



# Metropolitan Nashville and Davidson County, TN

## Legislation Text

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**File #:** BL2022-1571, **Version:** 1

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An Ordinance to amend Title 8 of the Metropolitan Code of Laws relative to animals.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Chapter 8.04 of the Metropolitan Code of Laws is amended by deleting the chapter in its entirety and replacing it with the following:

### Chapter 8.04 - Animals Generally

#### 8.04.010. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Animal care and control division” means the animal care and control services division of the department of health.

“Animal care and control officer” means any person employed by the animal care and control division who is authorized to implement and enforce this chapter and applicable state statutes.

“Animal shelter” means any animal shelter owned by, controlled by or under contract with the metropolitan government.

“At large” means any animal that is off the premises of the owner and unrestrained or not directly under control of the owner; provided that an animal shall not be considered running “at large” when:

- A. The animal is off the premises of the owner, if such animal shall be accompanied by the owner and the owner shall have full command of such animal; or
- B. The animal is accompanied by a responsible person and is a hunting dog in chase or in training, a dog guarding or driving stock, a police dog, a working dog, a dog participating in an organized field competition, or a cat.

"Board of health" means the Metropolitan Board of Health of the Metropolitan Government of Nashville and Davidson County, Tennessee.

“Cat” means all domesticated members of the feline family.

“Community cat” means any free roaming cat that may be cared for by one or more residents of the immediate area. Community cats are exempt from any licensing, stray, abandonment, and at-large provisions directed towards owned animals.

“Community cat caregiver” means a person who provides care, including food, shelter, or medical care to a community cat, while not being considered the owner, custodian, harbinger, controller, or keeper of a

community cat or to have care or charge of a community cat. Caregivers should make reasonable efforts to sterilize and vaccinate cats against rabies. Community cat caregivers may redeem community cats from the shelter without proof of ownership and are exempt from any charges and/or fees.

"Department" means the Department of Health of the Metropolitan Government of Nashville and Davidson County, Tennessee, and shall include its board, agents, employees and activities.

"Director of health" means the director of health or his/her designated representative.

"Dog" means all domesticated members of the canine family.

"Extreme weather conditions" means those conditions that pose life-threatening health conditions to animals who are dependent upon their owners' care and protection. Extreme weather conditions shall include temperatures reported and verified by the National Weather Service below 32 degrees, temperatures above 95 degrees, or in instances when the National Weather Service issues a weather advisory for a tornado warning or severe thunderstorm warning.

"Guard dog" means 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.

"Livestock" means all animals of the equine, ovine, bovine, caprine, poultry, or swine and similar classes and includes, but is not limited to, goats, sheep, mules, horses, hogs, cows or cattle and domesticated poultry.

"Owner" means any person possessing, keeping, having charge of, sheltering, feeding, harboring, or taking care of any animal or livestock covered by this chapter.

"Person" means any natural person, individual, firm, society, corporation, partnership, association, trust, estate, or other legal entity. If the person is a minor as defined by statute, the minor's parent or legal guardian shall be the owner for the purposes of this chapter.

"Quarantine" means the strict confinement, isolation, and observation of an animal suspected of rabies.

"Vaccination" means a rabies vaccine administered by a licensed veterinarian and approved by the health department or the state department of health and administered to such animal on an annual basis.

#### 8.04.020. Rabies vaccinations.

- A. Every person who is the owner of any dog or cat over the age of six months within the jurisdiction of the metropolitan government shall have such animal vaccinated against rabies with a vaccine approved by the United States Department of Agriculture and administered only by or under the supervision of a licensed veterinarian. The vaccination schedule shall be the following:

#### Dogs:

1. Within 30 days after a dog reaches the age of six months a primary or first vaccine dose must be given, which will be and is valid for only one year. The second and subsequent vaccine doses can be a "three-year vaccine" certified by the veterinarian and will be valid for three years. If an approved "three-year vaccine" is not used, then the dog must be vaccinated annually.
2. Within 30 days of acquiring the dog if there is no documented vaccination history; or
3. Within 30 days after entering the jurisdiction of this chapter if the owner cannot provide documented

vaccination history.

Cats:

1. Within 30 days after a cat reaches the age of six months a primary or first vaccine dose must be given and is valid for only one year. The second and subsequent vaccine doses can be a "three- year vaccine," certified by the veterinarian and will be valid for three years. If an approved "three year vaccine" is not used, then the cat must be vaccinated annually.
  2. Within 30 days of acquiring the cat if there is no documented vaccination history; or
  3. Within 30 days after entering the jurisdiction of this chapter if the owner cannot provide documented vaccination history.
- B. 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 dog or cat shall be revaccinated, description and sex of the dog or cat vaccinated, type and lot number of vaccine administered and the name of the licensed veterinarian administering the vaccine. Such certificate shall be kept by the owner, subject to the inspection of the director of health.

#### 8.04.030. Licenses-Fees-Expiration-Exceptions for kennel operators.

- A. Any person owning, keeping or harboring on the premises where they reside, any dog six months of age or over, shall pay to the director of health a license fee in accordance with the current fee schedule established by 8.04.110(A). Such fee schedule, and all amended fee schedules, shall be approved by the board of health and authorized by passage of a resolution by the council. Each license issued shall be valid until the required revaccination date as specified on the certificate.
- B. The license fees authorized pursuant to this section shall initially be as follows:
1. One year license fee shall be \$17.00.
  2. Three year license fee shall be \$29.00.
- C. 1. Persons operating kennels where dogs are bred for sale shall not be required to pay the above license fee, but in lieu thereof shall pay a license fee as kennel keeper based upon the number of dogs kept by the kennel in accordance with the current fee schedule established by Section 8.04.110(A).
2. At the time such license fee is paid, there shall be presented to the department of health, at the time of making the application, an affidavit showing under oath the number of dogs to be kept at the kennel for which application is made. All sums collected hereunder shall be collected by the director of health annually on or before April 1st, or at such time as the kennel shall be open for operation, as provided herein.

