

TITLE 10

ANIMAL CONTROL

CHAPTER

1. IN GENERAL.
2. DOGS; RABIES CONTROL.

CHAPTER 1

IN GENERAL

SECTION

- 10-101. Cruelty to animals.
- 10-102. Keeping livestock and farm animals.
- 10-103. Swine prohibited.
- 10-104. Goats prohibited.
- 10-105. Disposition of animal carcasses--time limit.
- 10-106. Burial.
- 10-107. Livestock at large; prohibited; impounding; sale.
- 10-108. Domestic fowl and other exotic game birds.
- 10-109. Fast riding or driving of animals.
- 10-110. Keeping in such a manner as to become a nuisance prohibited.
- 10-111. Number of dogs and/or cats, acreage restrictions.
- 10-112. Wild or dangerous exotic animals.
- 10-113. Traps provided to citizens.

10-101. Cruelty to animals.¹ (1) No person shall intentionally or willfully or knowingly kill, maim, torture, beat, torment, grossly overwork or overload or cause any of the actions stated herein to be committed to or against any animal.

(2) No person shall fail unreasonably or cause another person to fail unreasonably to provide adequate food, water, care or shelter to any animal in the person's custody or to abandon any animal in the person's custody.

- (3) No person keeping an animal shall fail to provide for that animal:
- (a) Clean, sanitary, and humane conditions.
 - (b) Sufficient daily quantities of food and fresh water.
 - (c) Proper air ventilation and circulation.
 - (d) Necessary veterinary care when it is sick, diseased or injured.

¹Municipal code reference
Protection for dogs: § 10-210.

(e) Annual inoculations, as recommended by a veterinarian, against disease infectious to humans or animals.

(4) No person shall fail unreasonably to provide any animal with shelter from the elements, including heat, cold, wind, rain, snow or excessive direct sunlight. If an animal is housed outside, a structure for shelter and protection must be provided that is suitable for the species, age, condition, size, and type of that animal. The structure must be:

(a) Enclosed, having a single entrance/exit.

(b) Moisture-resistant, wind-resistant, and of suitable size and type to allow the animal to stand, turn about freely, lie in a normal position, and regulate proper body temperature.

(c) Made of a durable material with a solid, moisture-proof floor and a floor raised at least two inches (2") from the ground. Suitable drainage shall be provided so that water cannot be reasonably expected to gather and stand within ten feet (10') of the structure, and so the animal has access to a dry area at all times. Proper bedding of straw or similar material, that remains dry, must be utilized inside the structure.

(5) When pet tethering is employed no person shall allow any animal to remain confined in such a manner as to unreasonably restrict the animal's ability to move. For purposes of this subsection, "tether" means a cable, cord, or similar device used to attach an animal to a stationary device, but does not include chains. No person shall allow any dog to remain tethered unless all of the following conditions are satisfied:

(a) The tether is not unreasonably heavy in proportion to the weight of the animal.

(b) A swivel is located at both ends of the tether and the tether is free of tangles.

(c) The collar or harness on the animal to which the swivel is attached is properly fitted and is a collar or harness that is commonly recognized as a pet collar or harness (choke and pinch collars are not permitted).

(d) The tether is not less than fifteen feet (15') in length.

(e) Chains shall be prohibited for use as a tethering device.

(f) The animal is not outside during a period of extreme weather, including without limitation a heat index of ninety-five degrees Fahrenheit (95° F) or above as determined by the National Weather Service, freezing temperatures, thunderstorms, or tornados.

(g) The animal has access to water, shelter, and dry ground at all times, and has access to adequate food.

(h) The animal is at least six (6) months of age and has a current rabies vaccination.

(i) The animal is not sick, injured, or in heat (estrus).

(j) Pulley, running line, or trolley systems are at least fifteen feet (15') in length and are not less than six feet (6') above the ground.

(k) If there are multiple animals, each animal must be tethered separately.

(l) The tethering device shall allow the tethered dog to lie down comfortably at all positions of tether.

(6) No person shall administer any poisonous or noxious substance to any animal or expose any such substance with intent that the same shall be taken by an animal, whether such animal be the property of himself or another, except when the animals exposed or administered such substances are rodents or other animals which pose a significant health hazard to the public.

(7) Penalty provisions. It shall be unlawful for anyone to violate any of the provisions hereof or be in noncompliance with the provisions hereof and anyone who shall do so shall be subject to the general penalty provisions found in § 1-107 of the code of ordinances of the City of Tullahoma, Tennessee. Provided, however, that this provision does not replace the criminal offense penalties contained in Tennessee Code Annotated, § 39-14-202, pertaining to cruelty to animals, which penalties shall control in the event of any conflicts with § 1-107 of the city code of ordinances.

