

ORDINANCE NO. 2011-4

AN ORDINANCE OF THE RUTHERFORD BOARD OF MAYOR AND ALDERMEN RELATING TO THE REGULATION AND CONTROL OF ANIMALS IN GENERAL AND PITBULLS AND VICIOUS DOGS IN PARTICULAR; REPEALING TITLE 10 OF THE RUTHERFORD MUNICIPAL CODE RELATING TO ANIMAL CONTROL AND CREATING A NEW TITLE 10 RELATING TO SAME.

WHEREAS, the Town of Rutherford has enforced an animal control ordinance dating to 1968; and

WHEREAS, the Rutherford Board of Mayor and Aldermen has determined the need for the adoption and enforcement of a more modern animal control ordinance which addresses the keeping of pit bulls and other vicious dogs in the Rutherford; and

WHEREAS, Section 4(n) of the Rutherford Private Act municipal charter authorizes the Board of Mayor and Aldermen to regulate, license, and prohibit the keeping or running at large of animals and fowls; and

WHEREAS, Section 4(l) of the Rutherford Private Act municipal charter authorizes the Board of Mayor and Aldermen to define, regulate, and prohibit any act practice, conduct, or use of property that would be detrimental, or likely to be detrimental, to the health, morals, safety, security, peace, or general welfare of the inhabitants of the Town; and

WHEREAS, the breeds of dogs known as "pit bulls" include any American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog which has the appearance and characteristics of being predominantly of any one or more of the aforementioned breeds; and

WHEREAS, the characteristics selectively bred into or otherwise commonly found in those dogs include:

(1) A strong fighting instinct, together with a low level of fighting inhibitions which make pit bulls a hazard to humans as well as other animals;

(2) A strong chase instinct which, experts believe, causes pit bulls to be a danger around running children;

(3) A tendency to attack even those who exhibit no provocative behavior;

(4) A diminished tendency to bark, growl, or otherwise warn their prey of an intent to attack;

(5) A tendency to fight to the death and never quit a fight once engaged, which results in more severe injuries than those inflicted by other breeds;

(6) The ability to withstand great pain, which makes it difficult for a person or animal to fight off a pit bull attack;

(7) Powerful jaws capable of hanging on to victims even while the animal withstands infliction of injury or pain;

(8) A tendency to tear flesh, which has resulted in grotesque injuries to human victims; and

(9) A combination of agility, stamina, and strength, together with a genetic predisposition to aggressiveness, that makes pit bulls uniquely dangerous, even to their owners, among all breeds of dogs, especially where improperly raised or trained; and

WHEREAS, many municipalities have found that pit bulls are so dangerous to humans and other animals that special legislation restricting or prohibiting their ownership has been enacted; and

WHEREAS, the mere possession of pit bulls poses a significant threat to the health, welfare, and safety of Rutherford's citizens; and

WHEREAS, current methods of control by pit bull owners in the Town have proven to be insufficient in protecting the public, as evidenced by attacks on citizens, law enforcement officials, and other animals; and

WHEREAS, the Rutherford Board of Mayor and Aldermen believes it is necessary to prohibit pit bulls, subject to certain exceptions, within the Town in order to protect the health, welfare, and safety of citizens of the Town of Rutherford; and

WHEREAS, the Rutherford Board of Mayor and Aldermen has found that the keeping of other breeds of dogs which are vicious or dangerous is a public nuisance and a serious threat to the health, welfare, and safety of citizens of Rutherford.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF RUTHERFORD AS FOLLOWS:

1. **Repeal of Title 10 of the Rutherford Municipal Code relating to animal control.** Title 10 of the Rutherford Municipal Code, entitled "Animal Control" is hereby repealed in its entirety.

2. Adoption of new Title 10 of the Rutherford Municipal Code relating to animal control.

A new Title 10 of the Rutherford Municipal Code, entitled "Animal Control" is hereby created by the Rutherford Board of Aldermen to read as follows:

TITLE 10

ANIMAL CONTROL

CHAPTER

1. IN GENERAL
2. DOGS AND CATS
3. PIT BULL DOGS
4. VICIOUS DOGS

CHAPTER 1
IN GENERAL

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

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

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within one thousand (1,000) feet of any residence, place of business, or public street without approval from the Police Chief. The Police Chief shall give approval only when in his sound judgment the keeping of such an animal in a yard or building will not injuriously affect the public health.

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition.

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

building, box, or receptacle. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl.

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of noise, odor, contagious disease, or other reason.

10-106. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by any police officer or other properly designated officer or official and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of mayor and aldermen. The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance.

