

Resolution: 3

Resolution Title: Resolution to Adopt Animal Control Regulation Pursuant to T.C.A. Sections 5-1-118 and 6-2-201(22) and (23) As Amended.

Date: April 18, 2005

MOTION BY: Mr. Jack McCanless, Jr.

SECONDED BY: Mr. Donnie Jordan

COMPLETED RESOLUTION

BE IT THEREFORE RESOLVED, That the Cheatham County Legislative Body meeting in Regular Session this the 18th day of April 2005 in the General Sessions Courtroom at the Courthouse in Ashland City, Tennessee; WHEREAS, The Board of County Commissioners of Cheatham County, Tennessee, has determined that it would be beneficial to the inhabitants of Cheatham County, Tennessee, in its unincorporated areas, to adopt animal control regulations; and, WHEREAS, the Board of County Commissioners of Cheatham County, Tennessee, is authorized pursuant to Tenn. Code Ann. Sections 5-1-118, 5-1-120, and 6-2-201(22) and (23) to adopt such Regulations in its unincorporated areas; NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Cheatham County, Tennessee, meeting in regular session on this 18th day of April , 2005, that the following animal control regulations are hereby adopted pursuant to the aforesaid authority:

ANIMAL CONTROL REGULATIONS

1. The purposes of these Regulations are to promote the public health, safety and general welfare of the citizens of Cheatham County, Tennessee in its unincorporated areas and to ensure the humane treatment of animals by regulating the care and control of animals within Cheatham County, Tennessee, in its unincorporated areas.

2. When used in these Regulations, the following words, terms, and phrases, and their derivations shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

DEFINITIONS:

(a) *Animal* means any live creature, both domestic and wild, except humans. "Animal" includes fowl, fish and reptiles.

(b) *Animal control officer* means an employee or agent of the County, designated by the County Mayor to administer and enforce the licensing, inspection and enforcement requirements contained within these Regulations.

(c) *Animal hospital* means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of animal diseases and injuries.

(d) *Animal nuisance* means any nuisance arising out of the keeping, maintaining or owning of, or failure to exercise sufficient control of, an animal.

(e) *Animal shelter* means any facility operated by the County or humane society for the temporary care, confinement and detention of animals and 'for the humane euthanasia and other disposition of animals. The term shall also include any private facility authorized by the County Mayor or his designee to impound, confine, detain, care for or destroy any animal.

(f) *At heel* means a dog is directly behind or next to a person and obedient to that person's command.

(g) *At large* means that an animal is off the premises of the owner, and not on a leash or otherwise under the immediate control of a person physically capable of restraining the animal.

(h) *Cruelty* means any act or omission whereby unjustifiable physical pain, suffering or death of an animal is caused or permitted, including failure to provide proper drink, air, space, shelter or protection from the elements, a sanitary and safe living environment, veterinary care or nutritious food in sufficient quantity. In the case of activities where physical pain is necessarily caused, such as medical and scientific research, food processing, customary and normal veterinary and agricultural husbandry practices, pest elimination, and animal training and hunting, "cruelty" shall mean a failure to employ the most humane method reasonably available.

(i) *Disposition* means adoption, quarantine, voluntary or involuntary custodianship or placement, or euthanasia humanely administered to an animal. "Disposition" includes placement or sale of an animal to the general public, or removal of an animal from any pet shop to any other location.

(j) *Domestic animal* includes dogs, cats, domesticated sheep, horses, cattle, goats, swine, fowl, ducks, geese, turkeys, confined domestic hares and rabbits, pheasants, and other birds and animals raised and/or maintained in confinement.

(k) *Exotic animal* means any live monkey, Alligator, crocodile, cayman, raccoon, skunk, fox, bear, sea mammal, poisonous snake, member of the feline species other than domestic cat (*felis domesticus*), member of the canine species other than domestic dog (*canis familiaris*) or any other animal that would require a standard of care and control greater than that required for customary household pets sold by commercial pet shops or domestic farm animals.