(8) Forfeiture of animal. In the event the court finds that a violation of the provisions of this section has occurred, the court may order that said animal be forfeited to the animal control division of the city, acting under the direction of the public works director, to be held and disposed of pursuant to the applicable provisions of the code of ordinances of the City of Tullahoma relative to animals collected by city employees.

(9) Should any provisions herein shall be deemed to conflict with the provisions of Tennessee Code Annotated, § 39-14-202, then the provisions of Tennessee Code Annotated shall prevail and take precedence. (1988 Code, § 3-101, as replaced by Ord. #1348, Dec. 2006, and Ord. #1452, Oct. 2015)

10-102. Keeping livestock and farm animals. (1) Any barn, pen, corral, yard or other enclosure or appurtenance thereof in which any farm animal and/or livestock shall be kept, or any other place within the city in which manure or other discharges of farm animals and/or livestock shall accumulate, and which is maintained in any unsanitary condition, allowing offensive odor to escape therefrom, or providing an insect or rodent attractant, is hereby deemed a public nuisance and prohibited.

(2) The keeping of farm animals and/or livestock of any species shall not be permitted on any parcel located within a residential district except those parcels located in an R-1, Low Density Residential District, or R-1A and R-1AA, Single Family Residential District, and have a total land area greater than or equal to four (4) acres for one (1) parcel of land. The keeping of farm animals and/or livestock of any species shall be permitted in all agricultural districts.

(3) The number of farm animals and livestock of any breed kept on a given lot shall not exceed the ratio of one (1) horse or one (1) cow per two and one-half (2 ½) acres on any parcel equal to or in excess of four (4) acres, or four

(4) sheep, llamas, and alpacas, per acre on any parcel equal to or in excess of four (4) acres. Horses shall include ponies, mules, burros, and donkeys. In determining the number of livestock permitted, only horse six (6) months or older in age and cattle, sheep, llamas, and alpacas one (1) year old shall be counted. In addition, in determining the number of livestock or farm animals permitted not noted above, or when combining animals allowed, the maximum ratio of animals to land of four (4) animals per acre shall be maintained except for cows and horses which shall not exceed one (1) animal per two and one-half (2 ½) acres. (1988 Code, § 3-102, as replaced by Ord. #1348, Dec. 2006)

10-103. Swine prohibited. (1) It shall be unlawful for any person to keep, harbor or confine any animal of the swine species or type within the city, except the keeping and harboring of certain species of Vietnamese Pot bellied pigs and like species of swine for the sole purpose of pets shall be allowed. Provided, however that no owner(s) shall have more than four (4) adult pigs (age six (6) months or older) per household at any one time. These pets shall be harbored as household pets, kept primarily in the residence of the owner and not utilized for any agricultural or commercial purpose. They shall be kept on a leash when off the owner's premises.

(2) The provisions of this section shall not apply to hogs brought into and through the city by farmers, owners or dealers for the purpose of marketing or shipping the same. (1988 Code, § 3-103, as replaced by Ord. #1348, Dec. 2006)

10-104. Goats prohibited. (1) It shall be unlawful for any person to keep, harbor or confine any goat within the city.

(2) The provisions of this section shall not apply to goats brought into and through the city by farmers, owners, or dealers for the purpose of marketing or shipping the same. (1988 Code, § 3-104, as replaced by Ord. #1348, Dec. 2006)

10-105. Disposition of animal carcasses--time limit. It shall be unlawful for the owners or others having care or custody of any animal which shall die or be found dead, to fail to remove the same or cause the same to be removed and lawfully disposed of within six (6) hours from the time the animal dies or is found dead, except in case it is found dead after 6:00 P.M., when it shall be removed within six (6) hours from 6:00 A.M. next following. (1988 Code, § 3-105, as replaced by Ord. #1348, Dec. 2006)

10-106. Burial. It shall be unlawful for any person to bury any dead animal within the city, or to deposit the same upon the surface of the ground or throw it into any river, creek or other stream, or any well, cistern, cellar or other excavation, or in any sewer, culvert, or other such place, or in any way to unlawfully leave or dispose of such animal within the city; provided, however,

the public works director is empowered to permit the disposal of such animals within the city under such regulations as may be prescribed, that will not be detrimental to the public health or comfort, but only under a permit designating the place and manner of disposal. (1988 Code, § 3-106, as replaced by Ord. #1348, Dec. 2006)

10-107. Livestock at large; prohibited; impounding; sale. (1) It shall be unlawful for the owner or others having care or custody of any horses, mules, hogs, goats, sheep, or any cattle or stock to knowingly permit the same to be at large upon the public streets, highways, alleys, parks, and other public places within the city.