10-107. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this title, the Police Chief, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter.

10-108. Issuance of orders and notices. It shall be the duty of the Police Officer or his authorized representative to issue orders requiring the removal of animals and fowls from within the corporate limits when the keeping of such animals and fowls is in violation of this chapter. The health officer or his authorized representative may issue orders requiring the owners of animals and fowls, or owners, tenants, and lessees of properties where such animals and fowls are quartered, to routinely clean stalls, stables, pens, and yards and to maintain such appurtenances in a clean and sanitary condition. Failure to maintain premises in a satisfactory condition at any and all times following the receipt of such orders from the health officer will be considered as justification to cause the removal of such animals or fowls from within the corporate town limits.

CHAPTER 2

DOGS AND CATS

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in

accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law.

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section.

10-203. Running at large prohibited. It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. Any person knowingly permitting a dog to run at large, including the owner of the dog, may be prosecuted under this section even if the dog is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

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

CHAPTER 3 PIT BULL DOGS

10-301. Definitions. The words, terms, and phrases, and their derivations as used in this ordinance, except where the context clearly indicates otherwise, shall have the following meanings:

- (1) "Pit bull" means and includes any of the following dogs:
 - a. The bull terrier breed of dog;
 - b. The Staffordshire bull terrier breed of dog;
 - c. The American pit bull terrier breed of dog;
 - d. The American Staffordshire breed of dog;
 - e. Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bull, pit bull dogs, or pit bull terriers; and
 - f. Any dog which has the appearance and characteristics of being predominantly of the breeds of dogs known as bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, and any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of these breeds.

(2) "Predominately" means knowledge through identification procedures or otherwise, or admission by owner, keeper, or harborer that a dog is more than fifty percent (50%) pit bull. Predominately also means that the dog exhibits the physical characteristics of a pit bull more than that of any other breed of dog.

(3) "Impoundment" means the taking or picking up and confining of an animal by any police officer, animal control officer or any other public officer under the provisions of this ordinance.

(4) "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.

(5) "Confined" means to be securely kept indoors, within an automobile or other vehicle, or kept in a securely enclosed and locked pen or structure upon the premises of the owner or keeper of such dog.

(6) "Securely enclosed and locked pen or structure" means a fenced-in area that shall be a minimum of ten (10) feet wide, ten (10) feet long, and six (6) feet in height above grade, and with a horizontal top covering said area, all to be at least nine (9) gauge chain link fencing with necessary steel supporting posts. The floor shall be at least three (3) inches of poured concrete with the bottom edge of the fencing embedded in the concrete or extending at least two (2) feet below grade. The gate must be of the same materials as the fencing, fit securely, and be kept securely locked. The owner shall post the enclosure with a clearly visible warning sign, including a warning symbol to inform children, that there is a dangerous dog on the property. The enclosure shall contain and provide shelter and protection from the elements, adequate exercise room, be adequately lighted and ventilated, and kept in a sanitary condition.

(7) "Physical restraint" means a muzzle and a leash not to exceed four (4) feet in length.

(8) "Under restraint" means that the dog is secured by a leash, led under the control of a person who is at least eighteen (18) years of age and physically capable of restraining the dog, and that the dog is obedient to that person's commands. A dog kept within a securely enclosed and locked pen or structure shall also be considered to be under restraint.

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

(10) "Owner" means any person, partnership, corporation, or other legal entity owning, harboring, or possessing a pit bull or any other dog regardless of breed determined to be vicious, or in the case of a person under the age of eighteen (18), that person's parent or legal guardian. Such dog shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days. This definition shall not apply to any veterinary clinic or boarding kennel.

10-302. Pit bull restrictions. It shall be unlawful to keep, harbor, own, or in any way possess a pit bull dog within the corporate limits of Rutherford. Provided, however, that persons owning such dogs at the time this ordinance is adopted shall be allowed to keep them, provided that they comply with all of the provisions of this chapter, in addition to Chapters 1 and 2 of this ordinance, within thirty (30) days of the effective date of this ordinance.

10-303. Standards and requirements for pit bulls. The following standards and requirements shall apply to pit bull dogs located within the corporate limits of Rutherford:

(1) Permit required. Each owner, keeper, harborer, or possessor of a pit bull dog shall annually obtain a pit bull permit from the Rutherford City Hall. Such pit bull permit shall cost thirty dollars (\$30.00) per year and the pit bull's owner shall make a personal appearance at the Rutherford City Hall office when submitting an application for a permit. The thirty dollar (\$30.00) annual permit fee shall be non-refundable and shall be paid prior to any consideration of the permit application or issuance of the permit.

