

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

1. IN GENERAL.
2. DOGS AND CATS.
3. OWNERSHIP AND CONTROL OF 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. Cruel treatment prohibited.
- 10-107. Seizure and disposition of animals.

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

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (1991 Code, § 10-101)

10-102. Keeping near a residence or business restricted. Swine are prohibited within the corporate limits. No person shall keep or allow any other bees, animal or fowl enumerated in the preceding section to come within one thousand (1,000) feet of any residence, place of business, or public street, as measured in a straight line. However, nothing in this section shall be construed to permit the construction of barns, pens or any other type building or structure whatever that is in violation of the zoning ordinance of this city. (1991 Code, § 10-102, modified)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or

enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1991 Code, § 10-103)

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1991 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. (1991 Code, 10-105)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (1991 Code, § 10-106)

10-107. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by any police officer or other properly designated officer or official and confined in a pound provided or designated by the 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 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. (1991 Code, § 10-107)

CHAPTER 2

DOGS AND CATS¹

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 and cats to be securely restrained.
- 10-205. Noisy dogs and cats prohibited.
- 10-206. Confinement of dogs and cats suspected of being rabid.
- 10-207. Seizure and disposition of dogs and cats.
- 10-208. Destruction of vicious or infected dogs or cats running at large.
- 10-209. Restrictions on number of dogs.

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 through 68-8-114) or other applicable law. (1991 Code, § 10-201)

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. (1991 Code, § 10-202)

10-203. Running at large prohibited.² 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.

Any person knowingly permitting a dog or cat to run at large, including the owner of the dog or cat, may be prosecuted under this section even if the dog or cat is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (1991 Code, § 10-203)

10-204. Vicious dogs and 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

¹This chapter is based loosely on ords. adopted 6/12/81, 10/6/81 [apparently ord. #30], ord. adopted 3/1/83, ord. 86-3-11-1, and ord. 87-11-10-1

²State law reference

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

dangerous unless such dog or cat is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1991 Code, § 10-204)

10-205. Noisy dogs and cats prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood. (1991 Code, § 10-205)

10-206. Confinement of dogs and cats suspected of being rabid. If any dog or cat has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly designated officer or official may cause such dog or cat to be confined or isolated for such time as he deems reasonably necessary to determine if such dog or cat is rabid. (1991 Code, § 10-206)

10-207. Seizure and disposition of dogs and cats. Any dog or cat found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the city council. If the dog or cat 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 or cat by paying a reasonable pound fee, in accordance with a schedule approved by the city council, or the dog or cat will be sold or humanely destroyed. If the dog or cat is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within five (5) days. No dog or cat shall be released in any event from the pound unless or until such dog or cat has been vaccinated and has a tag evidencing such vaccination placed on its collar. (1991 Code, § 10-207)

10-208. Destruction of vicious or infected dogs or cats running at large. When, because of its viciousness or apparent infection with rabies, a dog or cat found running at large cannot be safely impounded it may be summarily destroyed by any policeman or other properly designated officer.¹(1991 Code, § 10-208)

10-209. Restrictions on number of dogs. (1) No owner or caretaker of any residential building shall knowingly allow any dogs over the age of four (4) months to be kept, harbored or maintained within any residential building

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 (1927).

or any residential lot or parcel of property in the city without a permit, except as hereinbelow specified and provided.

<u>Maximum Number of Dogs Allowed</u>	<u>Lot of Parcel Size</u>
3	One-quarter (1/4) acre or less
4	Exceeding one-quarter (1/4) acre up to, and including, one-half (1/2) acre
5	Exceeding one-half (1/2) acre up to, and including, three-quarter (3/4) acre
6	Exceeding three-quarter (3/4) acre up to, and including, one (1) acre
8	Exceeding one (1) acre up to, and including, two (2) acres
10	Exceeding two (2) acres up to, and including three (3) acres

(2) Permits. Any owner or caretaker of any residential building desiring to keep, harbor or maintain more dogs than allowed in subsection (1) shall file a written application therefor upon a form provided by the animal control officer, which application shall state the name, address and telephone number of the owner or caretaker, the size of the lot or parcel of property, the number and kind of dogs desired to be kept, and a short statement of the reason(s) for the request.