(l) *Guard or attack dog* means a dog trained to attack on command or to protect persons or property, and who will cease to attack upon command.

(m) *Impoundment* means the taking into custody of an animal by any police officer, animal control officer, or any authorized representative thereof.

(n) *Kennel* means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for fee, or selling dogs or cats.

(o) *Muzzle* means a device constructed of strong, soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

(p) *Owner* means any person having temporary or permanent custody of, sheltering or having charge of, harboring, exercising control over, or having property rights to, any animal covered by these Regulations. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days.

(q) *Public nuisance animal* means any animal that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance animal" shall include, but not be limited to:

(i) Any animal that is repeatedly found running at large;

(ii) Any dog or cat in any section of a park or public recreation area unless the dog or cat is controlled by a leash or similar physical restraint or otherwise under the owner's control;

(iii) Any animal that damages, soils, defiles or defecates on any property other than that of its owner;

(iv) Any animal that makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

(v) Any animal in heat that is not confined so as to prevent attraction or contact with other animals;

(vi) Any animal, whether or not on the property of its owner, that without provocation, molests, attacks, or otherwise interferes with the freedom of movement of persons in a public right-of-way;

(vii) Any animal that chases motor vehicles in a public right-of-way;

(viii) Any animal that attacks domestic animals

(ix) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;

(x) Any animal that is offensive or dangerous to the public health, safety or welfare virtue of the number of animals maintained at a single residence or the inadequacy of the facilities.

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

(s) *Under restraint* means that an animal is secured by a leash, lead under the control of a person physically capable of restraining the animal and obedient to that person's commands, or securely enclosed within the real property limits of the owner's premises.

(t) *Vicious or dangerous animal* means any animal that attacks, bites, or physically injures human beings, domestic animals, or livestock without adequate provocation, or which, because of temperament or training, has a known propensity to attack, bite, or physically injure human beings, domestic animals, or livestock. Any wild animal or any animal that without provocation has bitten or attacked a human being or other animal shall be *prima facie* presumed vicious or dangerous.

(u) *Wild animal* means any live monkey, nonhuman primate, raccoon, skunk, 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), farm animals, rodents, any hybrid animal that is part wild, and captive-bred species of common cage birds.

Nuisances:

It shall be unlawful for any person to keep any animal on any property located within the unincorporated areas of Cheatham County, Tennessee, when the keeping of such animal constitutes a public nuisance or menace to public health or safety.

Caring for Animals:

(a) It shall be unlawful for the owner or custodian of any animal to refuse or fail to provide such animal with sufficient wholesome and nutritious food, potable water, veterinary care when needed to prevent suffering,

humane care and treatment, or to unnecessarily and unreasonably expose any such animal in hot, stormy, cold or inclement weather.

(b) No owner or custodian of any animal shall willfully abandon such animal on any street, road, highway or public place, or on private property when not in the care of another person.

Cruelty to Animals:

(a) It shall be unlawful for any person to willfully or maliciously strike, beat, abuse or intentionally run down with a vehicle any animal, or otherwise engage in any act to cause or inflict unnecessary pain, injury, suffering or death to such animal; except that reasonable force may be used to drive away or defend against vicious or trespassing animals.

(b) No person shall administer poison to any animal, or knowingly leave any poisonous substance of any kind or ground glass in any place with the intent to injure any animal. The provisions of this Section are not applicable to licensed exterminators using poisons as part of a pest control program or the use of commercial insecticides and rodent baits used to control insects and wild rodents.

Restraint and Confinement - Generally:

(a) It shall be unlawful for the owner of any animal to fail to keep such animal under restraint or to permit such animal to run at large upon the streets and public ways of the County.

(b) Any dog, while on a street, sidewalk, public way or in any park, public square, or other public space, or upon any private property without the consent of the owner, shall be secured by a leash or chain of sufficient tensile strength to restrain the particular dog, or shall be at heel and securely muzzled.

