

**TITLE 10**

**ANIMAL CONTROL**

**CHAPTER**

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2. RABIES CONTROL.
3. VICIOUS DOGS.

**CHAPTER 1**

**GENERAL PROVISIONS**

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**10-101. Definitions.** The following definitions shall apply in the interpretation and enforcement of this chapter unless it is apparent from the context that a different meaning is intended:

(1) "Animal." The term "animal" means and includes all living non-human creatures, domestic or wild, including livestock.

(2) "Animal control officer." The term "animal control officer" means any officer of the Oak Ridge Police Department Division of Animal Control.

(3) "At large." The term "at large" means not under restraint.

(4) "Attack." The term "attack" means an unprovoked attack in an aggressive manner on a human in which the victim suffered a scratch, abrasion, or bruise; or on a domestic animal that causes death or injury that requires veterinary treatment.

(5) "Chief of police." The term "chief of police" means the Chief of Police for the City of Oak Ridge.

(6) "City manager." The term "city manager" means the City Manager for the City of Oak Ridge or the city manager's authorized designee.

(7) "Confined." The term "confined" means securely confined indoors, within an automobile or other vehicle solely for transportation and transported in a humane manner, or confined in a securely enclosed and locked pen or structure or fence, electronic or otherwise, upon the premises of the owner of such animal. However, under no circumstances is an electronic or similar fence sufficient to confine an animal in heat or a vicious dog.

(8) "Division of animal control." The term "division of animal control" means the Oak Ridge Police Department Division of Animal Control.

(9) "Guard" or "attack dog." The term "guard dog" or "attack dog" means a dog trained to attack on command or to protect persons or property, by attacking or threatening to attack, and who will cease to attack upon command.

(10) "Fowl." The term "fowl" means any wild or domesticated bird.

(11) "Impoundment." The term "impoundment" means the taking into custody of an animal by any police officer, animal control officer, or any authorized representative thereof.

(12) "Kennel." The term "kennel" means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs, puppies, cats, kittens or any other animal typically kept on such premises.

(13) "Livestock." The term "livestock" means all farm animals, including but not limited to cattle, horses, pigs, fowl, sheep, goats and mules.

(14) "Muzzle." The term "muzzle" means a device constructed of strong, soft material or metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or animal. Such device shall not interfere with the animal's ability to breathe.

(15) "Owner." The term "owner" means any person having a right of property in an animal, or who keeps or harbors an animal or who has it in his or her care, or acts as its custodian or who permits an animal to remain on or

about the person's premises. If an animal has more than one owner, all owners are jointly and severally liable for the acts or omissions of an owner.

(16) "Pig." The term "pig" means any type of pig, hog, or swine including, but not limited to, pot-bellied pigs.

(17) "Quarantine." The term "quarantine" means the humane confinement of an animal for the observation of symptoms for rabies, or other disease, in a secure enclosure that prevents the animal from coming into unplanned contact with any other animal or human being.

(18) "Restraint." (a) For all animals, the term "restraint" means on the premises of the owner and either

(i) In the owner's immediate presence and control or

(ii) Confined by a secure physical barrier (e.g., a fence, pen, or electronic fence in good working order), chain or tether, or leash or lead under the control of a person physically capable of restraining the animal.

If off the premises of the owner, "restraint" means secured by leash or lead under the control of a person physically capable of restraining the animal and obedient to that person's commands. In the situation of duplexes, apartment complexes or other multi-residential areas, an animal is not under restraint if the animal is confined within a fence or other physical barrier that encloses the area that is common ground to all tenants and the animal must be restrained by other allowable methods.

(b) A dog or puppy may be restrained by a fixed point chain or tether for no more than eight (8) hours in a twenty-four (24) hour period.

(c) A dog may be exclusively restrained by a chain or tether provided that it is at least ten (10) feet in length, with swivels on both ends, and is properly attached to a pulley or trolley mounted on a cable which is also at least ten (10) feet in length and mounted at least four (4) feet and no more than seven (7) feet above ground level in a manner so as not to interfere or become entangled with objects on the property.

(d) Any tethering system employed shall not allow the dog or puppy to leave the owner's property.

(e) No chain or tether shall weigh more than one-eighth (1/8) of the dog or puppy's body weight.

