

TITLE 10

ANIMAL CONTROL¹

CHAPTER

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2. DOGS AND CATS.
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CHAPTER 1

IN GENERAL

SECTION

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
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- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Impoundment of animals and fowls running at large.
- 10-107. Violations and penalty.

10-101. Running at large prohibited.² It shall be unlawful for any person owning or being in charge of any cows, sheep, horses, rabbits, mules, goats, or any chickens, ducks, geese, turkeys, or other animals or fowl, either domesticated or non-domesticated, 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 under this chapter, whether or not the disposition includes returning the animal to its owner. (2005 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 or place of business without the approval of the South Pittsburg Chief of Police. The South Pittsburg Chief of Police shall grant such approval only when in his sound judgment the keeping of such animals and/or fowls under the circumstances as set forth in the application for

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

²See also § 10-203 in this code for provisions prohibiting dogs specifically from running at large.

the permit will not injuriously affect the public health and welfare. (2005 Code, § 10-102)

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. (2005 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.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (2005 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. (2005 Code, § 10-105)

10-106. Impoundment of animals and fowls running at large.¹ Any animal or fowl found running at large within the corporate limits shall be impounded by the health officer or police department. Immediately thereupon a notice of such impoundment shall be given to the owner if known. If the owner is not known or cannot be determined upon diligent inquiry, a notice describing the impounded animal or fowl shall be posted in at least three (3) public places within the corporate limits. The notice of impoundment shall advise the owner that he must claim his impounded animal or fowl and pay reasonable advertising, impoundment, and maintenance fees within five (5) days or such animal or fowl will be humanely destroyed, sold, or otherwise disposed of by the city.

The proceeds of any sale under this section shall be applied first to the payment of reasonable advertising, impoundment, and maintenance fees. The balance, if any, shall be paid to the owner of the animal or fowl, if known, otherwise to the general fund of the city. (2005 Code, § 10-107)

10-107. Violations and penalty. Any violation of any section of this chapter shall subject the offender to a penalty of up to fifty dollars (\$50.00) for each offense. Each day the violation shall continue shall constitute a separate offense. (2005 Code, § 10-108)

¹This section does not apply to dogs. See § 10-206 for provisions dealing specifically with impoundment of dogs.

CHAPTER 2

DOGS AND CATS

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 or cats to be securely restrained.
- 10-205. Noisy dogs or cats prohibited.
- 10-206. Impoundment and/or destruction of dogs or cats.
- 10-207. Animals prohibited from city recreational parks.
- 10-208. Vaccination penalty.
- 10-209. Vicious dogs.
- 10-210. 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 within the corporate limits without having the same duly vaccinated against rabies and registered in accordance with the provisions of the Tennessee Anti-Rabies Law (*Tennessee Code Annotated*, §§ 68-8-101 to 68-8-114). (2005 Code, §-10-201, modified)

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 the preceding section. (2005 Code, § 10-202)

10-203. Running at large prohibited.¹ It shall be unlawful for any person knowingly to permit any dog or cat owned by him or under his control to run at large within the corporate limits. (2005 Code, § 10-203)

10-204. Vicious dogs or cats to be securely restrained. It shall be unlawful for any person to own or keep any dog or cat known to be vicious or dangerous unless such dog or cat is so confined and/or otherwise securely restrained as reasonably to provide for the protection of other animals and persons. (2005 Code, § 10-204)

10-205. Noisy dogs or cats prohibited. No person shall own, keep, or harbor any dog or cat which, by loud and frequent barking, whining, or howling,

¹State law reference

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

or other noises, annoys or disturbs the peace and quiet of any neighborhood. (2005 Code, § 10-205)

10-206. Impoundment and/or destruction of dogs or cats. Dogs or cats running at large will be impounded by city police officers and/or other designated city employees. If the owner of an impounded dog or cat can be identified after diligent inquiry, such owner shall be notified by a postcard addressed to his last known address to appear within five (5) days and redeem his dog or cat by paying a pound fee or his dog or cat will be destroyed or otherwise disposed of in a humane manner. The pound fee referred to in this section shall be determined based on the following schedule:

Upon any impoundment of any dog or cat of the owner, the impoundment fee shall be fifty dollars (\$50.00) per day.

If the dog or cat is not wearing a tag, the dog or cat shall be destroyed unless legally claimed by the owner within five (5) days.