(2) Physical restraint. No person having charge, custody, control, or possession of a pit bull shall permit the dog to go outside its kennel, pen, or other securely enclosed and locked pen or structure unless such dog is under restraint. No person shall permit a pit bull dog to be kept on a chain, rope, or other type of leash shorter than four (4) feet in length outside its kennel or pen unless such person is of at least eighteen (18) years of age and is in physical control of the leash. Such dogs shall not be leashed to inanimate objects such as trees, posts, buildings, or structures.

(3) Muzzle. It is unlawful for any owner or keeper of a pit bull to allow the dog to be outside its kennel, pen, or other securely enclosed and locked pen or structure unless it is necessary for the dog to receive veterinary care. In such cases, the dog must wear a properly fitted muzzle sufficient to prevent the dog from biting persons or other animals. Such muzzle shall not interfere with the dog's breathing or vision.

(4) Outdoor confinement. Except when leashed and muzzled as provided in this Article, all pit bull dogs shall be securely confined as defined in Section 1(6) of this Article. All structures used to confine pit bull dogs must be locked with a key or combination lock when such animals are within the structure. All structures erected to house pit bull dogs must comply with zoning and building ordinances and regulations of the Town of Rutherford.

(5) Indoor confinement. No pit bull dog shall be kept on a porch, patio, or in any part of a dwelling or structure that would allow the dog to exit such building on its own volition. In addition, no such dog may be kept in a dwelling or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.

(6) Signs. All owners, keepers, harbores, or possessors of pit bull dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog" and includ-

ing a warning symbol to inform children that there is a dangerous dog on the property. All such signs shall be displayed within twenty-four (24) hours of the issuance of a pit bull permit by the Town of Rutherford.

(7) Insurance. Prior to the issuance of a pit bull permit by the Town of Rutherford, all owners, keepers, harboiners, or possessors of pit bull dogs shall provide a certificate of insurance to the Rutherford Town Police Chief as evidence that they have public liability insurance in a single incident amount of one hundred thousand dollars (\$100,000) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from owning, possessing, keeping, or maintaining such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days advance written notice is first given to the Rutherford Police Chief. Failure to maintain such liability insurance or any other lapse in such coverage shall be grounds for the immediate revocation of the pit bull permit issued by the Town of Rutherford.

(8) Identification photographs. Prior to the issuance of a pit bull permit by the Town of Rutherford all owners, keepers, possessors, or harboiners of pit bull dogs shall provide to the Police Chief two (2) color photographs of the dog clearly showing the color and approximate size of the animal.

(9) Reporting requirements. All owners, keepers, possessors, or harboiners of pit bull dogs shall within ten (10) days of the incident report the following information in writing to the Rutherford Police Chief as required hereinafter:

- a. The removal from the Town or death of a pit bull dog.
- b. The birth of offspring of a pit bull dog.
- c. The new address of a pit bull dog owner, keeper, possessor, or harboiner should such owner, keeper, possessor, or harboiner move his residence within the corporate limits of the Town of Rutherford.

10-304. Sale or transfer of ownership prohibited. No person shall sell, barter, or in any other way transfer possession of a pit bull dog to any person within the Town of Rutherford unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog; provided that the owner of a pit bull dog may sell or otherwise dispose of a pit bull dog or the offspring of such dog to persons who do not reside within the Town of Rutherford.

10-305. Animals born of registered dogs. All offspring born of pit bull dogs within the Town of Rutherford shall be removed from the Town of Rutherford within six (6) weeks of the birth of such animal.

10-306. Rebuttable presumptions. There shall be a rebuttable presumption that any dog registered with the Town of Rutherford as a pit bull dog or any of those breeds defined by Section 1(1) of this ordinance is in fact a dog subject to the requirements of this ordinance.

10-307. Impoundment. Any pit bull dog, not kept in compliance with the provisions of this ordinance, may be taken into custody by the appropriate authorities of the Town of Rutherford or agents acting on its behalf, and impounded. The dog's owner shall be solely responsible for payment of all boarding fees associated with the impounding of the dog, in addition to any punitive fines to be paid.

10-308. Court proceedings against the owner. If any pit bull dog is impounded, the Town of Rutherford may institute proceedings in municipal court charging the owner with violation of this ordinance. Nothing in this section, however, shall be construed as preventing the Town or any citizen from instituting a proceeding for violation of this ordinance where there has been no impoundment.

