

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

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

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

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 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. Inspections of premises.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1993 Code, § 10-101)

10-102. Keeping near a residence or business restricted. No person shall keep any other animal or fowl enumerated in the preceding section within one thousand feet (1,000') of any residence, place of business, or public street without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances, as set forth in the application for the permit, will not injuriously affect the public health. (1993 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. (1993 Code, § 10-103)

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water,

shelter, and ventilation are not adequate and sufficient for the preservation of its health, 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. (1993 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 noise, odor, contagious disease, or other reason. (1993 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. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case, the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the city council.

The pound keeper shall be entitled to collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the city council, to cover the costs of impoundment and maintenance. (1993 Code, § 10-107)

10-107. Inspections of premises. For the purpose of making inspections to ensure compliance with the provisions of this chapter, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1993 Code, § 10-108)

CHAPTER 2

DOGS¹

SECTION

10-201. Rabies vaccination and registration required.

10-202. Dogs to wear tags.

10-203. Running at large restricted.

10-204. Vicious dogs to be securely restrained.

10-205. Noisy dogs prohibited.

10-206. Confinement of dogs suspected of being rabid.

10-207. Seizure and disposition of dogs.

10-208. Running at large prohibited.

10-209. Schedule of pound fees.

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 68-8-114). (1993 Code, § 10-201)

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. (1993 Code, § 10-202)

10-203. Running at large restricted.² 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 in such manner as to create a nuisance. (1993 Code, § 10-203)

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to reasonably provide for the protection of other animals and persons. (1993 Code, § 10-204)

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys or disturbs the peace and quiet of any neighborhood. (1993 Code, § 10-205)

¹Whenever this chapter references "dogs," cats are included.

²State law reference

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

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 health officer or chief of police may cause such dog to be confined or isolated for such time as he reasonably deems necessary to determine if such dog is rabid. (1993 Code, § 10-206)

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by the health officer or any police officer and placed in a pound provided or designated by the city council. If said dog is wearing a tag, the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the city council, or the dog will be humanely destroyed or sold. If said dog is not wearing a tag, it shall be humanely destroyed or sold 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 had a tag placed on its collar.

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 the health officer or any police officer.¹ (1993 Code, § 10-207)

10-208. Running at large prohibited. Upon seven (7) days' notice to the public and for periods of time set by the city council, all dogs, during those announced designated times, shall be under the total control of its owner(s) and/or keeper(s) at all times within the corporate limits of the city. Total control is: all dogs shall be secured to a leash that is also secured to a fixed immovable object; behind a secure, well constructed fence that shall keep the dog(s) inside; or inside the owner(s) and/or keeper(s) home of record where he (they) habitually sleep or such other structure on the same property where the dog(s) shall not have the freedom to come and go as it pleases. When the dog(s) is taken out away from the owner(s) and/or keeper(s) property, it shall be led by a leash or the leash secured to a vehicle when moving about the city. Voice (command) control shall be total control, providing the dog(s) is with the owner(s) or keeper(s) on their private property, occupied by the owner(s) or keeper(s).

Any dog(s) found in violation of any sections of this chapter shall be seized by any health or police officer. The owner(s) and or keeper(s) shall be charged

¹State law reference

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

and the following penalties shall be imposed in addition to the applicable court costs, fees, and penalties (re: § 3-108) plus any other applicable fees and damages to public/private properties that may be assessed: for violations within the period of one (1) year; thirty dollars (\$30.00) for the first offense; forty dollars (\$40.00) for the second offense; fifty dollars (\$50.00) for the third offense plus the court may order the humane destruction of the dog(s) or cause it (them) to be impounded for resale to another owner. Should there be a "dog bite victim," the penalties shall be: fifty dollar (\$50.00) fine and fifty dollar (\$50.00) court costs plus all applicable fees. The court costs, when collected in a dog bite case, shall be receipted to the victim to assist in the costs of medical treatment. The dog shall be humanely destroyed by the city police department and/or the county health officer when declared vicious by the order of the judge of the circuit court. (*Tennessee Code Annotated*, § 44-17-120). (1993 Code, § 10-208)

10-209. Schedule of pound fees. The owner of the dog may appear within five (5) days and redeem his dog by paying a reasonable pound fee. This is upon first violation that a pound fee will be assessed. Upon second violation of § 10-208 (running at large prohibited), and the dog is seized by a health officer or any police officer, then the owner(s) and keepers shall be charged and applicable court cost, fees, and penalties. For violations of § 10-207, a pound fee of twenty dollars (\$20.00) shall be assessed for the release of any dog seized by a health officer or any police officer from the pound as designated by board of mayor and aldermen. (1993 Code, § 10-209)

CHAPTER 3

VICIOUS DOGS

SECTION

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

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

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

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

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

(5) "Vicious dog." Any dog which:

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

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

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

(d) Is trained for dog fighting or which is owned or kept primarily or in part for the purpose of dog fighting. (1993 Code, § 10-301)

10-302. Vicious dogs prohibited. It shall be unlawful for any person to keep or harbor a vicious dog within the corporate limits of the City of Decherd unless said vicious dog is confined in compliance with this chapter. (1993 Code, § 10-302)

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

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

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

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

- (a) Vary the minimum requirements of a secure enclosure if the owner's residence cannot accommodate a secure enclosure as defined in this chapter; or
- (b) Permit an alternate method of enclosure, provided that, in the sole discretion of the animal control officer, such alternate method fulfills the objectives as a secure enclosure.

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

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

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

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

No dog shall be declared vicious as the result of protecting or defending a human being, any other animal, or itself against an unjustified attack or assault. (1993 Code, § 10-303)

10-304. Impoundment of vicious dogs. Any vicious dog not in compliance with the provisions of this chapter may be taken into custody by the appropriate authorities of the City of Decherd, or agents acting on behalf of the city, and impounded. The dog's owner shall be solely responsible for payment of all boarding fees associated with the impounding of the dog, in addition to any punitive fines to be paid. (1993 Code, § 10-304)

10-305. Court proceedings against the owner. If any vicious dog is impounded, the City of Decherd may institute proceedings in general sessions court charging the owner with violation of this chapter. Nothing in this section, however, shall be construed as preventing the City of Decherd or any citizen from instituting a proceeding for violation of this chapter where there has been no impoundment. (1993 Code, § 10-305)

10-306. Court findings. If a complaint has been filed in general sessions court against the owner of the dog for violation of this chapter, the dog shall not be released from impoundment or disposed of except on order of the court, payment of all charges and costs under this chapter, including penalties for violating this chapter. The court may, upon making a finding that the dog is vicious pursuant to this chapter, order the dog to be destroyed in a humane manner. (1993 Code, § 10-306)

10-307. Guard dogs. It shall be unlawful for any person to place or maintain guard dogs in any area of the City of Decherd for the protection of persons or property unless the following provisions are met:

(1) The guard dog shall be confined;

(2) The guard dog shall be under the direct and absolute control of a handler at all times when not confined; and

(3) The owner or other persons in control of the premises upon which a guard dog is maintained shall post warning signs stating that such a dog is on the premises. At least one (1) such sign shall be posted at each driveway or entranceway to said premises. Such signs shall be in lettering clearly visible for either the curb line or a distance of fifty feet (50'), whichever is lesser and shall

contain a telephone number where some person responsible for controlling such a guard dog can be reached twenty-four (24) hours a day. (1993 Code, § 10-307)

10-308. Violations and penalty. Any person violating the provisions of this chapter, upon conviction, shall be fined fifty dollars (\$50.00) and each day of violation shall be deemed a separate violation. (1993 Code, § 10-308)