#### 8.04.040. Licenses-Issuance of License-Records.

It shall be the duty of the director of health to collect the license fees under this chapter. The director of health shall record the information specified under Tennessee Code Annotated 68-8-103(e). Unless such certificate of vaccination is exhibited at the time request is made for a license, the director of health shall issue no license. On receipt of the payment of the license fee, the director of health shall issue to the person paying the same a license to be furnished by the metropolitan government, showing the name of the owner of the dog or kennel

on which such license fee is paid, the date and amount of such payment, the license tag number issued for each dog and the date of vaccination of such dog, and shall deliver to the owner a license tag bearing the serial number and the year through which the license fee is paid.

8.04.050. License tags.

Dog license tags issued pursuant to this chapter shall be supplied by the department of health, to be made available in its budget, out of the revenues of the metropolitan government. It shall be the duty of the owner to attach such license tag to a collar which shall be worn at all times by each dog licensed. In the event of the loss of such license tag, the department of health shall issue a duplicate tag, for which the owner shall pay a fee in accordance with the current fee schedule established by Section 8.04.110(A), and such duplicate tags shall be forthwith attached to the dog collar and at all times worn thereon; provided, that the collar may be removed in cases of hunting dogs while in chase, returning from the chase, or while in training. Nothing in this section shall be construed as permitting the use of an unvaccinated dog in either the hunt or chase. A dog tag shall not be transferable from one dog to another. No refunds shall be made on any dog license fee.

8.04.060. Failure to pay license fee.

It is unlawful for any person or owner to keep or harbor any dog for which a license fee on such dog has not been paid as required by this chapter.

8.04.070. Collection and disposition of fees.

It shall be the duty of the director of health to collect all fees imposed under this chapter. The director of health shall appoint certain officials as may be necessary to work in cooperation with and under the supervision of the director of finance to establish and prescribe the times and manner in which the fees received shall be deposited in the general fund.

8.04.080. Guard dogs.

It is unlawful for any person to place or maintain guard dogs in any area of the metropolitan government for the protection of persons or property unless the following provisions are met:

A. The guard dog shall be confined to the property or held by a person on a leash; or

B. 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 visible 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.

C. The above provisions shall not be applicable to (1) dogs used in law enforcement by federal, state, or local law enforcement agencies or (2) dogs used by licensed security firms which have sufficient training.

8.04.090 Animals at large.

A. Any animal found running at large may be seized by the proper authorities of the health and police departments of the metropolitan government.

B. No person owning or having possession, charge, care, custody, or control of any animal shall cause, permit, or allow the animal to stray or in any manner to run at large.

C. Every person owning or having possession, charge, care, custody, or control of any animal shall keep such animal exclusively upon his own premises; provided, however, that such animal may be off such premises only if it is restrained by the owner or such animal is accompanied by the owner and the owner has full command of the animal.

D. Subsections A and B of this section shall not apply to a dog on a hunt or chase, a dog in training, a dog guarding or driving stock, a police dog, a working dog, cats, or any animal participating in an organized field competition.

E. Every owner of a female dog is required to confine the same during the time she is in heat. The confinement required by this section shall be such that other dogs may not get to the female dog. It is unlawful for any owner of a female dog not to so confine such dog as required by this section.

#### 8.04.100. Authority to impound dogs.

All law enforcement and animal and care and control officers shall have the right to take up and put into the animal shelter of the metropolitan government any dog found in violation of any provision of this chapter.

#### 8.04.110. Impoundment fees-Redemption.

A. When any dog is impounded pursuant to the authority granted by the Metropolitan Code, and if the dog bears a tag or identification, an attempt shall be made to contact the owner to appear within seven days and redeem said dog. The owner shall pay for each dog seized and impounded an impoundment fee; and for each day or fraction thereof the dog remains unclaimed, a boarding fee, both in accordance with the current fee schedule. Such fee schedule, and all amended fee schedules, shall be approved by the board of health and authorized by passage of a resolution by the council. The fee schedule may also set forth amounts to be charged for other incidental costs, such as fees for microchips.

B. A current copy of the fee schedule shall be posted on the metropolitan public health department website and in a conspicuous place in the metropolitan animal care and control animal shelter. A copy shall also be kept in the office of metropolitan public health department's bureau of environmental health services.

C. Three dollars (\$3.00) of the daily dog boarding fees shall be deposited regularly with the metropolitan treasurer in a separate revenue account and shall be used to fund animal education and welfare programs of the metropolitan animal care and control division of the metropolitan health department.

D. If the dog impounded has not been licensed or vaccinated against rabies as required by law, the owner shall, before being permitted to regain possession of the dog, have the dog vaccinated and licensed. The director of health is also authorized to have a veterinarian humanely implant any animal lawfully impounded with an electronic microchip that will allow the animal to be positively identified, which shall be at the owners or possessor's sole expense, before being released back into their custody.