When, because of its viciousness or apparent infection with rabies, a dog or cat found running at large cannot be impounded in reasonable safety, such dog or cat may be summarily destroyed by any police officer or other authorized city employee. (2005 Code, § 10-206)

10-207. Animals prohibited from city recreational parks. It shall be unlawful for any person to bring into any city recreational park any dog, cat, or other animal, whether or not such animal is restrained, or to allow any dog, cat, or other animal owned by such person to be brought into any city recreational park. This section shall not apply to any dog which is trained for and used by any person who is visually impaired. (2005 Code, § 10-207)

10-208. Vaccination penalty. Pursuant with *Tennessee Code Annotated*, § 68-8-109, all impounded dogs and cats must be vaccinated before release. A penalty of ten dollars (\$10.00) will be charged to dog and cat owners of impounded unvaccinated dogs and cats for escorting the animal to a veterinary clinic for vaccination prior to release. (2005 Code, § 10-208)

10-209. Vicious dogs.¹ (1) Definition of terms:

(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:

¹See 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).

(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.

10-210. Violations and penalty. Any violation of any section of this chapter shall subject the offender to a penalty of up to fifty dollars (\$50.00) for each offense. Each day the violation shall continue shall constitute a separate offense. (2005 Code, § 10-207)

CHAPTER 3

DANGEROUS DOGS

SECTION

- 10-301. Authorization.
- 10-302. Purpose and intent.
- 10-303. Definitions.
- 10-304. Determination of status.
- 10-305. Potentially dangerous dogs.
- 10-306. Dangerous dogs.
- 10-307. Vicious dogs.
- 10-308. Immediate impoundment.
- 10-309. Continuation of dangerous dog.
- 10-310. Reckless owner.
- 10-311. Appeals.
- 10-312. Violations and penalty.

10-301. Authorization. This chapter is enacted pursuant to the general police power, the authorities granted to cities and towns by the Tennessee State Constitution, *Tennessee Code Annotated*, and the Charter for the City of South Pittsburg, Tennessee. (Ord. #828, June 2022)

10-302. Purpose and intent. The purposes of this chapter are to promote the public health, safety, and general welfare of the citizens of the City of South Pittsburg, Tennessee. (Ord. #828, June 2022)

10-303. Definitions. When used in this chapter, words have their common meaning and in addition the following words, terms, and phrases, and their derivations have the following 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 provisions of this chapter, including but not limited to the chief of police or officers of the city's police department.

(2) "At large" means a dog that is not on its owner's property and not leashed.

(3) "Bite injury" means any contact between an animal's mouth and teeth and the skin of a bite victim which causes visible trauma, such as a puncture wound, laceration, or other piercing of the skin.

(4) "Dangerous dog" means any dog that has caused a bite injury and is not a vicious dog.

(5) "Director" means the director of the department of animal control, or the city's police chief if such department has not been established.

(6) "Domestic animal" means an animal of a tamed species commonly kept as pets and includes livestock.

(7) "Enclosure" means a fenced or walled area having a fence or wall height of at least six feet (6') suitable to prevent entry of young children and suitable to confine a dog.

(8) "Impoundment" means seizing and confining a dog by any police officer, animal control officer or any other public officer under the provisions of this chapter.

(9) "Muzzle" means a device constructed of strong, soft material or of metal, designed to fasten over the mouth of a dog that prevents the dog from biting any person or other animal and that does not interfere with its respiration.

(10) "Owner" means 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/her/its care, or acts as its custodian, or who knowingly permits a dog to remain on any premises occupied by him, her or it.

(11) "Potentially dangerous dog" means a dog that while at large:

(a) Behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or domestic animal, or

(b) Causes injury to a domestic animal.

(12) "Provocation" means any action or activity, whether intentional or unintentional, which would be reasonably expected to cause a normal dog in similar circumstances to react in a manner similar to that shown by the evidence.

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

(14) "Serious physical injury" means disfigurement, protracted impairment of health, or impairment of the function of any bodily organ.

(15) "Vicious dog" means a dog that without provocation or justification bites or attacks a person and causes serious physical injury or death or is declared vicious under this title. (Ord. #828, June 2022)

10-304. Determination of status. (1) The animal control officer may find and declare a dog potentially dangerous, dangerous, or vicious if the officer has probable cause to believe that the dog falls within the definition of "vicious dog," "dangerous dog" or "potentially dangerous dog." The finding must be based upon:

(a) The written complaint of a person who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of "vicious dog," "dangerous dog" or "potentially dangerous dog"; or

(b) Dog bite reports filed with the animal control officer as required by city ordinance or state law; or

