by Ord. #22-463, Nov. 2022 *Ch1_12-01-22*)

10-307. Violations and penalties. Any person violating the provisions of this chapter, upon conviction, shall be subject to the general penalty provision of this code. Each day of violations shall constitute a separate offense. The penalties provided in said section shall be separate and apart and not in lieu of all other civil or criminal penalties which may be imposed under the laws of the State of Tennessee, or the Town of Estill Springs, Tennessee. (as replaced by Ord. #22-463, Nov. 2022 *Ch1_12-01-22*)

10-308. Deleted. (as deleted by Ord. #22-463, Nov. 2022 *Ch1_12-01-22*)