(f) Any chain or tether must be attached to a properly fitting collar or harness worn by the dog or puppy.

(19) "Severe attack." The term "severe attack" means an unprovoked attack upon a human being in which the victim suffered a severe bite or was shaken violently, and which causes serious physical trauma or death.

(20) "Wild animal." The term "wild animal" means any live monkey, non-human primate, raccoon, skunk, deer, wildcat, possum, fox, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal that can normally be found in the wild state. The term "wild animal" does not include domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats

(excluding hybrids with ocelots or margays), livestock, rodents, reptiles, snakes, and captive-bred species of common cage birds. (Ord. #15-99, Aug. 1999, as amended by Ord. #20-02, Nov. 2002, as amended by Ord. #17-06, Sept. 2006)

**10-102. Supervision of animal shelter.** The city animal shelter shall be under the supervision of the city manager. (Ord. #15-99, Aug. 1999)

**10-103. City designated as bird sanctuary.** The corporate limits of the city are hereby designated a bird sanctuary. (Ord. #15-99, Aug. 1999)

**10-104. Trapping, hunting, and shooting birds prohibited; exceptions.** It shall be unlawful for any person to trap, hunt, shoot or attempt to shoot birds or wildfowl or to rob nests thereof, except that starlings, English sparrows and pigeons congregating in the city may be destroyed at the direction of the city manager. (Ord. #15-99, Aug. 1999)

**10-105. Registration of dogs and cats.** (1) All residents owning, keeping, or harboring any dog or cat over three (3) months of age or any other animal which must be vaccinated for rabies, shall pay to the city a yearly registration fee of three dollars (\$3) for each spayed or neutered dog or cat and ten dollars (\$10) for each unspayed or unaltered dog or cat owned, kept, or harbored.

(2) Upon receipt of the registration fee required by subsection (1) and the exhibition of an unexpired certificate of rabies vaccination, the city manager shall issue a registration certificate to the owner of the animal, giving the owner's name, date issued, amount paid, description, name, age and sex of the animal, the registration tag number issued, the date the animal was vaccinated, and the type of vaccine used.

(3) At the time a registration certificate is issued under subsection (2), the city manager shall also deliver a registration tag bearing the serial number of the registration certificate and the year in which it was delivered. The shape and/or color of the tag shall be changed every year and it shall be the duty of every owner to provide each registered animal with a collar or harness to which the registration tag must be affixed and such owner shall see that the collar or harness is constantly worn. If a registration tag is lost or destroyed, a duplicate will be issued upon presentation of a receipt showing the payment of the fee, and payment of a one dollar (\$1) duplicate tag fee.

(4) The registration tag is valid for a maximum period of twelve (12) months and will expire on the same date the rabies vaccination expires.

(5) It shall be unlawful for any person owning, keeping or harboring an animal within the city to fail to register such animal as required by this section.

(6) It shall be unlawful to transfer or place a registration tag onto any animal for which the tag was not issued.

(7) Animals within the city limits for thirty (30) days or less are not required to be registered.

(8) Persons newly residing within the city limits have thirty (30) days in which to comply with this section. (Ord. #15-99, Aug. 1999)

**10-106. Registration fee for kennels.** Persons operating a kennel where dogs are bred for sale shall not be required to pay the registration fee required by § 10-105, but in lieu thereof shall pay, on or before the first day of May of each year, or upon the operating of such kennel, a registration fee as a kennel operator. These fees are annual fees and shall be as follows:

- (1) Less than ten (10) animals, five dollars (\$5).
- (2) Between ten (10) and twenty (20) animals, ten dollars (\$10).
- (3) More than twenty (20) animals, fifteen dollars (\$15).

At no time shall the number of dogs in the kennel exceed the number covered by the registration fee. (Ord. #15-99, Aug. 1999)

**10-107. Confinement of animals in heat.** Every female animal in heat shall be confined for a period of twenty-four (24) days in such a manner that such animal cannot come into contact with another animal except for planned breeding. While exercised, the animal shall be properly leashed. (Ord. #15-99, Aug. 1999)

**10-108. Animals kept off the owner's property, prohibited.** (1) No animal, except livestock, shall be kept on a vacant lot or area that is not adjacent to the owner's property.