(2) It shall be the duty of the animal control officer or other designated employees of the city to take up any animals found at large within the city in violation of this section, and confine such animals in a pound or other appropriate place for five (5) days, giving notice of the same in writing, if the owner can be identified.

(3) If within that time, the owners of such animals shall call for same, they shall be delivered to them upon the payment of the fee for each animal so taken up and the cost of keeping and feeding same as prescribed in appendix C in this code.

(4) If no person claims such animal within five (5) days, such animal shall be sold by the public works director or other designated employee of the city and the proceeds of the sale to be applied to the impounding fee and costs of keep; the remainder, if any, to be paid to the owner of such animal, if known, otherwise, to be paid into the city treasury. (1988 Code, § 3-107, as replaced by Ord. #1348, Dec. 2006)

10-108. Domestic fowl and other exotic game birds. (1) It shall be unlawful for the owners or others having care and custody of any chickens, ducks, geese and other domestic fowl and exotic game birds to permit same to be at large on any private property, including that of the owners or those having the care and custody of same, or on any public street, highway, alley, park, and other public places and ways within the city.

(2) Such domestic fowl and exotic game birds shall be confined in a coop or fowl house not less than eighteen (18) inches in height. The fowl must be kept within the coop or fowl house at all times. The coop or fowl house must be used for fowl only, and must be well ventilated. The coop or fowl house shall have a minimum of four (4) square feet of floor area for each fowl. The run must be well drained so there is no accumulation of moisture. The coop or fowl house shall be kept clean, sanitary, and free from accumulation of animal excretion and objectionable odors. The coop or fowl house shall be cleaned daily and all droppings and body excretion shall be placed in a flyproof container (such refuse shall not be placed in containers for city solid waste collection). The coop or fowl house shall be a minimum of twenty-five (25) feet from any property line. All

portable coops or fowl houses including, but not limited to, pens, cages, crates, etc., shall not be located closer than twenty-five (25) feet from the side or rear property line.

(3) No more than twenty (20) such fowl or exotic game bird(s) shall be kept or maintained per acre with the number of fowl proportionate to the acreage. In determining the number of domestic fowl permitted, only fowl six (6) months or older in age shall be counted. No domestic fowl or other exotic game birds shall be kept or maintained on a parcel of land less than five (5) acres in total area for one parcel of property.

(4) The raising of domestic fowl and other exotic game birds shall not be permitted within any residential district as defined by the **Zoning Ordinance for the City of Tullahoma and the Official Zoning Map for the City of Tullahoma** except those parcels located in an R-1, Low Density Residential District, or R-1A and R-1AA Single Family Residential Districts, greater than or equal to five (5) acres in total land area for one parcel of property. The raising of domestic fowl and other exotic game birds shall be permitted in all agricultural districts as defined in the **Zoning Ordinance for the City of Tullahoma and the Official Zoning Map for the City of Tullahoma**. (1988 Code, § 3-108, as replaced by Ord. #1348, Dec. 2006)

10-109. Fast riding or driving of animals. It shall be unlawful for any person to ride or drive any beast of burden in any highway, thoroughfare or other public place, more rapidly than or beyond a moderate gait, unless in case of urgent necessity, or to ride or drive any such animal so as to cause such animal, or any vehicle thereto attached, to come in collision with or strike any other object or any person. (1988 Code, § 3-109, as replaced by Ord. #1348, Dec. 2006)

10-110. Keeping in such a manner as to become a nuisance prohibited. It shall be unlawful for any person to allow any animal or fowl to be kept in such a place or condition or allow same to do or commit any acts which shall become a nuisance either because of noise, odor, contagious disease, damage to the property of others, or for any reason constituting a nuisance and annoyance to persons other than the owners of said animal or fowl as defined in § 10-201(7). Anyone who shall violate the provisions hereof shall be subject to the general penalty provisions in the code of ordinances of the City of Tullahoma, Tennessee. (as added by Ord. #1238, March 2001, and replaced by Ord. #1348, Dec. 2006)

10-111. Number of dogs and/or cats, acreage restrictions. The following prescribes the total number of dogs and/or cats or combination thereof allowed per specified acreage restrictions:

Less than one and one-half (1.5) acres - Up to six dogs (6) dogs and/or cats or combination thereof.

Greater than one and one-half (1.5) acres - Up to ten (10) dogs and/or cats or combination thereof.

(2) Reference to dogs and cats only refer to adult dogs and cats older than four (4) months. There are no restrictions on the number of dogs and cats younger than four (4) months old that can be on the property.

(3) This section shall not apply to veterinarian clinics, kennels, boarding facilities, pet shops or pet dealers licensed to do business in the city.