The impoundment and boarding fees authorized pursuant to this section shall initially be as follows:

1. Dog boarding fees shall be \$18.00 per day.
2. Dog impound fees shall be \$50.00 per impoundment.

E. The director of health is given the discretion to waive a portion or all of the fees imposed pursuant to this Section 8.04.120 when the dog has been impounded through no fault of the owner as determined by the director of health.

8.04.120. Disposition of unclaimed or unlicensed dogs.

A. It shall be the duty of the director of health to keep any licensed dog impounded for running at large or impounded under Section 8.12.060 for a period of seven days from the date notice is mailed to the owner of record as determined by the license. Any unlicensed dog that is impounded shall be kept for a period of three working days beginning with the date of seizure. At the expiration of the applicable period of days such impounded dog may be disposed of as follows:

1. Whenever any individual shall apply to the department of health for permission to adopt or buy any impounded dog remaining unclaimed, the director of health may sell to the individual such unclaimed dogs or surrender such dogs to the individual for adoption upon a payment of a fee set by the board of health.

2. Whenever any dogs remain unclaimed, such dogs may be destroyed in a manner to be determined by the director of health.

B. Any person who does not desire to pay the license fee, provided by this chapter upon any dog owned, kept or harbored on premises owned by him shall bring such dog to the animal shelter operated by the metropolitan government to be disposed of.

C. Notwithstanding subsection A of this section, the director of health, upon the advice of a licensed veterinarian, may dispose of a dog immediately if he/she determines the dog is suffering from rabies or other infectious or dangerous diseases, or is in misery, or if he/she determines such immediate disposition furthers the public's health and safety.

D. The department of health is authorized to charge a reduced adoption fee described in this section for organizations that have applied for and received certification under health department policy.

8.04.130. Animal bite investigations and quarantine.

A. Any animal which has bitten a person or shows symptoms of rabies shall be confined or quarantined immediately by its owners, or by the person having charge of the animal, or by the person sheltering, feeding, harboring or taking care of the animal, and the animal care and control division shall be notified immediately. The animal shall be confined or quarantined by an animal shelter, a licensed veterinarian, or in a place approved by the animal care and control division representative for not less than ten days.

B. If the animal which has bitten a person is running at large or is not current on its rabies vaccination at the time the bite occurs, it must be confined or quarantined in a place approved by the animal care and control division representative for not less than ten days. The animal shall be subject to observation by the animal care and control division representative at all times during the quarantined period.

C. If rabies does not develop during the quarantine period, then the animal shall be released to the owner after current rabies vaccination and payment of all applicable fees, but if rabies does develop, the animal shall be destroyed in a humane manner by a veterinarian and the animal head submitted for rabies testing.

D. The owner will be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during the quarantine period.

E. A dog used by a law enforcement agency in the performance of functions or duties of the agency which has bitten a person, has received vaccinations against rabies and does not show the symptoms of rabies may continue to be utilized by the law enforcement agency; however, the dog shall be subject to observation by an animal care and control division representative.

F. It shall be the duty of the director of health to find those dogs or other animals known or suspected of having been in close contact or a fight with a rabid animal. and unless the owners of these dogs or other animals keep them confined for a period of six months and, in cases where a dog or other animal is known to have been bitten by a rabid animal, have protective inoculation given, then the owner shall turn the dog or other animal over to the department of health so that it may be humanely destroyed.

8.04.140. Interference with enforcement.

A. It shall be unlawful for any person to interfere with, hinder, or resist any officer or employee of the animal care and control division or law enforcement officer in the performance of his duties under this Title.

B. It shall be unlawful for any person to interfere with or damage any humane animal trap owned by the animal care and control division or to molest or release any animal caught therein.

C. No person shall hide, conceal or aid or assist in hiding or concealing any dog owned, kept or harbored in violation of any of the provisions of this Title.

8.04.150. Disposal of bodies of dead animals.

A. Any owner of any animal, upon the death of such animal, shall immediately dispose of the carcass by burying at least two feet below the surface of the ground and at least 50 from any water source, or by any other authorized method of disposal; provided however, nothing in this section shall prohibit the disposal of such carcass to rendering companies licensed to do business in Davidson County.

B. It is unlawful to dispose of the carcass of any animal by dumping such carcass on any public or private property.

C. Any owner of any animal shall be responsible for the costs of disposing of the animal carcass in instances where the animal care and control division disposes of the animal due to any emergency or the owner's failure to act.

8.04.160. Exemption from chapter-Dogs in transport.

An owner transporting a dog through the metropolitan government area is exempt from the provisions of this chapter; provided, that such dog shall be securely confined or on a leash during its transportation through the metropolitan government area; and provided further, that such dog shall not remain in the metropolitan government area for more than thirty days.

8.04.170. Removal of excrement.

A dog owner shall clean up and remove any excrement left by his or her dog(s) on any public property or private property not owned or lawfully possessed by the dog owner. Violations of this section shall be punishable by a fifty-dollar fine.

8.04.180. Pet dogs in outdoor dining areas at restaurants.

A. Definition of "pet dog." For purposes of this section, "pet dog" means a dog other than a service or guide dog assisting a person with a disability or a dog actually engaged in training to become a service or guide dog.

