

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

1. IN GENERAL.
2. DOGS AND CATS.
3. PIT BULL 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.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Seizure and disposition of animals.
- 10-107. 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, to knowingly or negligently permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (2000 Code, § 10-101)

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. (Ord. #2014-03, Nov. 2014)

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. (2000 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

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

its health, safe condition, and wholesomeness for food if so intended. (2000 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. (2000 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 the health officer 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, and the animal or fowl will be humanely destroyed or sold if not claimed within five (5) days. If the owner is not known, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. 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 within the specified period, the animal or fowl shall be sold, humanely destroyed, or otherwise disposed of as authorized by the city council. (2000 Code, § 10-107)

10-107. 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 shall continue 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.
- 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.² (1) Definition of terms:

¹State law reference

Tennessee Code Annotated, § 68-8-107.

²See cases stating the state's authority to regulate vicious dogs: *State of Tennessee v. Denver Hartly*, 15 TAM 23-2 (Tenn. S. Ct. 1990), and *Darnell v. Shappard*, 3 S.W.2d 661 (1928).

(a) "Owner" means any person, firm, corporation, organization or department possessing or harboring or having the care or custody of a dog, or the parents or guardian of a child claiming ownership.

(b) "Vicious dog" means:

(i) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or

(ii) Any dog which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this ordinance; or

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

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

(v) Any pit bull terrier, which shall be defined as any American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog, or any mixed breed of dog which contains as an element of its breeding the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Bull Terrier.

(c) A vicious dog is "unconfined" if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

(2) Confinement. The owner of a vicious dog shall not suffer or permit the dog to go unconfined.

(3) Leash and muzzle. The owner of a vicious dog shall not suffer or permit the dog to go beyond the premises of the owner unless the dog is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(4) Signs. The owner of a vicious dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a

vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

(5) Dog fighting. No person, firm, corporation, organization or department shall possess or harbor or maintain care or custody of any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to attack human beings or domestic animals.

(6) Insurance. Owners of vicious dogs must within thirty (30) days of the effective date of this section provide proof to the city clerk of public liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), insuring the owner for any personal injuries inflicted by his or her vicious dog.

(7) Penalties. Whoever violates any provision of this section shall be guilty of a gross misdemeanor and may be punished by a fine of not less than ten dollars (\$10.00) and not more than fifty dollars (\$50.00). The conviction of any owner of three (3) or more offenses under this chapter for any dog during one (1) calendar year shall require a confiscation and forfeiture of that animal based on the danger and incorrigibility of owner and animal. Failure to abide by a lawful order of forfeiture is punishable by contempt.

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

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.²

10-209. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

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 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.

²State law reference

Tennessee Code Annotated, § 44-17-301, *et seq.*

CHAPTER 3

PIT BULL DOGS¹

SECTION

- 10-301. Definitions.
- 10-302. Restrictions.
- 10-303. Standards and requirements.
- 10-304. Sale or transfer of ownership prohibited.
- 10-305. Animals born of registered dogs.
- 10-306. Rebuttal presumptions.
- 10-307. Failure to comply.
- 10-308. Violations and penalty.

10-301. Definitions. The words, terms, and phrases, and their derivations as used in this chapter, except where the context clearly indicates otherwise, shall have the following meanings:

(1) "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 chapter.

(2) "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.

(3) "Pit bull" means and includes any of the following dogs:

- (a) The bull terrier breed of dog;
- (b) The Staffordshire bull terrier breed of dog;
- (c) The American pit bull terrier breed of dog;
- (d) The American Staffordshire terrier breed of dog; and
- (e) Dogs of mixed breed or of other breeds than above listed

which breed or mixed breed is known as pit bull, pit bull dogs or pit bull terriers; and

(f) Any dog which has the appearance and characteristics of being predominantly of the breeds of dogs known as bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, and any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of these breeds.

(4) "Owner" means any person, partnership, corporation or other legal entity owning, harboring or possessing any pit bull, or in the case of a person

¹See cases upholding the authority of cities to adopt breed specific ordinances: *Dog Federation v. City of South Milwaukee*, 5045 N.W.2d 375 (Wis. Ct. App. 1993); *Hearn v. City of Overland Park*, 772 P.2d 758 (1989); *Starkey v. Chester Township*, 628 F. Supp. 196 (E.D. Pa. 1986).

under the age of eighteen (18), that person's parent or legal guardian. A pit bull shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days. This definition shall not apply to any veterinary clinic or boarding kennel.