(4) If all dogs and/or cats have been vaccinated and inoculated against disease as recommended by a veterinarian and such veterinarian will attest that such dogs and/or cats are properly cared for, and the animal control officer or other designated employee of the city verifies that the dogs and cats are being maintained in humane and sanitary conditions, the public works director may exempt any restriction as specified in this section; however, violations of any part of the animal control ordinances may result in revoking of the exemption. (as added by Ord. #1348, Dec. 2006)

10-112. Wild or dangerous exotic animals. No person shall have, sell, keep or maintain any wild, dangerous exotic, dangerous, or non-domesticated animal within the city. "Wild, dangerous exotic, dangerous, or non-domesticated animal" shall be defined to include all animals classified as class I animals under Tennessee Code Annotated, § 7-4-403, as amended, and shall also include any wolf hybrid. (as added by Ord. #1348, Dec. 2006)

10-113. Traps provided to citizens. From time to time the animal control division will provide to a citizen a trap to assist in catching an animal. The citizen shall accept responsibility for the trap and will be responsible for the replacement cost if damaged or not returned. (as added by Ord. #1348, Dec. 2006)

CHAPTER 2

DOGS; RABIES CONTROL

SECTION

- 10-201. Definitions.
- 10-202. Rabies control officer; authority.
- 10-203. Bond.
- 10-204. To keep records.
- 10-205. Dog shelter.
- 10-206. City responsibility while dog confined.
- 10-207. Confinement of rabies suspect, etc., dogs.
- 10-208. Confinement of female dogs in season.
- 10-209. Impounding and disposition of dogs in violation of this chapter.
- 10-210. Protection for dogs.
- 10-211. Abatement of nuisance.
- 10-212. Vicious dogs.
- 10-213. Concealing dogs.
- 10-214. Stealing tags.
- 10-215. Dogs and cats to be vaccinated.
- 10-216. Location of dog kennel and dog run.
- 10-217. [Deleted.]

10-201. Definitions. The following definitions shall apply in the interpretation and the enforcement of this chapter:

(1) "At large." Any dog, except a dog that has been classified as vicious, that is off the premises of the owner, as defined herein, and not under the control of the owner or a member of the owner's immediate family over ten (10) years of age, by leash, but a dog not classified as vicious, upon the running board or in the bed of a truck or within an automobile shall be deemed upon the owner's premises.

(2) "Commercial kennel or animal boarding facility." Any lot or premises which boards, grooms, or provides other on-site services to dogs owned by the public or operates a K-9 breeding facility on a for-profit basis.

(3) "Dog." Any member of the species *Canis Familiaris*, male or female.

(4) "In season; in heat." That periodic manifestation of the natural reproductive function during which an unspayed female dog becomes extraordinarily attractive to males.

(5) "Inoculation or vaccination." The subcutaneous injection at onetime, but in several sites if necessary, of a standard vaccine for dogs and cats which vaccine meets the standards prescribed by the United States Department of Agriculture or the United States Health Service for interstate sale.

(6) "Leash." A cord, thong, or chain, not more than ten (10) feet in length, by which a dog is controlled by the person accompanying it.

(7) "Nuisance." Any animal which exhibits the following shall be considered a nuisance animal:

(a) The actions of an animal constitute a nuisance when an animal disturbs the rights of, threatens the safety of, or damages property of a member of the general public, or interferes with the ordinary use and enjoyment of their property.

(b) It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner so as to constitute a public nuisance. By way of example and not of limitation, the following acts or actions by an owner or possessor of an animal are hereby declared to be a public nuisance and are therefore unlawful:

(i) Failure to exercise sufficient restraint necessary to control the animal.

(ii) Allowing or permitting an animal to damage private or public property, other than its owner's property including streets, alleys, sidewalks, parks, and other public property.

(iii) Maintaining a vicious animal.

(iv) Maintaining animals in an environment of unsanitary conditions which results in offensive odors or is dangerous to the animal or to the public health, welfare and safety.

(v) Allowing or permitting an animal to bark, whine, howl, crow or cackle in an excessive, continuous or untimely manner, or make other noise in such a manner so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises.

(vi) Maintaining an animal that is diseased or dangerous to the public health.

(vii) Maintaining an animal that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, bicycles or vehicles.

(viii) Allowing an animal to desecrate or soil public or private property without removing the waste generated by the animal.

(ix) Failure to confine a female dog or cat in season.

(x) Maintaining an animal that has not been properly vaccinated.

(8) "Officer." Any official with the power and authority of an officer of the peace, including deputy sheriffs, policemen of the city, and the rabies control officer.

(9) "Owner." Any person owning, harboring, or keeping a dog, and the occupant of any premises on which a dog remains or to which it customarily returns is presumed to be the owner of the dog within the meaning of this chapter.