- (c) Actions of the dog witnessed by any animal control officer or law enforcement officer; or
 - (d) Other substantial evidence admissible in court.
- (2) The declaration shall be in writing, and shall be served by the animal control officer:
- (a) On the owner if known using one (1) of the following methods:
 - (i) Regular mail to the owner's last known address, or by certified mail directed to the owner at the owner's last known address; or
 - (ii) Personally; or
 - (iii) If the owner cannot be located by one (1) of the first two (2) methods, by publication in a newspaper of general circulation and posting a notice on the property of the owner;
 - (b) Where the owner is not known publication in a newspaper of general circulation.
- (3) The declaration shall contain the following information:
- (a) Name and address of the owner of the dog if known and if not known that fact.
 - (b) A description of the dog.
 - (c) Whereabouts of the dog.
 - (d) Facts upon which the declaration is based.
 - (e) Restrictions placed upon the dog and, when the owner is not known, the intended disposition of the dog.
 - (f) Penalties for violation of the restrictions, including possibility of destruction of the animal and fine and imprisonment of owner.
 - (g) Availability of a hearing to contest the declaration by submitting a written request to the Municipal Court of the City of South Pittsburg within fifteen (15) days of receipt of the declaration or if notice is given by publication or posting within fifteen (15) days of the earlier of the date the notice first appears in the newspaper or the property is posted.
- (4) A dog may be declared dangerous under this section if the dog has within a twelve (12) month period attacked and killed a domestic animal on more than one (1) occasion. For purposes of this subsection only, a domestic animal does not include any feral animal or does not apply where the attack was upon a domestic animal that was at large or upon a domestic animal that was tormenting or attacking the dog.
- (5) Dogs shall not be declared dangerous, potentially dangerous or vicious if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, provoking or assaulting the dog or has, in the past, been observed or reported to have tormented, abused,

provoked or assaulted the dog or was committing or attempting to commit a crime.

(6) Notice. When notice is given by regular mail to the owner's last known address, notice is effective on the third day after the notice was placed in the mail, postage prepaid, to the owner's last known address. When notice is given by certified mail, notice is effective when received; provided however, if certified mail delivery has been refused, notice is effective by publication or posting and whenever notice is accomplished by publication or posting the notice is effective and deemed received on the earlier of the day the property is posted or the newspaper is published. (Ord. #828, June 2022)

10-305. Potentially dangerous dogs. (1) No person shall maintain a potentially dangerous dog without a license or otherwise in violation of this section.

(2) No person owning, harboring or having the care or custody of a potentially dangerous dog shall permit the dog to go at large or leave the owner's property unless the dog is securely leashed and muzzled.

(3) Spaying/neutering. All owners of potentially dangerous dogs must spay or neuter the dog and provide proof of sterilization to the director of animal control within fourteen (14) days of the animal control officer declaring the dog potentially dangerous.

(4) In addition to any other penalty for a violation of this section, a court may revoke the authority of a person to keep a potentially dangerous dog within the city.

(5) The owner of a potentially dangerous dog may apply to the director of animal control to have the declaration waived after two (2) years upon meeting the following conditions:

(a) The owner and offending dog has no subsequent violations of this chapter; and

(b) The owner of the dog has complied with all the provisions of this chapter for a period of two (2) years; and

(c) The owner provides proof to the director of animal control of successful completion of a behavior modification program administered by a Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), or veterinary behaviorist, certified through the American College of Veterinary Behaviorists (ACVB) or equivalent training.

If the director finds sufficient evidence that the dog owner has complied with all conditions in this subsection, the application shall be forwarded to the court to rescind the potentially dangerous dog declaration. (Ord. #828, June 2022)

10-306. Dangerous dogs. (1) No person shall maintain a dangerous dog in violation of this section.

(2) Keeping of a dangerous dog. Once a dog has been declared dangerous, it shall be kept in a secure enclosure subject to the following requirements:

(a) Leash. No person having charge, custody, control or possession of a dangerous dog shall allow the dog to exit its enclosure unless such dog is securely attached to a leash not more than four feet (4') in length and walked by a person who is both over the age of eighteen (18) and who has the physical ability to restrain the dog at all times. No owner shall keep or permit a dangerous dog to be kept on a chain, rope or other type of leash outside its enclosure unless a person capable of controlling the dog is in physical control of the leash.

(b) 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.

(c) Confinement. Except when leashed and muzzled as provided in this section, a dangerous dog shall be securely confined in a residence 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:

(i) The structure must have secure sides and a secure top, or all sides must be at least six feet (6') high;

(ii) 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

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

(d) Indoor confinement. No dangerous dog shall 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 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.