10-309. Court findings. If a complaint has been filed in municipal court against the owner of a dog for violation of this ordinance, the dog shall not be released from impoundment or disposed of except on order of the court and payment of all charges and costs incurred under this ordinance, including penalties for violating this ordinance. The court may, at its discretion, order the dog to be destroyed in a humane manner.

CHAPTER 4

VICIOUS DOGS

10-401. Definitions. The definitions included in Section 10-301, paragraphs (3) through (10) of this ordinance shall apply to this Chapter. Additionally, the following words, terms, and phrases, and their derivations as used in this Chapter, except where the context clearly indicates otherwise, shall have the following meanings:

(1) "Vicious dog" means a dog of any breed other than a pit bull which:

- a. Approaches any person in an aggressive, menacing or terrorizing manner or in an apparent attitude of attack if such person is upon any public ways, including streets and sidewalks, or any public or private property; or
- b. Has a known propensity, tendency, or disposition to attack, inflict injury to or to otherwise endanger the safety of persons or domestic animals; or
- c. Without provocation, bites or inflicts injury or otherwise attacks or endangers the safety of any person or domestic animal; or
- d. Is trained for dog fighting or which is owned or kept primarily or in part for the purpose of dog fighting.

10-402. Vicious dogs prohibited. It shall be unlawful for any person to own, keep, harbor, or possess a vicious dog within the corporate limits of the Town of Rutherford unless such dog is confined in compliance with this ordinance.

10-403. Procedure for determining that a dog is vicious. (1) Upon his own complaint alleging a dog to be vicious, or upon the receipt of such complaint signed by one or more residents of Rutherford, the Rutherford Police Chief or his designee shall hold a hearing within five (5) days of serving notice to the dog owner. The purpose of the hearing shall be to determine whether such dog is, in fact, vicious. The dog owner shall be notified by a certified letter of the date, time, place, and purpose of the hearing and may attend and have an opportunity to be heard.

(2) In making the determination as to whether a dog is vicious, the Police Chief or his designee shall consider, but is not limited to, the following criteria:

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

(3) Within five (5) days of the hearing, the Police Chief or his designee shall determine whether to declare the dog vicious and shall within five (5) days after such determination notify the dog's owner by certified mail of the dog's designation as a vicious dog and the specific restrictions and conditions for keeping the dog. If the dog is declared vicious, its owner shall confine the dog with a securely enclosed and locked pen or structure, and whenever the dog is removed from such secure enclosure it shall be physically restrained and under restraint as defined in this ordinance. The owner of the vicious dog shall notify residents of all abutting properties, including those across the street, of such findings. This notice to occupants of abutting properties shall be by certified mail, return receipt requested, and shall be at the owner's sole expense. The Police Chief may (a) vary the minimum requirements of a secure enclosure if the owner's residence cannot accommodate a secure enclosure as defined in this ordinance, or (b) permit an alternate method of enclosure provided that, in the sole discretion of the Police Chief, such alternate method fulfills the objectives as a secure enclosure.

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

- a. was committing a crime or willful trespass or other tort upon the premises occupied by the owner of the dog; or

- b. was teasing, tormenting, abusing, or provoking the dog; or
- c. was committing or attempting to commit a crime.

No dog shall be declared vicious as the result of protecting or defending a human being, any other animal, or itself against an unjustified attack or assault.

10-404. Impoundment of vicious dogs. Any vicious dog, not in compliance with the provisions of this ordinance, may be taken into custody by the appropriate authorities of the Town of Rutherford or agents acting on behalf of the Town, and impounded. The dog's owner shall be solely responsible for payment of all boarding fees associated with such impoundment in addition to any punitive fines to be paid. No dog which has been declared vicious pursuant to this ordinance shall be released from impoundment unless and until the standards and requirements for keeping vicious dogs, as specified in Article II, Section 5 of this ordinance have been met.

10-405. Standards and requirements for keeping vicious dogs. The following standards and requirements shall apply to the keeping of vicious dogs located within the corporate limits of Rutherford.

(1) Registration. Within ten (10) days of a dog being declared vicious pursuant to this ordinance, the owner, keeper, harborer, or possessor of such dog shall register dog with the Rutherford Police Chief.

(2) Physical restraint. No person having charge, custody, control, or possession of a vicious dog shall permit the dog to go outside its kennel, pen, or other securely enclosed and locked pen or structure unless such dog is under restraint. No person shall permit a vicious dog to be kept on a chain, rope, or other type of leash outside its kennel or pen unless a person of suitable age and discretion is in physical control of the leash. Such dogs shall not be leashed to inanimate objects such as trees, posts, buildings, or structures.