(10) "Rabies control officer." That officer of the city acting under the direction and control of the board of mayor and aldermen, through their designee and under his authority, who is charged with the responsibility of enforcing the terms of this chapter, assists in maintaining the operation of an animal shelter, and is responsible for all other provisions contained herein.

(11) "Spayed female." A female dog which has been rendered sexually sterile by surgical means so that her power of reproduction is completely destroyed, thereby rendering her unattractive to and unreceptive of male dogs.

(12) "Stray dog." Any dog which has no apparent owner or one that has migrated from outside the city, and is at large, as is defined herein.

(13) "Vicious dog." A dog that meets the definition in § 10-212(1).

(14) "Vicious dog declaration." A dog that has been found to meet the definition of a vicious dog and has been declared so by the owner, through a signed waiver of admission, or the declaration by a judge through the judicial process. (1988 Code, § 3-201, modified, as replaced by Ord. #1348, Dec. 2006)

10-202. Rabies control officer; authority. The rabies control officer of the city is hereby granted authority to swear out warrants for violations of this chapter and is hereby authorized to carry firearms for use to protect himself, if necessary, from a rabid, wild, or vicious dog as is herein defined, or as to any which he is unable to catch. The firearms which the rabies control officer is authorized to carry shall not be hand guns. They shall be used only to control animals that are vicious, wild and rabid, or unable to be caught and anyone utilizing said firearms must be trained to use same to the satisfaction of the chief of police of the City of Tullahoma. The rabies control officer is also authorized to enter private premises in connection with alleged violations of this chapter and to capture dogs in violation of same. Further, said rabies control officer is authorized to serve warrants for the arrest of owners of dogs in violation of the provisions of this chapter, which right is concurrent with the powers of the police officers of the city, upon issuance by the appropriate officer of the city court. The rabies control officer of the city, as well as police officers of the city, are hereby empowered to issue citations for violations of this chapter in addition to the provisions hereinabove set forth relating to the swearing out and serving of warrants for violations of this chapter. It shall be unlawful for any person to knowingly hinder, resist, or oppose any officer or employee of the animal control division in the performance of his duties. (1988 Code, § 3-202, as replaced by Ord. #1348, Dec. 2006)

10-203. Bond. The rabies control officer, before he enters upon his duties as provided herein, shall post with the city recorder an indemnity bond in the amount of five thousand dollars (\$5,000.00), payable to the city. (1988 Code, § 3-203, as replaced by Ord. #1348, Dec. 2006)

10-204. To keep records. The rabies control officers are required to keep a record of each dog impounded under the provisions hereof, which record shall contain all the information found on the identification tag of said dog, if tagged, and, if not, a description of the dog and any other information regarding its owner as is learned or acquired by said rabies control officer; and the name and address of the informant whose report or warrant caused the confinement, which report shall be furnished to the owner upon request. (1988 Code, § 3-204, as replaced by Ord. #1348, Dec. 2006)

10-205. Dog shelter. (1) The city has established and does maintain a dog shelter on city owned property.

(2) All dogs kept in the dog shelter shall be separated as follows: male; female; puppies under three (3) months of age; and dogs suspected of having rabies, having bitten any person, or is suspected of being vicious, and being confined to said shelter for observation. (1988 Code, § 3-205, as replaced by Ord. #1348, Dec. 2006)

10-206. City responsibility while dog confined. The city, and its officials, shall not be responsible for any illness, disease, death, or other unintentional misfortune occurring to any dog confined in the dog shelter or under the control of the rabies control officer. (1988 Code, § 3-206, as replaced by Ord. #1348, Dec. 2006)

10-207. Confinement of rabies suspect, etc., dogs. (1) It shall be required that any dog that has bitten a human being or has shown symptoms of rabies, or is for any reason suspected of having rabies, shall be reported by any citizen with knowledge of same to the rabies control officer and said dog shall be immediately impounded, isolated and confined under the supervision and observation of the rabies control officer at the city shelter for such time as the rabies control officer deems it necessary to protect the safety of the people and/or property. The animal may be quarantined at the facility of a licensed veterinarian if the animal control division so chooses. In addition to the pick-up fee and boarding fees provided for in this chapter, the owner of said impounded dog shall pay, any additional expenses that result from the confinement of the dog including court cost and veterinarian bills. All of said fees must be paid before the dog is relinquished to the owner at the end of the confinement. If the owner of the dog cannot be found, then the City of Tullahoma shall be liable for any additional fees.