(e) 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."

(f) Liability insurance, surety bond. Subject to judicial discretion, the owner of a dangerous dog may be required to present to the department of animal control proof that the owner has procured liability insurance or a surety bond in the amount of not less than one

hundred thousand dollars (\$100,000) covering any damage 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 it if the insurance policy is canceled, 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 the owner shall maintain and not voluntarily cancel the liability insurance policy during the twelve (12) month period for which a permit is sought, unless the owner ceases to own or keep the dog prior to the expiration date of the permit period.

(g) Identification photographs. All owners, keepers, or harborers of dangerous dogs must within ten (10) days of determination provide to the animal control two (2) color photographs of the registered dog clearly showing the color and approximate size of the dog.

(h) Microchip. All owners, keepers or harborers of dangerous dogs must within ten (10) days of determination microchip the dog and provide microchip information to the director of animal control to register the dog as dangerous.

(i) Spaying/neutering. All owners, keepers or harborers of dangerous dogs must within ten (10) days of determination spay or neuter the dog and provide proof of sterilization to the director of animal control.

(j) Sale or transfer of ownership prohibited. Sale - no person shall sell, barter or in any other way dispose of a dangerous dog registered with the city to any person within the city 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 dangerous dog may sell or otherwise dispose of a registered dog to persons who do not reside within the city. Owner must disclose dog's status as a dangerous dog to anyone to whom the owner transfers custody or care of the dog.

(k) Notification of escape. The owner or keeper of a dangerous dog shall notify the department of animal control 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.

(l) Failure to comply. It shall be a separate offense to fail to comply with the restrictions in this section. Any dog found to be in violation of this section shall be subject to immediate seizure and impoundment pursuant to § 10-308. In addition, failure to comply with the requirements and conditions set forth in this chapter shall result in the revocation of the dog's license and the permit providing for the keeping of such dog.

(3) A dangerous dog owner may apply to the director of animal control to have the declaration waived after three (3) years upon meeting the following conditions:

(a) The owner and offending dog has no subsequent violations of this chapter; and

(b) The owner of the dog has complied with all the provisions of this chapter for a period of three (3) years; and

(c) The owner provides proof to the director of animal control of successful completion of a behavior modification program administered by a Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), or veterinary behaviorist, certified through the American College of Veterinary Behaviorists (ACVB) or equivalent training.

If the director finds sufficient evidence that the dog has complied with all conditions in this subsection, and has sufficient evidence that the dog's behavior has changed, the application shall be forwarded to the court to rescind the dangerous dog declaration. (Ord. #828, June 2022)

10-307. Vicious dogs. It shall be unlawful to keep, possess, or harbor a vicious dog within the city limits.

(1) The provisions of this section shall not apply to a police dog being used to assist one (1) or more law enforcement officers acting in an official capacity.

(2) The director of animal control may order a dog euthanized that has been declared vicious.

(3) The owner of a dog that the director declares to be vicious may appeal that determination to the city's municipal court within fifteen (15) days of the declaration. If an appeal is timely filed, the order to destroy the animal is suspended pending the final determination of the court, except when the director declares that public health and safety require the immediate destruction of the animal as in the case of rabies.

(4) The owner of a vicious dog shall be liable for and shall pay all costs associated with impoundment, removal, or euthanasia of said animal. The owner shall pay any other associated costs incurred. (Ord. #828, June 2022)

10-308. Immediate impoundment. (1) A dog suspected of being dangerous or vicious may be immediately impounded when the director of animal control or the director's designee determines such immediate impoundment is necessary for the protection of public health or safety.

(b) If the owner of the dog impounded under subsection (1) of this section is not reasonably ascertainable at the time of impoundment, the director shall immediately notify the owner by mail sent to the owner's last known address postage prepaid which upon the passage of three (3) days be deemed complete or by personal service within five (5) business days after the dog's impoundment.

(3) The notice of impoundment shall inform the owner of the dog that the owner may request, in writing, a hearing to contest the impoundment. Upon receipt of the notice of impoundment either through personal service or by mail (receipt is complete three (3) days after mailing to the last known address of owner postage prepaid), the owner has five (5) business days to request a hearing by serving on the director of animal control a written request for the hearing.