(2) An animal may be kept on the premises of the owner's business as protection while the business is closed, provided the owner complies with all applicable sections of this chapter. (Ord. #15-99, Aug. 1999)

**10-109. Animals at large prohibited.** No animal, whether registered or not, shall be allowed to run at large. (Ord. #20-02, Nov. 2002)

**10-110. Impoundment of animals running at large.** (1) It shall be the duty of the city manager or the city manager's duly authorized representative to apprehend and impound in the city animal shelter any animal found running at large or any animal found in such a condition that apprehension is warranted for the animal's health and/or safety.

(2) An animal wearing a valid city tag shall be held for a period of seven (7) working days from the date of apprehension. Untagged, unregistered animals shall be held for a period of three (3) working days. Days are defined as days the animal shelter is open.

(3) Any animal not claimed within the times provided in subsection (2) may be destroyed or sold.

(4) The impoundment of an animal under this section shall not relieve the owner thereof from prosecution for permitting such animal to run at large in violation of § 10-109.

(5) The record of the owner, and not the particular animal, for one (1) year prior to the date of the current violation, shall be considered when calculating the number of offenses committed.

(6) Any unaltered animal that has been impounded three (3) times within any twelve (12) month period shall be spayed or neutered within thirty (30) days of release from the shelter. The owner must show proof of the procedure to the division of animal control.

(7) In addition to, or in lieu of, apprehending and impounding an animal found at large, the animal control officer, upon determining the owner, may return the animal to the owner and issue a summons requiring the owner to appear in city court for determination of whether or not there has been a violation within the meaning of § 10-109.

(8) No animal shall be released from impoundment unless and until it has been vaccinated and registered and a tag placed on its collar. (Ord. #15-99, Aug. 1999, as amended by Ord. #20-02, Nov. 2002)

**10-111. Impounding fees.** The impounding fees are as follows:

- (1) Registered animal wearing a valid tag.
  - (a) Twenty dollars (\$20) for the first offense,
  - (b) Thirty dollars (\$30) for the second offense, and
  - (c) One hundred dollars (\$100) for the third offense plus an additional fifty dollars (\$50) for every subsequent offense.
- (2) Unregisterd animal or registered animal not wearing a valid tag.
  - (a) Thirty dollars (\$30) for the first offense,
  - (b) Forty dollars (\$40) for the second offense, and
  - (c) One hundred dollars (\$100) for the third offense plus an additional fifty dollars (\$50) for every subsequent offense. (Ord. #15-99, Aug. 1999)

**10-112. Failure to reclaim animal at large.** Any owner who has been notified that his or her animal has been impounded and who refuses to pay the impounding fee set forth in § 10-111 shall be subject to a penalty for failure to reclaim the animal. In determining the number of failures to reclaim, the entire record of the owner with regard to every animal owned will be considered. The penalty shall be as follows:

- (1) First failure to reclaim, fifty dollars (\$50).
- (2) Second failure to reclaim, one hundred dollars (\$100).
- (3) Third and subsequent failures to reclaim, two hundred and fifty dollars (\$250). (Ord. #15-99, Aug. 1999)

**10-113. Authority to kill animals at large.** If any animal found at large in violation of this chapter cannot be safely taken up and impounded and either poses a threat to a person or the public or is seriously injured, such animal may be killed by any police officer or animal control officer. Nothing in this section shall be construed to prevent a police officer or animal control officer from killing an animal in self-defense. (Ord. #15-99, Aug. 1999)

**10-114. Keeping or possessing livestock.** It is unlawful for any person to keep or possess livestock, including pigs and goats, within the city. This section is inapplicable to areas zoned for livestock, provided the owner complies with the conditions set forth in the zoning ordinance. (Ord. #15-99, Aug. 1999)

**10-115. Possession of wild animals, prohibited.** It is unlawful for any person to own or possess a wild animal within the city limits. (Ord. #15-99, Aug. 1999)

**10-116. Condition for sales of certain animals.** (1) Fowl or rabbits younger than eight (8) weeks of age may not be sold in quantities of less than twenty-five (25) to a single purchaser.

(2) No person shall give away any live animal, including fish, reptile or bird, as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement; or offer such animal as an incentive to enter any business agreement whereby the offer was for the purpose of attracting trade.