(2) If the owner of any dog confined under subsection (1) of this section shall contest the validity or basis of said confinement, he shall file a petition contesting same before the judge within five (5) days from the date of notice of confinement sent to him as is hereinafter provided, or within five (5) days of confinement, and the burden of proof shall be upon said owner to establish that said dog was not validly confined under the provisions of subsection (1) of this

section. The decision of the judge in such cases shall be binding and final except that the owner shall have a right to appeal such decision to a court of competent jurisdiction. (1988 Code, § 3-207, as replaced by Ord. #1348, Dec. 2006)

10-208. Confinement of female dogs in season. All female dogs and cats within the city shall, upon coming in season, be kept in a securely closed building, or under the complete control of the owner by the use of a leash, for a minimum period of twenty-four (24) days, beginning the first day that evidence of attraction is noticeable. Any dog or cat not so kept shall constitute a nuisance and a violation of this chapter. (1988 Code, § 3-208, as replaced by Ord. #1348, Dec. 2006)

10-209. Impounding and disposition of dogs in violation of this chapter. (1) It shall be the duty of the rabies control officer, and/or other authorized persons to seize and impound when found or come upon, or upon the complaint of any person by swearing out a warrant, any stray dog; vicious dog; dog reported or suspected of having rabies; dog which is found to be a nuisance, all as defined herein; female dog in heat and unconfined; any dog found at large; and any dog in violation of this chapter. Any dog which has bitten a human being or is suspected of having rabies will be confined as is herein set out. Any stray dog, female dog in heat and not confined, "nuisance dog," or any dog at large shall be in violation of the provisions of this chapter and the owner thereof liable for the penal sanctions contained herein.

(2) If said dog is wearing an identification tag, the owner shall be notified by telephone, or if not reachable by phone, by mail to appear before the person designated in said notice (rabies control officer or animal control designee) within five (5) days from the date of said notice, or to make other arrangements should such owner be unable to appear within five (5) days, and, except as hereinafter provided, to redeem his dog by accomplishing the following:

- (a) Paying a pick-up fee as prescribed in title 20, chapter 10.
- (b) Paying the sum prescribed in title 20, chapter 10 for boarding fee or pound fee;
- (c) Paying a fine as prescribed in title 20, chapter 10 if said dog is in violation of the provisions of this chapter; if said owner waives his right to have said matter heard in the court as is hereinafter set out; and
- (d) Producing proof of current rabies inoculation or having same accomplished.

(3) If the dog is not wearing an identification tag, the dog so seized and impounded shall be confined for a period of five (5) days, after which time it may be disposed of, as is hereinafter set out; provided that at any time after such seizure and impoundment and prior to disposition of said dog, the owner of a dog so seized and impounded may redeem said dog by a payment of the charges and

fees set out in subsection (2) of this section, and complying with the other provisions hereof.

(4) It shall be the duty of the rabies control officer, and/or other authorized persons, upon the issuing of a citation or swearing out of a warrant before the court by any person against any owner of any dog alleged to be in violation of any of the provisions of this chapter and, after service of same has been accomplished, if seizing and impoundment is necessary in the sole judgment of the officer involved, to seize and impound any dog in violation hereof. At the discretion of the public works director or his assignee, the dog owner against whom said citation or warrant has been issued may redeem the dog as is hereinabove set out, and, as well, pay a fine at the time of redemption of said dog as is hereby called out in title 20, chapter 10 upon said owner signing a waiver of his rights to have a citation or warrant heard and disposed of in the court, unless said citation or warrant constitutes the third or subsequent violation of this chapter, in which event no waiver shall be granted and the owner shall, in addition to the provisions contained herein, appear before the court at the time set forth in said citation or warrant, at which time the judge shall dispose of the case.

(5) Any owner who does not desire to waive a hearing before the court shall at the time he redeems his dog as is set out in subsection (2) of this section, accept service of a citation or warrant against him if a citation or warrant has not previously been served upon him, which shall set forth the charges brought against him in violation hereof, at which time his case will be scheduled within five (5) days to appear before the court, at which time he may appear and present evidence in his own behalf.

(6) Any persons aggrieved by the decision of the court shall have the right to appeal said decision as in other cases held in the court.

(7) All fees and fines shall be paid by the owner who shall be given a receipt therefore, which shall be presented to the rabies control officer before said dog is relinquished to the owner or redeemer.

(8) No dog shall be released, in any event, from the shelter unless and until it has been inoculated, and satisfactory proof thereof furnished to the officer or designee in charge of the dog shelter at that time.

(9) If the dog owner to whom notice is sent does not redeem said dog or make arrangements for an extension of time within the five (5) day period provided, or if an untagged dog, then, at the end of the five (5) day period, said dog may be disposed of in the most humane way at the discretion of the rabies control officer under the direction and supervision of the director of public works. The owner of the dog, if known, shall still be responsible for all costs associated with the impoundment of the dog. The rabies control officer is to maintain records regarding the time and method of disposal of all dogs. (1988 Code, § 3-209, as replaced by Ord. #1348, Dec. 2006)

10-210. Protection for dogs. (1) All dogs within the city are hereby declared to be personal property and subjects of larceny, and it shall be unlawful for any person except an officer or authorized agent of the city or other peace officer, deliberately or by any means, to kill or injure or detain or to attempt deliberately to kill, or injure, or detain any dog; provided, any citizen of the city may summarily destroy any dog, whether or not tagged, which gives unmistakable evidence of being rabid or mad. The burden of proof that a dog did give such evidence shall be upon the person destroying the dog.