(c) No owner or custodian of any animal shall fail to exercise proper care and control of such animal to prevent the same from becoming a public nuisance.

(d) Every female dog or cat in heat shall be confined in a building or other enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding.

Restraint of Guard Dogs:

(a) Every owner of a guard or attack dog shall keep such dog confined in a building, compartment or other enclosure.

(b) The areas of confinement shall have all gates and entrances thereto securely closed and locked, and all fences properly maintained and escape proof.

(c) 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 such sign shall be posted at each driveway or entranceway to said premises. Such signs shall be in lettering clearly from either the curb line or a distance of fifty feet, whichever is less, and shall contain a telephone number where some person responsible for controlling such guard dog can be reached twenty-four hours a day.

(d) The provisions of this section shall not apply to dogs owned or controlled by government law enforcement agencies.

Restraint of Vicious or Dangerous Animals:

Every vicious animal shall be confined by its owner or authorized agent of its owner within a building or secure enclosure and, whenever off the premises of its owner, shall be securely muzzled and restrained with a chain having a minimum tensile strength of three hundred(300) pounds and not more than three (3) feet in length, or caged. Every person harboring a vicious animal is charged with an affirmative duty to confine the animal in such a way that children do not have access to such animal.

Property Owners May Impound:

Any person finding an animal at large upon his property may remove the same to any animal shelter that will take possession of the animal. If no such shelter is available, the property owner may hold the animal in his own possession, and as soon as possible, notify the Department of Animal Control. The property owner shall provide a description of the animal and the name of the owner if known. The Department shall dispatch an animal control officer to take possession of the animal.

Disposition of Large Animals:

Any animal control officer or other designated person on call who removes a large animalsuch as a horse, cow, mule or any other animal not acceptable by any animal hospital or other shelter shall be authorized to call a trucking firm or company which shall convey the animal to a farm or other appropriate facility that has an agreement with the County to accept such animals. The disposition of any animal removed to a facility other than an animal hospital or shelter shall be handled in the same manner as though the animal were confined in an animal hospital or shelter.

Impoundment:

(a) In addition to any other remedies provided in these Regulations, an animal control officer or a law enforcement officer may seize, impound and humanely confine to an animal shelter or hospital any of the following animals:

- (i) Any animal at large;
- (ii) Any animal constituting a public nuisance or considered a danger to the public;
- (iii) Any animal that is in violation of any quarantine or confinement order;
- (iv) Any unattended animal that is ill, injured or otherwise in need of care;
- (v) Any animal that is reasonably believed to have been abused or neglected;
- (vi) Any animal that is charged with being potentially dangerous, or dangerous where in animal control officer or a law enforcement officer determines that there is a threat to public health and safety;
- (vii) Any animal that a court of competent jurisdiction has ordered impounded or destroyed;
- (ix) Any animal that is considered unattended or abandoned, as in situations where the owner is deceased, has been arrested or evicted from his regular place of residence.

(b) An animal control officer or law enforcement officer may also, or in lieu of impoundment, issue to the owner a notice of violation. Such notice shall impose upon the owner a civil monetary penalty of Twenty-Five (\$25.00) Dollars for the first offense and Fifty (\$50.00) Dollars for the second offense. The civil monetary penalties may, at the discretion of the animal owner, be paid to the Animal Control Department within ten (10) days in full satisfaction of the assessed penalty. In the event that such penalty is not paid within the time period prescribed, the Animal Control Department shall have the right to proceed to collect unpaid civil monetary penalty as provided in the Violations and Penalties section of these Regulations. The third and subsequent offenses shall be prosecuted by misdemeanor citation when appropriate under state law.