B. Permit authorizing pet dogs in outdoor dining areas of restaurants. The owner or proprietor of any restaurant which maintains an outdoor dining area may apply to the department for a permit authorizing persons to allow pet dogs to be present upon the premises of the outdoor dining area subject to the following

terms and conditions:

1. All pet dogs brought upon the premises of a restaurant outdoor dining area shall have a current rabies vaccination and current license tag affixed to the dog's collar as required by Chapter 8.04 of the Metropolitan Code.
  2. No pet dog shall be present in the interior of any restaurant or in any area where food is prepared;
  3. The restaurant shall have the right to refuse to serve the owner of a pet dog if the owner fails to exercise reasonable control over the pet dog or the pet dog otherwise is behaving in a manner that compromises or threatens to compromise the health or safety of any person present in the restaurant;
  4. All restaurant employees shall wash their hands promptly after touching, petting or otherwise handling a pet dog. Employees shall be prohibited from touching, petting or otherwise handling pet dogs while serving food or beverages, or handling tableware, or before entering other parts of the public food service establishment;
  5. Employees and patrons shall be instructed that they shall not allow pet dogs to come into contact with serving dishes, utensils, tableware, linens, paper products or any other items involved in food service operations;
  6. Patrons shall keep their pet dogs on a non-retractable leash no longer than six feet at all times and keep their pet dogs under reasonable control;
  7. Pet dogs shall not be allowed on chairs, tables or other furnishings;
  8. Accidents involving pet dog waste shall be cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area;
  9. A sign or signs reminding employees and patrons of the applicable rules shall be posted in a visible location upon the premises of the outdoor dining area.
  10. Pet dogs shall not be permitted to travel through indoor or nondesignated portions of the restaurant, and ingress and egress to the designated outdoor portions of the restaurant shall not require entrance into or passage through any indoor area of the restaurant.
- C. Permit fee. Any restaurant owner and/or proprietor wishing to obtain a permit authorizing pet dogs in outdoor dining areas shall complete an application form provided by the department and pay an annual permit fee in the amount of twenty dollars. The application shall request such information as deemed appropriate by the department, including, but not limited to, the names and contact information for at least one person responsible for management of the business during all hours when the business is open to the public. The application also shall contain a certification that the applicant is aware of all laws, ordinances, rules and regulations pertaining to permitting dogs to be in outdoor dining areas, together with an affirmative statement to be signed by the applicant verifying that the applicant shall abide by all such laws, ordinances, rules and regulations at all times.
- D. Any applicant/permittee shall fully cooperate with any governmental entity having responsibility for enforcement of Title 53, Chapter 1 of the Tennessee Code Annotated, and any other applicable statutes and ordinances.
- E. Enforcement. Obligations imposed by this ordinance on the owner of or person responsible for a pet dog shall be enforced against the owner or the person responsible for the dog. Obligations imposed by this section on the restaurant or the employees thereof shall be enforced against the employee(s) or agent(s) of the

restaurant responsible for the violation. Obligations that may reasonably be construed as being imposed against either the owner of or person responsible for a pet dog, or the employee(s) or agent(s) of the restaurant, may be enforced against the owner of or person responsible for the pet dog, or the employee(s) or agent(s) of the restaurant responsible for the violation, or both. Any violation of this section by an agent or employee of the restaurant, or by the owner of or person responsible for the pet dog shall result in a fine not to exceed fifty dollars for each offense. The owner or person responsible for a pet dog that fails to clean up dog waste within a restaurant outdoor dining area as required by subsection B.8 of this section shall be cited under the provisions of this section.

F. Revocation of permit. In addition to the penalties set forth in subsection E. of this section, any violation of this ordinance by the holder of the permit shall also subject the permit holder to revocation of the permit.

#### 8.04.190. Violations; civil infractions; civil penalties.

A. Any violation of this chapter is a civil infraction.

B. Any person who has committed an act in violation of Title 8 of this code may receive a citation from the animal care and control division by an animal care and control officer or from a law enforcement officer who has probable cause to believe that the person has committed a violation of Title 8 of this code.

C. The general sessions court shall have jurisdiction over all violations of this chapter.

D. Any violation of this chapter may be punishable by a civil penalty of not more than \$50.00. Each day that any section of this chapter is violated shall constitute a separate punishable offense.

E. Any person issued a citation from an animal care and control or law enforcement officer may be deemed to be charged with a civil violation and shall comply with the directives on the citation.

Section 2. That Chapter 8.08 of the Metropolitan Code of Laws is amended by deleting the chapter in its entirety and replacing it with the following:

#### Chapter 8.08. Dangerous Dogs

##### 8.08.010. Definitions.

For the purposes of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Attack” means an unprovoked attack in an aggressive, terrorizing or threatening manner on a human in which the victim suffered a physical injury, including but not limited to a scratch, abrasion, or bruise; or on a domesticated animal that causes death or injury that requires veterinary treatment.

“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 properly sized locked pen or fence upon the premises of the owner of such animal or such location to be determined by the court.

“Dangerous Dog” means a dog designated by the general sessions court as a level one dangerous dog or level two dangerous dog as authorized under Section 8.08.020 of this Chapter.

“Minor injury” means an injury in which the victim suffers pain as a result of an attack by an animal but which does not produce any broken bone, bleeding or death on the part of the victim.

“Muzzle” means a covering commiserate with the size of the dog, that is not made of cloth, but of a strong, durable material, that covers the mouth of a dog in order to prevent the animal from biting.

“Proper enclosure” means a place in which a dog is securely confined indoors or outdoors in a securely enclosed and locked pen, with a cover and a durable floor that the animal cannot destroy to escape. The pen must be designed to prevent the dog from escaping and shall also provide protection for the dog from the elements. The enclosure shall be of suitable size for the dog.