(3) No person shall sell, offer for sale or give away any dog or cat under six (6) weeks of age. (Ord. #15-99, Aug. 1999)

**10-117. Dyed baby fowl and rabbits.** (1) It is unlawful for any person to:

(a) Sell, offer for sale, barter or give away baby chickens, ducklings or goslings of any age, or rabbits under two (2) months of age, as pets, toys, premiums or novelties, if such fowl or rabbits have been colored, dyed, stained or otherwise had their natural color changed; or

(b) Bring or transport such fowl or rabbits into the city for such purposes.

(2) This section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl or rabbits in proper facilities by breeders or stores engaged in the business of selling for purposes of commercial breeding and raising or laboratory testing.

(3) Each such baby chicken, duckling, other fowl or rabbit sold, offered for sale, bartered or given away in violation of this section constitutes a separate offense. (Ord. #15-99, Aug. 1999, as replaced by Ord. #17-06, Sept. 2006)

**10-118. Improper care of animals prohibited.** No person owning or keeping an animal shall fail to provide it with the minimum care, nor shall such person keep an animal under unsanitary conditions or in an enclosure that is overcrowded, unclean or unhealthy.

(4) Except for emergencies or circumstances beyond the owner's control, an animal is deprived of minimum care if it is not provided with care sufficient to preserve the health and well-being of the animal considering the species, breed and type of animal. Minimum care includes, but is not limited to, the following requirements:

(a) Food of sufficient quantity, quality and nutrition to allow for normal growth or maintenance of body weight.

(b) Open or adequate access to potable water in sufficient quantity to satisfy the animal's needs. Snow or ice is not an adequate water source. Fowl shall at all times be provided with receptacles kept constantly filled with clean water.

(c) Access to a barn, doghouse, or other shelter sufficient to protect the animal from the elements.

(d) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.

(5) An enclosure is overcrowded unless its area is at least the square of the length of the animal in inches (from tip of nose to base of tail) plus six (6) inches for each animal confined therein, and the height must allow for each animal to fully stand upright.

(6) An enclosure is unclean when it contains an excessive amount of animal waste.

(7) An enclosure is unhealthy when its condition is likely to cause illness or injury to the animal. (Ord. #15-99, Aug. 1999)

**10-119. Abandonment.** It shall be unlawful for any person to abandon an animal that is under its ownership or care. If an animal is found abandoned, the animal may be impounded. Abandonment consists of:

(1) Leaving an animal for a period in excess of twenty-four (24) hours without providing for someone to feed, water and check on the animal's condition.

(2) Leaving an animal by a roadside or other area, or

(3) Leaving an animal on either public or private property without the property owner's consent.

Any person convicted of violating this section shall be subject to a penalty of not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500). Each animal abandoned is a separate violation. (Ord. #15-99, Aug. 1999)

**10-120. Poisoning.** It shall be unlawful for any person, other than a licensed veterinarian or a person under the direction of a veterinarian for humanitarian purposes to:

- (1) Administer poison to any animal(s);
- (2) Distribute poison in any manner whatsoever with the intent or for the purpose of poisoning any animal; or
- (3) Knowingly leave a poisonous substance of any kind or ground glass in any place with the intent to injure an animal or in any location where it may be readily found and eaten by an animal.

The provisions of this section are not applicable to licensed exterminators using poisons as part of a pest control program or to persons using commercial insecticides and rodent baits to control insects and wild rodents. This section is also inapplicable to any measures taken under § 10-104 by the city manager. (Ord. #15-99, Aug. 1999)

**10-121. Noisy animals prohibited.** (1) No person owning or keeping any animal shall fail to prevent such animal from disturbing the peace of any other person by loud and persistent or loud and habitual barking, yelping, howling, braying, whinnying, crowing, calling or making any other noise, whether the animal is on or off the owner's premises.

(2) No person shall be charged with violating this section unless a written warning was given to the owner within the twelve (12) months preceding the alleged date of violation. Such warning is sufficient if it recites subsection (1) and states that a complaint was received. A warning is given if personally given to the owner or mailed first class to the owner.