The animal control officer shall review the information supplied by the owner or caretaker and inspect the residential building and/or parcel of property after which he shall reasonably ascertain if any dogs over the maximum number of dogs herein provided should be allowed, and if he determines the same should be allowed, he shall decide how many dogs will be allowed, and issue a permit therefor.

Any permit issued hereunder shall specify any restrictions, limitations, conditions or prohibitions which the animal control officer deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, or annoyance, or to protect the public health or safety.

Any permit issued hereunder may be modified from time to time or revoked by the animal control officer for failure to conform to the restrictions, limitation, conditions or prohibitions therein contained. Such modification or revocation shall be effective from and after ten (10) days following the mailing of written notice thereof by certified mail to the owner or caretaker keeping, harboring or maintaining such dogs.

The fee for such permit shall be twenty-five dollars (\$25.00) which shall be paid at the time of the making of the application therefor. (1991 Code, § 10-209)

CHAPTER 3

OWNERSHIP AND CONTROL OF VICIOUS DOGS

SECTION

- 10-301. Definitions.
- 10-302. Procedure for declaring a dog vicious.
- 10-303. Notification of vicious dog declaration.
- 10-304. Hearing on vicious dog declaration.
- 10-305. Appeal from vicious dog declaration.
- 10-306. Requirements for keeping a vicious dog.
- 10-307. Impoundment.
- 10-308. Tranquilizer gun usage.
- 10-309. Notice of impoundment.
- 10-310. Hearing on impoundment and/or destruction.
- 10-311. Exceptions.
- 10-312. Change of status.
- 10-313. Change of ownership.
- 10-314. Guard dogs.
- 10-315. Dog fighting.
- 10-316. Right of entry.
- 10-317. Penalties.

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

(1) "Vicious dog" means:

(a) Any dog with a known propensity, tendency, or disposition to attack without provocation, to cause serious injury, or to otherwise threaten the safety of human beings or domestic animals; or

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

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

(2) "Guard dog" means:

(a) Any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog. (1991 Code, § 10-301)

10-302. Procedure for declaring a dog vicious. (1) An animal control officer, police officer or any adult person may request under oath that a dog be classified as vicious as defined in § 10-301, by submitting a sworn, written complaint. Upon receipt of such complaint, the city manager shall notify the owner of the dog, in writing, that a complaint has been filed and that an investigation into the allegations as set forth in the complaint will be conducted.

(2) At the conclusion of an investigation, the city manager may:

(a) Determine that the dog is not vicious and, if the dog is impounded, waive any impoundment fees incurred and release the dog to its owner; or

(b) Determine that the dog is vicious and order the owner to comply with the requirements for keeping a vicious dog set forth in § 10-306, and if the dog is impounded, release the dog to its owner after the owner has paid all fees incurred for impoundment. If all impoundment fees have not been paid within ten (10) days after a final determination that the dog is vicious, the city manager may cause the dog to be humanely destroyed.

(3) Nothing in this article shall be construed to require a dog to be declared vicious prior to taking action under state law. (1991 Code, § 10-302)

10-303. Notification of vicious dog declaration. (1) Within five (5) days after declaring a dog vicious, the city manager shall notify the owner by certified mail or personal delivery of the dog's designation as a vicious dog and of the requirements for keeping a vicious dog as set forth in § 10-306. The city manager shall also notify the division of animal control of the designation of any dog as a vicious dog.

(2) The notice shall inform the owner that he or she may request, in writing, a hearing to contest the city manager's finding and designation within five (5) days after delivery of the vicious dog declaration notice. (1991 Code, § 10-303)

10-304. Hearing on vicious dog declaration. (1) The city manager shall hold a hearing within ten (10) days after receiving the owner's written request for such a hearing. The city manager shall provide notice of the date, time and location of the hearing to the owner by certified mail or personal delivery and to the complainant by regular mail.