“Properly restrained” means:

1. Controlled by means of a leash or other like device not to exceed six feet in length;
2. Secured within or upon a vehicle being driven or parked; or
3. Kept within a proper enclosure.

Properly restrained in or upon a vehicle does not include restraint or confinement that would allow an animal to fall from or otherwise escape the confines of a vehicle or that would allow an animal to have access to persons outside the vehicle.

“Provocation” means that the threat, injury or damage caused by the animal was sustained by a person who, at the time, was committing or attempting to commit a willful trespass or other tort upon the premises occupied by the owner of the animal, or was tormenting, teasing, abusing, or assaulting the animal, or was committing or attempting to commit a crime.

“Severe injury” means any injury in which the victim suffers pain as a result of an attack by an animal and which includes any broken bone, bleeding or death on the part of the victim.

8.08.020. Citation for designation of level one dangerous dog or level two dangerous dog; hearing; designation of level one dangerous dog or level two dangerous dog; imposition of conditions; no change of ownership pending hearing.

A. If an animal care and control officer or a law enforcement officer has investigated and determined that there is probable cause to believe that a dog is level one or level two dangerous, a citation shall be issued for the owner to appear in general sessions court for the purpose of determining whether or not the dog in question should be designated as a level one or level two dangerous dog. Except by agreement of the respondent and counsel for the metropolitan government and with the approval of the judge, the hearing shall be held as soon as possible after service of citation upon the owner of the dog.

B. The general sessions court may designate a dog as a "level one dangerous dog" if the general sessions court finds, upon a preponderance of the evidence, that the dog:

1. Has, when unprovoked while on the property of its owner, attacked a person or domestic animal on two or more occasions within the prior 24-month period; or
2. Has, within the prior 24-month period while off the property of its owner, engaged in any behavior when unprovoked that reasonably would have required a person to take defensive action to prevent injury to any person or domestic animal; or
3. Has, when unprovoked and unrestrained while off the property of its owner, bitten a person or domestic animal causing a minor injury.

C. The general sessions court may designate a dog as a "level two dangerous dog" if the general sessions court finds, upon a preponderance of the evidence, that the dog:

1. Has, when unprovoked while on the property of its owner, attacked a person or domestic animal on three or more occasions within the prior 24-month period;
2. Has, on two or more occasions within the prior 24-month period while off the property of its owner, engaged in any behavior when unprovoked that reasonably would have required a person to take defensive action to prevent severe injury or death to any person or domestic animal;
3. Has, when unprovoked and unrestrained while off the property of its owner, bitten a person or domestic animal causing a severe injury;
4. Has previously been declared a level one dangerous dog and has not been kept in compliance with any restrictions placed by the general sessions court upon the owner of such dog; or
5. Has been owned, possessed, kept, used or trained in violation of T.C.A. § 39-14-203.

D. No dog may be declared level one or level two dangerous as a result of injury or damage if, at the time of the injury or damage:

1. The person who was injured or damaged:
  - a. Was committing or attempting to commit a willful trespass or other tort upon the premises occupied by the owner of the dog;
  - b. Was teasing, tormenting, abusing or assaulting the dog; or
  - c. Was committing or attempting to commit a crime;
2. The dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack; or
3. Injury or damage was sustained by a domestic animal which, at the time of the injury or damage, was teasing, tormenting, abusing or assaulting the dog.
4. The dog is a hunting dog and the injury or damage was sustained by a domestic animal while the dog is in the hunt or in chase.

E. Upon designating a dog as a level one or level two dangerous dog, the general sessions court may impose the restrictions on the owner of such dog as set forth in this chapter and may impose such additional restrictions on the owner as are appropriate under the circumstances of the case. The general sessions court shall reduce such restrictions to writing and have them served on the owner.

F. It shall be unlawful for any person who is subject to any such restrictions to fail to comply with such restrictions.

G. It shall be unlawful for any person who has been served with a citation to appear in general sessions court for the purpose of determining whether such person's dog should be designated as a level one or level two dangerous dog to transfer ownership of such dog until after the general sessions court has issued a ruling on such citation.

H. It shall be unlawful for any person whose dog has been designated as a level one or level two dangerous dog to transfer ownership of such dog to another person without first:

1. Advising such other person that the dog has been designated as a level one or level two dangerous; or
2. Advising such other person in writing of the restrictions that have been placed upon such dog; and
3. Notifying the animal care and control division in writing at least 15 days prior to such transfer of the name, address and telephone number of the proposed new owner or custodian, the proposed new location of the dog, and the name and description of the dog.

I. All owners of a dog found to be level one or level two dangerous dog may be required to show proof of hazard insurance that will provide coverage for the animal if returned to the owner(s).

#### 8.08.030. Notice of designation.

Within ten working days after a hearing conducted pursuant to this chapter, the owner of the dog, if absent from the hearing, shall be notified by the general sessions court in writing of the decision of the general sessions court and of any restrictions imposed upon the owner, either personally through the animal care and control division or by first-class mail, postage prepaid. If a dog is declared to be level one or level two dangerous, the owner shall comply with all restrictions imposed by this chapter and the general sessions court within the time period to be specified by the general sessions court at the time the restrictions are imposed.