(3) No person shall be convicted of violating this section unless two (2) or more witnesses testify to the noise, or unless there is other evidence corroborating the testimony of a single witness. (Ord. #15-99, Aug. 1999)

**10-122. Animal on school grounds.** It shall be unlawful for any owner, or any other person having an animal under his or her care or control to take, allow, or let such animal upon the grounds, property, or premises of any public school operated by the Oak Ridge School System unless such person shall first have obtained written permission from the superintendent of schools or the superintendent's designee. This section is not applicable to any law enforcement animal. (Ord. #15-99, Aug. 1999)

**10-123. Citation procedure for violations of this chapter.** Whenever an animal control officer determines there has been a violation of any of the provisions in this chapter, in lieu of obtaining a warrant for the arrest of the offender, the animal control officer may prepare in quadruplicate a written notice to appear in city court containing the name and address of such person, the offense charged, and the time when such person shall appear in city court. The time specified for appearance shall not be less than five (5) days from the

date of the issuance to appear, unless the person cited agrees to a shorter time period. If the person so demands, the appearance in court shall be the first session of court following the citation. The cited person shall sign one (1) copy of the notice to appear. Signing the notice shall constitute the cited person's promise to appear on the date specified in the notice. One copy of the notice shall be delivered to the cited person. (Ord. #15-99, Aug. 1999)

**10-124. Failure to obey animal control citation.** No person shall violate his or her written promise to appear provided for in § 10-123, regardless of the disposition of the charge for which the citation was originally issued. (Ord. #15-99, Aug. 1999)

**10-125. Acceptance of guilty pleas and penalties for animal control violations.** The city court clerk is hereby authorized to accept pleas of guilty for violations of this chapter, to accept designated penalties in connection with such pleas, to issue receipts therefor, and to appear for such person in court for the purpose of entering pleas of guilty, all in accordance with such procedures as may be established by the judge of the city court. Such penalties shall be accepted upon the entry of any plea of guilty before the court clerk. The amount of such penalty to be accepted shall be so designated by rule of court promulgated by the judge of the city court; provided that no such penalty may be accepted for a sum less than the minimum penalty imposed by any section of this chapter for such offense. Any person given a citation for a violation of any provision of this chapter may post the penalty appropriate thereto, and notify the clerk of the city court that he or she will not appear for trial in which case the matter may be entered on the docket for trial. There shall be no cost assessed in cases in which a plea of guilty is entered under this section. (Ord. #15-99, Aug. 1999)

**10-126. Collection and disposition of fees.** All fees required by this chapter shall be collected as required and shall be deposited in the general fund. (Ord. #15-99, Aug. 1999)

**10-127. Penalties.** Any person violating any provision of this chapter, unless the penalty is specified in the section, shall be punished by a penalty not to exceed five hundred dollars (\$500). Each day a violation exists shall be deemed a separate violation. (Ord. #15-99, Aug. 1999)

## CHAPTER 2

### RABIES CONTROL

#### SECTION

- 10-201. Vaccination of animals.
- 10-202. Apprehension and disposition of rabid animals and suspects.
- 10-203. Quarantine of animals inflicting, or suspected of inflicting, a bite or suspected of being rabid.
- 10-204. Quarantine of animals in contact with rabid animal.
- 10-205. Report required when person is bitten by an animal.
- 10-206. Veterinarians to report result of examination of animal that has bitten person.
- 10-207. Forwarding of head to state health department.
- 10-208. Surrender and examination of carcasses of animals.

**10-201. Vaccination of animals.** (1) It shall be unlawful for any person to own, keep, or harbor any dog or cat, or other animal that requires vaccination for rabies, which has not been vaccinated against rabies as required by state law.

(2) Evidence of such vaccination shall consist of a certificate bearing the owner's name and address, number of the vaccination tag issued, date of vaccination, date the animal shall be re-vaccinated, description and sex of the animal vaccinated, type and lot number of the vaccine administered and the signature of the person administering the vaccine.

(3) The certificate shall be prepared in triplicate, the original to be given to the owner, the first copy filed in the office of the local health department, and the second copy retained by the person administering the vaccine.