(5) "Predominantly" means knowledge through identification procedures or otherwise, or admission by owner, keeper, or harborer that the dog is more than fifty percent (50%) pit bull. Predominantly also means that the dog exhibits the physical characteristics of a pit bull more than that of any other breed of dog.

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

(7) "Under restraint" means that the dog is secured by a leash, led under the control of a person physically capable of restraining the dog and obedient to that person's commands, or securely enclosed within the real property limits of the owner's premises.

10-302. Restrictions. It shall be unlawful to keep, harbor, own or in any way possess a pit bull dog within the corporate limits of the City of LaFollette. Provided, however, that persons owning such dogs at the time this chapter is adopted shall be allowed to keep them, provided that they comply with all of the provisions of this chapter, including § 10-203, within thirty (30) days of the effective date of this chapter.

10-303. Standards and requirements. The following standards and requirements apply to pit bull dogs located within the corporate limits.

(1) Registration. Each owner, keeper, harbinger, or possessor of a pit bull dog shall register such dog with the recorder.

(2) Leash. No person having charge, custody, control, or possession of a pit bull shall permit the dog to go outside its kennel, pen, or other proper enclosure unless such dog is securely leashed with a leash no longer than four feet (4') in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person of suitable age and discretion is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, or structures.

(3) Muzzle. It is unlawful for any owner or keeper of a pit bull to allow the dog to be outside its kennel, pen, or other proper enclosure unless it is necessary for the dog to receive veterinary care. In such cases, the dog must wear a properly fitted muzzle sufficient to prevent such dog from biting persons or other animals. Such muzzle shall not interfere with the dog's breathing or vision.

(4) Confinement. Except when leashed and muzzled as provided in this section, all pit bull dogs shall be securely confined indoors or confined in a locked pen, kennel, or other secure enclosure that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. Such pen,

kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine pit bull dogs must be locked with a key or combination lock when such animals are within the structure and the structure must have a secure floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet (2'). All structures erected to house pit bull dogs must comply with zoning and building ordinances and regulations of the City of LaFollette. The enclosure shall include shelter and protection from the elements and shall provide adequate exercise room, be adequately lighted and ventilated and kept in a clean and sanitary condition.

(5) Confinement indoors. No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.

(6) Signs. All owners, keepers, harborers, or possessors of pit bull dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign must be posted on the kennel or pen of such animal.

(7) Insurance. All owners, keepers, harborers or possessors of pit bull dogs must provide proof to the recorder of public liability insurance in a single incident amount of one hundred thousand dollars (\$100,000.00) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from owning, possessing, keeping or maintaining of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the recorder.

(8) Identification photographs. All owners, keepers, possessors, or harborers of pit bull dogs must provide to the recorder two (2) color photographs of the dog clearly showing the color and approximate size of the animal.

(9) Reporting requirements. All owners, keepers, possessors, or harborers of pit bull dogs must within ten (10) days of the incident report the following information in writing to the recorder as required hereinafter:

- (a) The removal from the city or death of a pit bull dog;
- (b) The birth of offspring of a pit bull dog;
- (c) The new address of a pit bull dog owner should the owner move within the corporate limits of the city.

10-304. Sale or transfer of ownership prohibited. No person shall sell, barter or in any other way transfer possession of a pit bull dog to any person within the City of LaFollette unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog; provided that the owner of a pit bull dog may sell or otherwise dispose of a pit bull dog or the offspring of such dog to persons who do not reside within the City of LaFollette.

10-305. Animals born of registered dogs. All offspring born of pit bull dogs within the City of LaFollette must be removed from the City of LaFollette within six (6) weeks of the birth of such animal.

10-306. Rebuttal presumptions. There shall be a Rebuttal presumption that any dog registered within the City of LaFollette as a pit bull dog or any of those breeds defined by § 10-201 of this chapter is in fact a dog subject to the requirements of this code.

10-307. Failure to comply. It shall be unlawful for the owner, keeper, harbinger, or possessor of a pit bull dog within the City of LaFollette to fail to comply with the provisions of this chapter. Any dog found to be the subject of a violation of this chapter shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the City of LaFollette.

10-308. Violations and penalty. Any persons violating or permitting the violation of any provision of this chapter shall be guilty of a civil offense, and upon conviction shall be subject to the fine prescribed in the general penalty clause of the LaFollette Municipal Code. Each day such violation shall continue constitutes a separate offense. In addition to the foregoing penalty, any person who violates this chapter shall pay all expenses, including sums for shelter, food, handling, veterinary care and expert testimony, which are necessitated by the person's failure to abide by the provisions of this chapter.