(4) Upon request by the owner of the dog for a hearing under subsection (3), a hearing must be held within ten (10) business days after receipt of the request. Notice of the date, time and location of the hearing shall be provided by regular mail to the dog owner requesting the hearing. The impoundment hearing shall determine if the dog poses a risk to public health and safety by clear and convincing evidence or if the dog could be released. If the trier of fact determines the dog does not pose a risk to public health and safety, the dog shall be immediately released back to the owner pending further proceedings either administrative or judicial.

(5) The owner must pay all of the costs of the impoundment and upon request must post sufficient funds to cover the anticipated costs for continued impoundment. In the alternative, the owner may propose a suitable facility where the dog could be contained and maintained at the sole cost of the owner, and upon approval of the director, the dog may be impounded at that facility under the terms and conditions set by the director. Failure to post funds sufficient to pay for the costs of impoundment constitutes a waiver of any rights the owner may have to a hearing under this section.

(6) If the owner timely appeals an impoundment or seizure, the owner may also seek review of the director's determination of boarding costs by filing an appeal with the city administrator within five (5) days after the director issues a demand for prepayment. The city administrator must review the director's decision within two (2) business days after receiving the appeal. The owner must provide the city administrator with information sufficient to show that requiring prepayment of boarding costs would be a serious financial hardship on the owner. The city administrator may ask the owner to provide additional information at an informal hearing conducted in person or by telephone. The director must not require the owner to prepay any boarding costs pending the city administrator's decision. The city administrator may make any decision the director could have made such as requiring the owner to prepay boarding costs retroactive to the initial boarding date of the animal, posting a bond, or placing the animal in a suitable facility at the owner's sole expense. The owner may also ask the municipal court to review the director's decision regarding prepayment of boarding costs as part of its review of the underlying appeal.

(7) If the owner is successful in appealing the decision to impound the dog, the director must refund to the owner any costs paid for the impoundment. (Ord. #828, June 2022)

10-309. Continuation of dangerous dog declaration. Any dog that has been declared dangerous or vicious by any agency or department of this city, another municipality, county, or state shall be subject to the provisions of this chapter. The person owning or having custody of any dog designated as potentially dangerous or dangerous by any municipality, county, or state government shall notify the department of animal control of the dog's address and conditions of maintenance within ten (10) days of moving the animal into the City of South Pittsburg. 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. No dog declared a potentially dangerous, dangerous, or vicious dog by any other designation agency or department of another municipality, county, or state based solely on size, breed, mix of breeds, or appearance shall be subject to this section. (Ord. #828, June 2022)

10-310. Reckless dog owner. (1) Any person convicted of:

- (a) A violation of this chapter three (3) or more times in a twenty-four (24) month period; or
- (b) A violation of this chapter two (2) or more times in any five (5) year period, shall be declared a reckless dog owner.

(2) The director of animal control 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, and;
- (b) The description, violation, and conviction that led to the declaration, and;
- (c) The name, description, and licensenumber of all dogs subject to the effects of the declaration, and;
- (d) Instructions on appealing the declaration to the city's municipal court:

(3) Once declared a reckless dog owner, the city licenses of all dogs owned by the person shall be revoked, and 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 director of animal control to have the declaration waived after two (2) years upon meeting the following conditions:

- (a) The person has no subsequent violations of this chapter; and
- (b) The person has complied with all the provisions of this chapter for a period of two (2) years; and
- (c) The person provides proof to the director of animal control of successful completion of a program designed to improve the person's understanding of dog ownership responsibilities and based upon an

interview with the director of animal control establishes that understanding.

If the 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 city's municipal court 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. (Ord. #828, June 2022)

10-311. Appeals. (1) Any person aggrieved by a decision of the director of animal control to declare a dog potentially dangerous, dangerous or vicious, or to declare a person a reckless dog owner, or to impound a dog, or to have a dog euthanized may appeal the decision to the city's municipal court within ten (10) days of the decision unless a different period is provided under this chapter. A person aggrieved by a decision of the city's municipal court may appeal that decision to the courts in accordance with and pursuant to state law and the rules of court.

(2) If the director of animal control orders a dog to be euthanized for public health or safety reasons other than for rabies, the owner may immediately appeal that decision to the courts and upon a showing of good cause the court may suspend the order to euthanize the dog until the appeal is finally resolved. (Ord. #828, June 2022)

10-312. Violations and penalty. (1) Any person violating this chapter is guilty of a civil violation and must pay a fine of not more than fifty dollars (\$50.00) per offense.

(2) If a court finds that a person has violated this chapter, in addition to any fine imposed, the court may order abatement of the violation and order restitution be paid to any person injured as a result of the violation up to the maximum amount allowed by law. (Ord. #828, June 2022)