(4) All vaccinations shall be administered by or under the supervision of a veterinarian licensed by the State Board of Veterinary Medical Examiners to practice veterinary medicine in the State of Tennessee. (Ord. #15-99, Aug. 1999)

**10-202. Apprehension and disposition of rabid animals and suspects.** Any animal capable of being infected with rabies which is rabid or believed to be rabid shall be immediately reported to the police department. Such animal shall be taken up and impounded if this can be accomplished with safety. If it is necessary for the city to destroy the animal to prevent further biting or for the safety of the community, every effort shall be made to avoid damage to the brain. (Ord. #15-99, Aug. 1999)

**10-203. Quarantine of animals inflicting, or suspected of inflicting a bite or suspected of being rabid.** (1) Any animal that is

suspected of or has bitten a human being, or is suspected of being infected with rabies, shall be quarantined at a facility designated by the city manager for no less than ten (10) days from the time the bite or scratch occurred. The owner shall be responsible for all quarantine fees and costs.

(2) No animal that is suspected of or has bitten a human being or is suspected of being infected by rabies shall be killed or destroyed or removed from the city unless authorized by the city manager.

(3) Only animals that appear to be without rabies shall be released from quarantine or impoundment.

(4) No person shall hide, kill, conceal or aid or assist in hiding, killing, or concealing any animal suspected of being infected with rabies or shall conceal or permit the same to be removed from the city for the purpose of preventing the quarantine.

(5) There shall be placed in a conspicuous place in plain view of all entrances to the place of quarantine a placard on which shall be printed, in letters not less than two (2) inches high, the words "Rabies--Quarantine." The place of quarantine shall be cleaned and disinfected to the satisfaction of the city manager. (Ord. #15-99, Aug. 1999)

**10-204. Quarantine of animals in contact with rabid animal.** All animals capable of being infected with rabies that have come in contact with a rabid animal shall be quarantined and vaccinated as follows:

(1) If no vaccination for rabies has been given within the previous twelve (12) months, the animal shall be vaccinated and quarantined for ninety (90) days.

(2) If the animal has been vaccinated for rabies within the previous twelve (12) months, the animal shall be re-vaccinated and quarantined for thirty (30) days. (Ord. #15-99, Aug. 1999)

**10-205. Report required when person is bitten by an animal.** Whenever a person is bitten by an animal capable of being infected with rabies, prompt report of such bite shall be made to the police department. Such report shall be made by any physician attending the person bitten, or, if such person is at a hospital, the report shall be made by the person in charge. Such report shall contain all information required by the city manager. When a physician was not consulted or the person not taken to the hospital, the report shall be made by the person bitten or any other person with knowledge of the facts. (Ord. #15-99, Aug. 1999)

**10-206. Veterinarians to report result of examination of animal that has bitten person.** Whenever a veterinarian is called upon to examine an animal capable of transmitting rabies that has bitten a person, the veterinarian shall promptly report the results of the examination to the city manager. (Ord. #15-99, Aug. 1999)

**10-207. Forwarding of head to state health department.** When an animal under quarantine has been diagnosed as being rabid, or suspected by a licensed veterinarian as being rabid, and dies while under quarantine, the division of animal control shall send the head of such animal to the state health department for pathological examination. (Ord. #15-99, Aug. 1999)

**10-208. Surrender and examination of carcasses of animals.** The carcass of any dead animal found within the city shall, upon demand, be surrendered to the division of animal control for examination if, in the opinion of the city manager, such examination is necessary or advisable. (Ord. #15-99, Aug. 1999)

### CHAPTER 3

### VICIOUS DOGS

#### SECTION

- 10-301. Definition.
- 10-302. Procedure for declaring a dog vicious.
- 10-303. Notification of vicious dog declaration.
- 10-304. Hearing on vicious dog declaration.
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- 10-306. Requirements for keeping a vicious dog.
- 10-307. Impoundment.
- 10-308. Notice of impoundment.
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- 10-310. Exceptions.
- 10-311. Change of status.
- 10-312. Change of ownership.
- 10-313. Dog fighting, spectator.
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**10-301. Definition.** "Vicious dog" means:

- (1) 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
- (2) Any dog which, without provocation, has attacked or bitten a human being or domestic animal; or
- (3) Any dog owned or harbored primarily, or in part, for the purpose of dog fighting, or any dog trained for dog fighting. (Ord. #15-99, Aug. 1999)