#### 8.08.040. Impoundment and abatement of level one or level two dangerous dog.

A. Upon receipt of a dangerous dog complaint, the animal care and control division shall investigate said complaint. No dog that is the subject of a dangerous dog investigation may be relocated or ownership transferred pending the outcome of said investigation. The animal care and control division shall endeavor to complete an investigation as soon as possible or an update may be provided to the complainant. Each dangerous dog complaint shall be subject to the review of the director of the animal care and control division or animal care and control officer prior to initiating any action against the dog's owner.

B. If the director of the animal care and control division or animal care and control officer has probable cause to believe that dog is in violation of any provision of this chapter, the animal care and control officer may initiate proceedings in the metropolitan general sessions court against the owner of the dog for violation of this chapter, and to determine if the dog shall be seized and impounded at the animal shelter or a licensed veterinary clinic in Davidson County.

C. Notwithstanding subsections A and B of this section, if in the presence of an animal care and control or law enforcement officer a dog poses an immediate threat to public safety, then the animal care and control or law enforcement officer may immediately seize and impound the dog pending a hearing to be held pursuant to this chapter. At the time of an impoundment pursuant to this subsection or as soon as practicable thereafter, the officer shall serve upon the owner of the dog a notice of a hearing pursuant to this chapter to declare the dog level one or level two dangerous.

D. No dog that has been designated by the general sessions court as a level one or level two dangerous dog may be released by the animal shelter or a veterinarian except on order of the court and until the owner has paid all charges and costs under this chapter, including penalties for violating this chapter. If the owner fails to pay such fees and costs and take possession of the dog within ten days of the owner's receipt of notice of the designation of the dog as a level one or level two dangerous dog, the dog shall be deemed to have been abandoned and may be disposed of by the animal shelter or the animal care and control division. Euthanasia or surrender to the animal care and control division of such a dog does not free the owner of responsibility for

all costs incurred up to and including the date of euthanasia or surrender.

8.08.050. Possession unlawful without proper restraint; failure to comply with mandatory restrictions.

A. It is unlawful for a person to have the custody of or own or possess a level one or level two dangerous dog that is not properly restrained. It is unlawful for a person to have the custody of or own or possess a level one or level two dangerous dog unless such person is in full compliance with all restrictions placed upon such person by the general sessions court that has designated such dog as a level one or level two dangerous dog.

B. If a level two dangerous dog is impounded due to the owner's failure to comply with the restrictions placed upon such owner by the General Sessions Court, the animal care and control division may request that the district attorney general file a petition with the circuit court for the destruction of the dog in accordance with T.C.A. § 44-17-120.

C. Nothing in this division shall be construed to limit the metropolitan government's authority to request that the district attorney general file a petition with the circuit court for the destruction of any dog in accordance with T.C.A. § 44-17-120 or to dispose of animals pursuant to any other legislative authority whatsoever.

8.08.060. Restrictions on level one dangerous dogs.

A. Once a general sessions court judge designates a dog as a level one dangerous dog, the judge may impose any or all of the following restrictions upon the owner or custodian of such dog:

1. The dog must be confined indoors or confined on the owner's property by a fence capable of confining the dog or by a proper enclosure;
2. A level one dangerous dog shall not be permitted to leave the premises of the owner unless it is properly restrained by a fixed leash, as previously defined, under the control of a person physically capable of restraining the dog and the dog must be obedient to that person's commands;
3. The owner must allow inspection of the dog and its enclosure by the animal care and control division and must produce, upon demand, proof of compliance with such restrictions;
4. In the event that the owner of the dog is a tenant on real property where the dog is being kept, the owner must obtain written permission from the landlord or property owner, to be filed with the animal care and control division, to keep the dog on certain specified premises;
5. The owner and dog must attend and complete a behavior course conducted by a certified trainer and provide a certification of completion that must be submitted to the general sessions court;
6. Neutering or spaying of the dog;
7. Implantation of an identification microchip in such dog; the serial number of the identification microchip must be supplied to the animal care and control division; and
8. The owner of a level one dangerous dog shall not permit such a dog to be tethered or otherwise tied to any inanimate object such as a tree, post or building, inside or outside of its fence or proper enclosure. Dogs may be housed in pens, but this is not required.

B. The general sessions court may impose such additional restrictions that it deems necessary. Pursuant to T.C.A. § 44-17-120(b), the General Sessions Court may order that a dog be destroyed in a humane manner by the animal care and control division.

C. The cost of all such restrictions must be paid by the owner.

8.08.070. Restrictions on level two dangerous dogs.

A. Once a general sessions court judge designates a dog as a level two dangerous dog, the judge may impose any or all of the following restrictions upon the owner or custodian of such dog:

1. When kept out of doors, the dog must be kept in a locked secured enclosure suitable to prevent the entry of young children and designed to prevent the animal from escaping. A secured enclosure must be a minimum of six feet in height and must have secure sides, a secure top, and a floor that a dog cannot dig through. A secured enclosure must also be humane and provide some protection from the elements for the animal. If the dog is maintained unattended out-of-doors, such secured enclosure must be enclosed within an outer fence, and the outer perimeter of the secured enclosure must be no less than five feet from the outer fence.
2. The owner must allow inspection of the dog and its enclosure by the animal care and control division and must produce, upon demand, proof of compliance with such restrictions.
3. In the event that the owner or custodian of the dog is a tenant on real property where the dog is being kept, the owner or custodian must obtain written permission from the landlord or property owner, to be filed with the animal care and control division, to keep the dog on certain specified premises.
4. The owner and dog must attend and complete a training class and/or behavior modification course conducted by a certified trainer and provide a certificate of completion that must be submitted to the general sessions court.
5. The owner must display, in a conspicuous manner, a sign at all entrances to the owner's premises on or within which the dog is kept warning that a dangerous dog is on the owner's premises by stating in capital letters measuring at least one and one-half inches in width and one and one-half inches in height and reading "WARNING-DANGEROUS DOG-KEEP AWAY." The sign must be visible and legible from the public way and from 50 feet away from the secured enclosure required pursuant to subsection (1). The owner must obtain the approval of the animal care and control division prior to posting the warning sign.
6. A level two dangerous dog shall not be permitted to leave the premises of the owner unless such dog is properly restrained and humanely muzzled for protection of persons and other animals.
7. A level two dangerous dog may never, even with the owner present, be allowed to be unrestrained on property that allows the dog direct access to the public.
8. The owner of a level two dangerous dog shall not permit such a dog to be chained, tethered or otherwise tied to any inanimate object such as a tree, post or building, inside or outside of its own separate enclosure.
9. Such dog shall be photographed by the animal care and control division for future identification purposes.
10. Neutering or spaying of the dog.
11. Implantation of an identification microchip in such dog; the serial number of the identification microchip must be supplied to the animal care and control division.

12. Requiring the owner of the dog or owner of the premises in which the dog is kept to procure and maintain in effect liability insurance, including coverage of claims arising from the conduct of the dog, in an amount not less than \$100,000.00 and to furnish a certificate of insurance to the animal care and control division, within ten business days of the designation of the dog as a level two dangerous dog. The insurance shall include a provision whereby the insurer notifies the animal care and control division not less than 30 days prior to cancellation or lapse of coverage.

13. Maintaining and updating annually a record maintained with the animal care and control division that lists the dog owner(s) or agent contact information, emergency contact persons and phone numbers, veterinarian, landlord and/or property owner contact information, property/liability insurance carrier, vaccination, licensing and/or permit number, photograph of the animal and any other information deemed necessary by the animal care and control division.

14. Notification in writing to the animal care and control division of the location of the dog's residence, temporary or permanent, including prior notice of plans to move the dog to another residence within Davidson County or outside Davidson County and/or to transfer ownership of the dog.

B. The general sessions court may impose such additional restrictions that it deems necessary. Pursuant to T.C.A. § 44-17-120(b), the General Sessions Court may order that a dog be destroyed in a humane manner by the animal care and control division.

C. The cost of all such restrictions must be paid by the owner.

8.08.080. Removal of designation of level one or level two dangerous dog.

A. If there are no additional instances of the behavior described in subsection 8.08.020.B within 24 months of the date of designation as a level one dangerous dog, the dog shall automatically be removed from the list of level one dangerous dogs. The dog may be, but is not required to be removed from the list of level one dangerous dogs prior to the expiration of the 24-month period if the owner of the dog demonstrates to the animal care and control division that changes in circumstances or measures taken by the owner, including but not limited to training of the dog or confinement have mitigated the risk to the public safety; in such event, the owner or the animal care and control division may petition the general sessions court to remove such designation.

B. If there are no additional instances of the behavior described in subsection 8.08.020.C within 36 months of the date of designation as a level two dangerous dog, the dog shall automatically be considered a level one dangerous dog. A level two dangerous dog who has been reduced to a level one dangerous dog may be removed from the list of level one dangerous dogs after compliance with subsection A above.

8.08.090. Change of ownership, custody or location of dog; death of dog or death of owner.

A. The owner of a level one or level two dangerous dog who moves or sells the dog, or otherwise transfers the ownership, custody or location of the dog, shall, at least 15 days prior to the actual transfer or removal of the dog, notify the animal care and control division in writing of the name, address and telephone number of the proposed new owner, the proposed new location of the dog, the name and description of the dog, and contact information for owner next of kin in case of death.

B. The owner shall, in addition to the above, notify any new owner or custodian of a level one or level two dangerous dog in writing regarding the details of the dog's record and the terms and conditions for confinement and control of the dog. The transferring owner shall also provide the animal care and control division with a copy of the notification to the new owner of his or her receipt of the original notification and acceptance of the terms and conditions. The animal care and control division may impose different or

additional restrictions or conditions upon the new owner.

C. If a level one or level two dangerous dog should die, the owner shall notify the animal care and control division no later than twenty-four (24) hours thereafter and, upon request from the animal care and control division shall produce the animal for verification or evidence of the dog's death that is satisfactory to the animal care and control division.

D. If a level one or level two dangerous dog escapes, the owner shall immediately notify the animal care and control division and make every reasonable effort to recapture the escaped dog to prevent injury and/or death to humans or domestic animals.

E. The following persons must notify the animal care and control division when relocating a dog to Davidson County, even on a temporary basis:

1. The owner of a level one or level two dangerous dog that has been designated as such by another lawful body other than the metropolitan government; and

2. The owner of a dog that has had special restrictions placed against it by any governmental entity or agency other than the metropolitan government based upon the behavior of the dog.

F. No such designation as a level one or level two dangerous dog or any similar such designation by another lawful body or governmental entity shall be recognized by the metropolitan government if the designation would be based upon the breed of the dog. Breed discrimination is not permitted. Any person relocating a dog to Davidson County is subject to the restrictions set forth in this chapter.