Quarantine:

The Animal Control Department is lawfully empowered to quarantine for a period of ten days from the date of impoundment any animal involved in the bite of a person. Bite being defined as the puncture of the skin of the victim where blood or bodily fluid is transferred from the animal to the victim. The animal would be quarantined at the Animal Control Facility or at a licensed veterinary hospital in the county. Release of the animal would be contingent upon the health exam of a veterinarian indicating that the animal is clear of any clinical signs of the rabies virus. The animal would be required to receive a rabies vaccine or booster after the quarantine period and health check were complete. The owner of the animal will be responsible for all fees and fines incurred during the quarantine period. The owner of the animal has the option to relinquish all rights and release the animal to the Animal Control Department at which time the animal becomes the property of the Animal Control Department.

Notice to Owner and Redemption:

(a) Upon impoundment of an animal, the Department of Animal Control shall immediately attempt to notify the owner by telephone or certified mail. Any notice to the owner shall also include the location of the shelter or hospital where the animal is confined, hours during which the animal can be reclaimed, and fees to be charged to the owner. The owner shall also be advised that the failure to claim the animal within a specified period of time may result in the disposition of the animal.

(b) An owner reclaiming an impounded animal shall pay a fee of Twenty-Five (\$25.00) Dollars plus a Five (\$5.00) Dollar boarding fee for each day the animal has been impounded in addition to any civil monetary penalty owing. The reclaim fee shall be Fifty(\$50.00) Dollars for animals that have not been spayed or neutered. Rabies fees and County registration fees shall also be collected unless current status can be verified. The daily rate charged for any subsequent impoundment occurring within twelve (12) months shall be double that which was charged for each day of confinement during the first impoundment.

(c) Any animal not wearing a rabies tab and not reclaimed by its owner within 72 hours shall become the property of the County and shall be placed for adoption in a suitable home or euthanized in a humane manner. If an animal is wearing a rabies tag, the owner shall be notified by a postcard sent to the owner's last known address to appear within five (5) days and redeem the animal by paying all required fees.

Enforcement:

Animal control officers or other designees of the County Mayor shall be the primary enforcement officials for these Regulations. These officials, along with law enforcement officers, shall have the authority to act on behalf of the County in investigating complaints, enforcing the animal vaccination statutes of the State of Tennessee, impounding and destroying animals, issuing citations, and taking other lawful actions as required to enforce the provisions of these Regulations. It shall be a violation of these Regulations to interfere with any animal control officer or other enforcement official in the performance of his duties.

Violations and Penalties:

- (a) It shall be a violation of these Regulations to:
 - (i) Fail to comply with any provision of these Regulations;

(ii) Fail to comply with any lawful order of an animal control officer, or law enforcement officer unless such order is lawfully stayed or reversed; or,

(b) A violation of these Regulations shall result in a civil monetary penalty of fifty (\$50.00) Dollars per violation for the first offense and fifty (\$50.00) Dollars for the second offense with third and subsequent violations to be handled by misdemeanor citation when appropriate under state law.

(c) Each day that one or more violations of these Regulations exists or continues to exist shall constitute a separate violation.

(d) If civil monetary penalties remain unpaid more than ten (10) days after notice of violation, the County Attorney is authorized to take appropriate action through the General Sessions Court pursuant to Tenn. Code Ann. Section 5-1-123.

Conflicting Regulations:

All other Regulations of Cheatham County, Tennessee, that are in conflict with these Regulations are hereby repealed to the extent of such conflict. Notwithstanding anything in these Regulations to the contrary, nothing contained herein shall be construed to prohibit animal control officers or law enforcement officers of Cheatham County, Tennessee, to take action consistent with these Regulations or any similar municipal ordinance or state law within the corporate limits of any incorporated municipality in Cheatham County, Tennessee, if requested to do so by an appropriate representative of said municipality. Nor shall anything contained herein be construed as a limitation on the authority of any law enforcement officer to enforce the criminal laws of Tennessee, regarding the care, treatment and responsibility for animals.

Severability:

The provisions of these Regulations are declared to be severable. If any section, sentence, clause or phrase of these Regulations shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of these Regulations, but they shall remain in effect; it being the legislative intent that these Regulations shall remain in effect notwithstanding the validity of any part.

These Regulations shall become effective upon adoption.