(2) At a hearing, all interested parties shall be given the opportunity to present evidence on the issue of the dog's viciousness. Criteria to be considered in the hearing shall include but not be limited to the following:

- (a) Provocation;
- (b) Severity of attack or injury to a person or animal;
- (c) Previous aggressive history of the dog;
- (d) Observable behavior of the dog;
- (e) Site and circumstances of the incident; and,
- (f) Statements from interested parties.

(3) A determination at the hearing that the dog is in fact a vicious dog as defined in § 10-301 shall subject the dog and its owner to the requirements of this section.

(4) Failure of the owner to request a hearing shall result in the dog being finally declared a vicious dog and shall subject the dog and its owner to the requirements of this section. (1991 Code, § 10-305)

10-305. Appeal from vicious dog declaration. If the city manager determines that a dog is vicious at the conclusion of a hearing conducted under § 10-304, that decision shall be final unless the owner of the dog appeals the decision to circuit court. (1991 Code, § 10-305)

10-306. Requirements for keeping a vicious dog. The owner of a vicious dog shall be subject to the following requirements:

(1) **Confinement.** All vicious dogs shall be securely confined indoors or in an enclosed and locked pen or structure upon the premises of the owner that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. The pen or structure shall have minimum dimensions of five feet (5') in width and length by ten feet (10') in height and must have secure sides and a secure top attached to the sides. If no bottom is secured to the sides, the sides must be embedded into the ground no less than two feet (2'). All pens or structures must be kept clean and sanitary. The enclosure must provide shelter and protection from the elements and must provide adequate exercise room, light and ventilation. Under no circumstances may a vicious dog be confined by a fence, whether it is electronic, a similar underground wire system, or otherwise. Under no circumstances may more than one (1) dog be kept in any one pen or structure.

(2) **Indoor confinement.** No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit the structure on its own volition. In addition, no vicious dog may be kept in a house or structure when open windows or screen doors are the only obstacle preventing the dog from exiting the house or structure.

(3) **Number of vicious dogs per residence.** Only one (1) dog that has been declared vicious may be owner per residence.

(4) **Leash and muzzle.** The owner of a vicious dog shall not allow the dog to go outside its kennel, pen, or structure unless the dog is muzzled, under the physical control of a capable adult, and restrained by a leash not more than four feet (4') in length, which shall be bright yellow in color, and of sufficient strength to control the dog. The muzzles must not cause injury to the dog or interfere with its vision or respiration, but must prevent the dog from biting any human being or animal.

(5) **Signs.** The owner of a vicious dog shall display, in a prominent place on the owner's premises, a clearly visible warning sign reading "Beware of Vicious Dog". The sign shall be readable from the driveway entrance or street. The owner shall also display a sign with a symbol warning children of the presence of a vicious dog. Similar signs shall be posted on the dog's kennel,

pen or structure. The sign shall be at least twelve inches by twelve inches (12"x12") in size.

(6) **Insurance.** The owner of a vicious dog shall obtain public liability insurance of at least one hundred thousand dollars (\$100,000), per dog, insuring the owner for any damage or personal injury that may be caused by his vicious dog. The policy shall contain a provision requiring the city to be notified immediately by the agent issuing the policy in the event that the policy is canceled, terminated or expired. The owner must provide proof of the insurance to the division of animal control. If there is a lapse in insurance or a cancellation, the owner shall be in violation of this chapter. (1991 Code, § 10-306)

10-307. Impoundment. When a dog has severely attacked a human being or domestic animal, and a police officer or animal witnessed the attack or witnessed the injuries caused by the attack, such dog shall be impounded. (1991 Code, § 10-307)

10-308. Tranquilizer gun usage. The animal control officer or any law enforcement officer, that has met the training qualifications with tranquilizer gun usage, is allowed to use a tranquilizer gun to put any vicious animal down if the animal control officer or law enforcement officer deems it necessary in capturing the animal. (1991 Code, § 10-308)

10-309. Notice of impoundment. Within five (5) days of impoundment of a dog under § 10-307, the division of animal control shall notify the dog's owner, if known, in writing of the impoundment. (1991 Code, § 10-309)

10-310. Hearing on impoundment and/or destruction. (1) The owner of an impounded dog shall have the right to file, within five (5) days after receiving notice, a written request for a hearing before the city manager to contest the impoundment.