#### 8.08.100. Penalties.

Any person violating the provisions of this chapter upon conviction shall be subject to a civil penalty of up to fifty dollars (\$50.00) and subject to a penalty of fifty dollars (\$50.00) per day for each day of violation. Each day of violation shall be deemed a separate violation.

Section 3. That Section 8.12.010 of the Metropolitan Code of Laws is amended by deleting the section in its entirety and replacing it with the following:

#### 8.12.010. Animals creating a nuisance.

A. For the purpose of this section, "provocation" shall mean any action from an individual that elicits a radical change in the animal's behavior, including but not limited to, committing or attempting to commit a willful trespass or other tort upon the premises occupied by the owner of the animal, tormenting, teasing, abusing, or assaulting the animal, or committing or attempting to commit a crime.

B. Any person owning or having possession, charge, care, custody, or control of any animal or livestock which, without provocation, disturbs the comfort or repose of any person in the vicinity by frequently or continuously barking, whining, meowing, squawking, or causing any other noise that a reasonable person would find distressing or disruptive shall be deemed to be committing an act in violation of this chapter.

C. Any person owning or having possession, charge, care, custody, or control of any animal or livestock which disturbs the peace by destroying or desecrating public or private property, chasing of persons, livestock, cars, or other vehicles, running at large, or other behavior interfering with the reasonable use and enjoyment of such public or private property shall be deemed to be committing an act in violation of this chapter.

D. A violation of this section may be declared to be a public nuisance which may be enjoined by any court of

competent jurisdiction.

Section 4. That Section 8.20.030 is amended by deleting the section in its entirety.

Section 5. That Section 8.20.100 of the Metropolitan Code of Laws is amended by adding the following new subsections C and D:

C. Livestock must be confined by a sufficient fence. A sufficient fence includes the following:

1. Any enclosure made by stretching not less than five strands of barbed wire tightly between posts firmly set in the ground, or between growing trees and posts firmly set in the ground, not more than twenty feet apart; the topmost wire not less than four and one-half feet from the ground, the bottom wire not less than six inches, and the next to the bottom wire not less than fifteen inches from the ground.

2. A fence built on good-sized, substantial posts, set firmly in the ground not more than nine feet apart. The fence shall consist of three barbed wires, or three planks, or three slats running horizontally and fastened firmly to the posts, the first to be eighteen inches from the ground, and the second and third eighteen inches from the first and second respectively, counting from the center of each. The fence may consist entirely of wire strands, or of planks or of slats; or it may be composed of a wire, plank, and slat.

D. No person shall allow any livestock to be tethered, except for a horse when the owner is present. For purposes of this subsection, "tether" means a cable, cord, or similar device used to attach an animal to a stationary device but does not include chains.

Section 6. This ordinance shall take effect from and after its enactment, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

### Analysis

This ordinance amends Title 8 of the Metropolitan Code of Laws relative to animals to rewrite the existing Animal Code.

Many existing regulations in Title 8 would be reorganized, combined, and reworded, but largely retained in the ordinance, such as regulations on animals running at large, animals creating a nuisance, guard dogs, restrictions on owning wild or exotic animals, and restrictions related to rabies.

There would also be new definitions such as "Community cat" and "Community cat caregiver". Many definitions would be edited, and new definitions of existing words would be added to provide greater clarity throughout Title 8.

One large change from the current Title 8 is a restructuring of Chapter 8.08, which currently regulates what is termed "Vicious Dogs". This ordinance would create a new, two-tiered designation of "Dangerous Dogs" that defines level one and level two dangerous dogs and the restrictions for these dogs.

A level one dangerous dog is one that has attacked a person or domestic animal on the property of its owner on two or more occasions in 24 months; engaged in any behavior when unprovoked and off the property of its owner that would have required a person to take a defensive action to prevent harm to any person or domestic animal within a 24 month period; or, when unprovoked while off the property of its owner, has bitten a person

or domestic animal causing a minor injury. General sessions court is authorized to declare a dog a level one dangerous dog and impose certain restrictions, such as requiring the dog to be confined indoors or behind a fence, be spayed or neutered, be microchipped, have the owner and dog attend obedience training, among other restrictions.

A level two dangerous dog is one that has attacked a person or domestic animal on the property of its owner three or more occasions during a 24 month period; on two or more occasions, engaged in any behavior when unprovoked and off the property of its owner that would have required a person to take a defensive action to prevent severe injury or death or a person or domestic animal within a 24 month period; when unprovoked, bitten a person or domestic animal causing a severe injury; has been declared a level one dangerous dog but not kept in compliance with a restriction imposed by the general sessions court; or has been kept, trained, or used in violation of T.C.A. § 39-14-203, which governs animal fighting. General sessions court is authorized to declare a dog a level two dangerous dog and impose certain restrictions, including requiring that the dog be kept in a securely enclosed and locked enclosure; the posting of signage warning of a dangerous dog; the attendance of a class designed to manage problem behavior; or the maintenance of liability insurance for claims arising from the conduct of the dog.

There are procedures that would reduce the designation of a dangerous dog from a level two to a level one dangerous dog, and from a level one dangerous dog to a removal of the designation.

Section 8.12.010, which currently regulates “Keeping of animals that disturb the peace”, would be changed to “Animals creating a nuisance”. The ordinance broadens the existing section to include animals that run at large, in addition to animals that create excessive noise, to be included in the definition of animals that can be declared to be a public nuisance.

A new subsection would be added to Section 8.20.100 to regulate the types of fences to be used for livestock and prevent tethering of livestock, except for horses when the owner is present.