(3) Muzzle. It is unlawful for any owner or keeper of a vicious dog to allow the dog to be outside its kennel, pen, or other securely enclosed and locked pen or structure unless it is necessary for the dog to receive veterinary care. In such cases, the dog must wear a properly fitted muzzle sufficient to prevent the dog from biting persons or other animals. Such muzzle shall not interfere with the dog's breathing or vision.

(4) Outdoor confinement. Except when leashed and muzzled as provided in this ordinance, all vicious dogs shall be securely confined as described in Article I, Section 3(4) of this ordinance. All structures used to confine vicious dogs must be locked with a key or combination lock when such animals are within the structure. All outdoor structures erected to house vicious dogs must comply with zoning and building ordinances and regulations of the Town of Rutherford and construction of such structures shall be completed within thirty (30) days of the owner's dog being declared vicious.

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

(6) Signs. All owners, keepers, harborers, or possessors of pit bull dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog" and including a warning symbol to inform children that there is a dangerous dog on the property. All such signs required by this ordinance shall be installed and in place within fourteen (14) days of an owner's dog being declared vicious.

(7) Insurance. Within fourteen (14) days of being declared vicious, all owners, keepers, harborers, or possessors of vicious dogs shall provide proof to the Police Chief of public liability insurance in a single incident amount of one hundred thousand dollars (\$100,000) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from owning, possessing, keeping, or maintaining such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days advance written notice is first given to the Rutherford Police Chief.

(8) Identification photographs. Within fourteen (14) days of being declared vicious, all owners, keepers, possessors, or harborers of vicious dogs shall provide to the Rutherford Police Chief two (2) color photographs of the dog clearly showing the color and approximate size of the animal.

(9) Reporting requirements. All owners, keepers, possessors, or harborers of pit bull dogs shall within ten (10) days of the incident report the following information in writing to the Rutherford Police Chief as required hereinafter:

- a. The removal from the Town or death of a vicious dog.
- b. The birth of offspring of a vicious dog.
- c. The new address of a vicious dog owner, keeper, possessor, or harborer should such owner, keeper, possessor, or harborer move his residence within the corporate limits of the Town of Rutherford.

10-406. Sale or transfer of ownership prohibited. No person shall sell, barter, or in any other way transfer possession of a vicious dog to any person within the Town of Rutherford unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog; provided that the owner of a vicious dog may sell or otherwise dispose of a vicious dog or the offspring of such dog to persons who do not reside within the Town of Rutherford.

10-407. Court proceedings against the owner. If any vicious dog is impounded, the Town of Rutherford may institute proceedings in municipal court charging the owner with violation of this ordinance.

Nothing in this section, however, shall be construed as preventing the Town or any citizen from instituting a proceeding for violation of this ordinance where there has been no impoundment.

10-408. Court findings. If a complaint has been filed in municipal court against the owner of a dog for violation of this ordinance, the dog shall not be released from impoundment or disposed of except on order of the court and payment of all charges and costs incurred under this ordinance, including penalties for violating this ordinance. The court may, upon a finding that the dog is vicious pursuant to this ordinance, order the dog to be destroyed in a humane manner.

10-409. Guard dogs. It shall be unlawful for any person to place or maintain guard dogs in any area of the Town of Rutherford for the protection of persons or property unless the following provisions are met:

(1) The guard dog shall be confined; or

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

(3) The owner or other persons in control of the premises upon which a guard dog is maintained shall post warning signs stating that such a dog is on the premises. At least one 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 (50) feet, whichever is lesser and shall contain a telephone number where some person responsible for controlling the guard dog can be reached twenty-four (24) hours a day.

3. Penalties. Any person found violating the provisions of this ordinance upon conviction shall be fined fifty dollars (\$50.00) and each day of violation shall be deemed a separate violation.

4. Repealer. All ordinances, or parts of ordinances, found to be in conflict with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

5. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by State or Federal law or regulation, such decision or legislation shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

PASSED AND APPROVED THIS _____ DAY OF _____, 2011 BY A ROLL CALL VOTE OF
THE RUTHERFORD BOARD OF MAYOR AND ALDERMEN.

Keith Cardwell
KEITH CARDWELL, MAYOR OF RUTHERFORD

ATTEST: Melissa Workman, CL
Melissa Workman, City Recorder

DATE OF 1 ST READING	DATE OF 2 ND READING
4/18/2011	5/16/2011

	YES	NO	ABSENT
Alderman Greer		x	x
Alderman Comstock	x	x	
Alderman Keith	x	x	
Alderman White	x	x	
Alderman Emerson		x	x