(2) In case of accidental destruction or injury to a dog, the person causing such destruction or injury shall immediately report the same to the owner of the dog, or to the animal control division, giving his name and address.

(3) It shall be unlawful for any person to place any poison of any description in any place, on his own premises or elsewhere, where it may be easily found or taken by dogs.

(4) It shall be unlawful for any person to subject any dog, either his own or belonging to another, to any treatment which may reasonably be considered inhumane. (1988 Code, § 3-210, as replaced by Ord. #1348, Dec. 2006)

10-211. Abatement of nuisance. (1) Upon the issuance of any citation or warrant signed by any person that the owner of any dog within the city is in violation of the provisions hereof, in addition to the impoundment procedures hereinabove set out, said owner shall be required to appear before the court at the time designated in said citation or warrant, to answer the charges brought against him, at which time the prosecutor shall be present and shall present evidence for consideration by said court. If any owner shall be found in violation of the provisions hereof, he shall be fined fifty dollars (\$50.00) and/or assessed a civil penalty of not more than one hundred fifty dollars (\$150.00) on first offense or not more than five hundred dollars (\$500.00) on second or subsequent offense, plus the costs of the cause, and shall be subject to whatever rules or stipulations as the judge shall impose and shall be subject to all other provisions of this chapter.

(2) In addition to the penal provisions hereinabove set out, any citizen shall have the right to seek whatever legal redress such citizen desires in a court of competent jurisdiction to abate any nuisance created by the owner of any dog within the city. (1988 Code, § 3-211, as replaced by Ord. #1348, Dec. 2006)

10-212. Vicious dogs. (1) Definitions. (a) "Vicious dog" is:

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

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

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

(b) No dog may be declared vicious as a result of injury or damage if, at the time of injury or damage, the victim of the injury or damage

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

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

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

No dog may be declared vicious if the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack. No dog may be declared vicious if an injury or damage was sustained by a domestic animal, which, at the time of the injury damage, was teasing, tormenting, abusing or assaulting the dog.

(c) "Vicious dog at large" is: Any dog which has been classified as vicious and/or is unattended, unrestrained by leash and muzzle, and/or unconfined as per the restrictions outlined in this section either on its own property or on the property of someone other than its owner.

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

(b) 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 which shall be made of nine (9) gauge wire, or stronger, and inspected and approved by the animal control officer. The pen must be a minimum of five (5) feet by ten (10) feet or a minimum of fifty (50) square feet. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one (1) foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition. This structure must be at least ten (10) feet from an adjoining property owner's property; this structure shall leave an outer fence three (3) feet from the interior fence constructed of at least the same gauge material.

(c) Leash and muzzle. The owner of a vicious dog shall not allow or permit the dog to go unconfined unless the dog is securely muzzled and restrained by a chain or leash, and under the physical restraint of an adult. 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.

(d) Signs. The owner of a vicious dog shall display at all entry points 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. The sign shall be made with reflective letters not less than one and one-half (1.5) inches in width and one and one-half (1.5) inches in height and reading "Beware of Vicious Dog."

(e) Insurance. Owners of vicious dogs must provide proof to the city recorder of 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.

(f) The owner must register the dog with the animal control division, must allow inspection of the dog and its enclosure by animal control, and must produce, upon demand, proof of compliance with such restrictions.

(g) The owner of a dangerous dog shall not permit such a dog to be chained, tethered, or otherwise tied to any inanimate object such as a tree, post, or building, inside or outside of its own separate enclosure.

(h) A dog declared to be vicious shall be photographed by animal control for future identification purposes.

(i) Neutering or spaying of the dog.

(j) Implantation of an identification microchip in such dog: the serial number of the identification chip must be supplied to animal control.

(k) Notification in writing to the animal control department of the location of the dog's residence, temporary or permanent, including prior notice of plans to move the dog to another residence within the city or outside of the city and/or notification of transfer of ownership of the dog. The city shall be notified within forty-eight (48) hours of the death of the dog.

(l) Any other reasonable requirement specified by the court.

The owner must pay the cost of all such restrictions and requirements.

(3) Observation, seizure, impoundment and disposition of vicious dogs.