(2) Upon request by the owner for a hearing pursuant to subsection (1), a hearing shall be held within ten (10) days after the request for a hearing. Notice of the date, time and location of the hearing shall be provided by certified mail or delivered personally to the dog's owner.

(3) The city manager shall issue a decision after the close of the hearing and shall notify the owner in writing of the decision.

(4) After considering all of the relevant evidence, the city manager may request the district attorney general to petition the circuit court to order the destruction of the impounded dog, or may release the dog to its owner conditional on the owner complying with the requirements for keeping a vicious dog as set forth in § 10-306.

(5) If state law changes and permits a municipality to order the destruction of a dog as a result of an attack on a person or other animal, then

the city manager shall automatically have the power to order the destruction of said dog under subsection (4) without going through circuit court. (1991 Code, § 10-310)

10-311. Exceptions. (1) This section shall not apply to any dog used by the police department or law enforcement agencies.

(2) No dog shall be declared vicious for injury or damage sustained by a person who was entering the owner's property to commit a burglary, robbery, assault, willful trespass or other tort or crime.

(3) No dog shall be declared vicious for injury or damage sustained by a person who was teasing, tormenting, abusing, assaulting, or otherwise provoking the dog.

(4) No dog shall be declared vicious solely because it bites or attacks:

(a) A person assaulting its owner, excluding a police officer attempting to subdue or effect the arrest of a suspect; or

(b) An unrestrained animal that attacks it or its young while it is restrained in compliance with this chapter. (1991 Code, § 10-311)

10-312. Change of status. The owner of a vicious dog shall notify the division of animal control:

(1) Immediately if the vicious dog is unconfined and on the loose, or has attacked a human being or domestic animal without provocation;

(2) If the dog has died. (1991 Code, § 10-312)

10-313. Change of ownership. (1) If the owner of a vicious dog sells, gives away, or otherwise transfers custody of the vicious dog to a new owner who resides within the city limits of the City of Kingston, the owner shall, within three (3) days, provide the division of animal control with the name, address, and telephone number of the new owner.

(2) If the new owner resides within the city limits, the previous owner shall notify the new owner of the dog's designation as a vicious dog and of the requirements and conditions for keeping a vicious dog set forth in § 10-306.

(3) If the new owner resides within the city limits, the new owner must obtain the required enclosure prior to the acquisition of the vicious dog or confine the dog indoors.

(4) If the new owner resides within the city limits, the new owner must fully comply with the provisions of this article, including obtaining liability insurance, prior to the acquisition of the vicious dog. (1991 Code, § 10-313)

10-314. Guard dogs. It shall be unlawful for any person to place or maintain guard dogs in any area of the City of Kingston for the protection of persons or property unless the following provisions are met:

(1) The guard dog shall be confined; or

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

(3) The owner or other persona 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 such sign shall be posted at each driveway or entranceway to said premises. Such signs shall be in lettering clearly visible from 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 guard dog can be reached twenty-four (24) hours a day. (1991 Code, § 10-314)

10-315. Dog fighting. (1) No person shall possess, harbor, or maintain care or custody of any dog for the purpose of dog fighting, nor shall any person train, torment, badger, bait, or use any dog for the reason of causing or encouraging the dog to attack human beings or domestic animals.

(2) No person shall permit a dog fight to take place upon their premises or premises within their control.

(3) No person shall knowingly be a spectator at a dog fight.

(4) Any dog found on the premises of the dog fight or in the immediate vicinity shall be impounded. (1991 Code, § 10-315)

10-316. Right of entry. It shall be the duty and authority of the chief of police or his authorized representative to enter onto any premises, public or private, to make inspections for the purpose of carrying out the provisions of this chapter. (1991 Code, § 10-316)

10-317. Penalties. 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. (1991 Code, § 10-317)