**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 chapter shall be construed to require a dog to be declared vicious prior to taking action under state law. (Ord. #15-99, Aug. 1999)

**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. (Ord. #15-99, Aug. 1999)

**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 chapter.

(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 chapter. (Ord. #15-99, Aug. 1999)

**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. (Ord. #15-99, Aug. 1999)

**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 (5) feet in width and length by ten (10) feet 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 (2) feet. 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 owned 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 (4) feet in length, which shall be bright yellow in color, and of sufficient strength to control the dog. The muzzle 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 (12) inches by twelve (12) inches 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 the owner's 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 cancelled, 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 title.

(7) Compliance; consequences for failure to comply. (a) For the safety and welfare of the general public, an owner of a vicious dog must comply

with the requirements for keeping a vicious dog within the following timeframe:

(i) Immediate. Immediately upon the owner's receipt of the declaration notice, the owner shall comply with the confinement requirements set forth in § 10-306(1) and (2). The owner may continue to keep the vicious dog confined indoors or may, at the owner's option, confine the vicious dog outdoors provided the requirements of § 10-306(1) are met at all times while the vicious dog is confined outdoors.

(ii) Within twenty-four (24) hours. The requirements set forth in § 10-306(4) and (5) must be met within twenty-four (24) hours of the owner's receipt of the declaration notice.

(iii) Within five (5) days. The requirement set forth in § 10-306(3) and (6) must be met within five (5) days of the owner's receipt of the declaration notice.

(iv) Should an owner of a vicious dog choose to contest the city manager's finding and designation of his or her dog as vicious and said owner has not complied with the requirements of this section within the allotted timeframe, the vicious dog shall be delivered to the animal shelter for safe-keeping until the contest hearing is heard. The owner shall be responsible for any and all boarding fees for the vicious dog, veterinarian or other professional services which the vicious dog needs as determined by staff the animal control officers or the animal shelter's veterinarian, and for any and all damage to city property caused by the vicious dog.

(b) Failure of an owner to comply with any of the requirements for keeping a vicious dog, or failure of an owner to continue compliance with said requirements, shall result in the vicious dog being apprehended by the division of animal control or the police department. Said vicious dog shall remain in the custody and control of the division of animal control until such time as the owner can prove, to the city's satisfaction, compliance with the requirements for keeping a vicious dog or until the conclusion of five (5) working days, whichever occurs first. If the vicious dog remains impounded at the conclusion of five (5) working days, said vicious dog shall become the property of the city and may be destroyed. (Ord. #15-99, Aug. 1999, as amended by Ord. #20-02, Nov. 2002)

**10-307. Impoundment**. When a dog has severely attacked a human being or domestic animal, and a police officer or animal control officer witnessed the attack or witnessed the injuries caused by the attack, such dog shall be impounded. (Ord. #15-99, Aug. 1999)

**10-308. 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. (Ord. #15-99, Aug. 1999)

**10-309. 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. (Ord. #15-99, Aug. 1999)

**10-310. Exceptions.** (1) This chapter 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 subject; or

(b) An unrestrained animal that attacks it or its young while it is restrained in compliance with this title. (Ord. #15-99, Aug. 1999)

**10-311. 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 owner has moved outside of the city limits and shall give the owner's new address; or

(3) If the dog has died. (Ord. #15-99, Aug. 1999)

**10-312. Change of ownership.** (1) If the owner of a vicious dog sells, gives away, or otherwise transfers custody of the vicious dog, 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) The previous owner shall notify the new owner of the dog's designation as a vicious dog and, if the new owner resides within the city limits, 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) The new owner must fully comply with the provisions of this chapter, including obtaining liability insurance, prior to the acquisition of the vicious dog. (Ord. #15-99, Aug. 1999)

**10-313. Dog fighting, spectator.** No person shall knowingly be a spectator at a dog fight. (Ord. #15-99, Aug. 1999, as replaced by Ord. #17-06, Sept. 2006)

**10-314. Right of entry.** It shall be the duty and authority of the chief of police or the chief of police's authorized representative to enter onto any premises, public or private, to make inspections for the purpose of carrying out the provisions of this title. (Ord. #15-99, Aug. 1999)