(a) In the event that a vicious dog is found to be in violation of this chapter, thereby creating a hazard to person or property, such animal may, in the discretion of the animal control officer or police officer, be destroyed if it cannot be confined or captured.

(b) (i) Upon the complaint of an individual that a person is keeping a vicious dog on premises in the City of Tullahoma, the animal control officer shall investigate, and if after investigation the facts indicate that the person named in the complaint is keeping a vicious dog in the city and that the dog is not in compliance with all requirements for possessing a vicious dog, the animal control officer may enter upon private premises in order to seize any such vicious dog, whether running at large or not. An animal so seized shall be impounded or quarantined at the animal shelter and shall not be released to the owner, but shall continue

to be held at the expense of the owner, pending the outcome of the hearing. A written notice of the impoundment shall be given by the animal control officer to the person keeping the dog suspected to be vicious, and shall be served personally or by certified mail. If the dog has not attacked or bitten a person or other animal, the owner may waive a hearing by registering the dog as vicious and complying with all requirements within this chapter. The dog will not be released until those requirements have been satisfied and the animal control officer has verified it, and all fees have been paid.

(ii) If the owner does not declare the dog to be vicious, a citation or warrant shall also be served upon the keeper of said suspected vicious dog pursuant to the provisions found in this code.

(c) Hearing on impoundment. The keeper of an impounded dog shall have the right to appear at a hearing to contest the impoundment, and/or defend the charges set forth in the citation issued to him

(i) The hearing shall be before a judge through the judicial process, and shall be conducted as are other matters in the court. The owner may be represented by counsel, present oral and written evidence and cross-examine witnesses.

(ii) After considering all of the relevant evidence, the judge shall issue a decision and may order the destruction of the impounded dog, or may release the dog to its owner, conditioned upon the owner having complied with the requirements set forth in this section or with any other requirements necessary to protect the public health, or safety. The judge shall also determine if the keeper of said vicious dog has violated the provisions hereof and issue an order accordingly. If the animal is not determined to be vicious, all costs of such impoundment or quarantine shall be paid by the city.

(iii) If the owner of an impounded dog fails to appear at a hearing, the dog shall be destroyed.

(d) The animal control officer of the City of Tullahoma shall have the authority to enforce this chapter without a warrant or citation if he observes a violation occurring in his presence.

(4) Vicious dog exemptions. (a) The prohibitions contained in this section shall not apply to the keeping of vicious dogs in the following circumstances:

(i) The keeping of guard dogs, at both commercial establishments and residences, under the following provisions: Guard dogs must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a vicious dog pursuant to this section. Any premises guarded by a guard dog shall be prominently posted with a sign containing the

wording "guard dog," or "vicious dog," and the signage shall comply with § 10-212(2)(d). The owner of such premises shall inform the chief of police and the animal control department in writing that a guard dog is on duty at said premises. Any gate to any fence enclosing guard dogs shall be kept closed and locked when persons are located upon the property housing them.

(ii) Animals under the control of a law enforcement or military agency.

(5) Penalty provisions. It shall be unlawful for anyone to harbor or maintain or own a vicious dog as defined herein in violation of or in noncompliance with the provisions hereof and anyone who shall do so shall be subject to the general penalty provisions found in § 1-107 of the code of ordinances of the City of Tullahoma, Tennessee. (1988 Code, § 3-212, as replaced by Ord. #1348, Dec. 2006)

10-213. Concealing dogs. Any person who shall hide or conceal or aid or assist in hiding or concealing any dog owned, kept or harbored in violation of any provisions of this chapter, shall be guilty of a misdemeanor and subject to fine as provided in § 1-107. (1988 Code, § 3-213, as replaced by Ord. #1348, Dec. 2006)

10-214. Stealing tags. Anyone who shall steal or otherwise acquire and use a dog identification or rabies inoculation tag for which it was not issued shall be guilty of a violation of the provisions of this chapter and shall be fined under § 1-107. (1988 Code, § 3-214, as replaced by Ord. #1348, Dec. 2006)

10-215. Dogs and cats to be vaccinated. Dogs and cats shall be vaccinated as required by Tennessee Code Annotated, § 68-8-104, as amended. (1988 Code, § 3-215, as replaced by Ord. #1348, Dec. 2006)

10-216. Location of dog kennel and dog run. A dog kennel and/or dog run and/or associated appurtenances to same, whether permanent or portable, shall be located only within the rear yard of a property and shall be located a minimum of five (5) feet from all property lines. The dog kennel and/or dog run shall be well drained to prevent the accumulation of standing water and other conditions deemed a public nuisance. (1988 Code, § 3-216, as replaced by Ord. #1348, Dec. 2006)

10-217. [Deleted.] (1988 Code, § 3-217, as deleted by Ord. #1348, Dec. 2006)