

Municipal Regulation of Dogs



Revised October 2023





**Alabama League of Municipalities
P.O. Box 1270
Montgomery, AL 36102
334-262-2566**

www.almonline.org

©2023 Alabama League of Municipalities
535 Adams Avenue, Montgomery, AL 36104

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording or any information storage and retrieval system, without permission in writing from the publisher.

Disclaimer: *Any forms and/or ordinances included in this publication are intended solely as examples and not as a substitute for obtaining individualized legal advice. Use of these ordinances is at the sole risk of the user. The Alabama League of Municipalities and its staff disclaim any responsibility or liability which may arise or result from the use of these forms or any portion thereof.*

Foreword

Each year the League of Municipalities receives requests from cities and towns for sample dog control ordinances. As a group, these requests are unique because municipalities seldom seek to regulate dogs in the same manner. All municipal governing bodies seek to protect their populations against rabies, but at this point, uniformity ends.

Some municipalities want dogs to be licensed, others do not. Some want to prevent dogs from running at large at all times, others merely prescribe conditions. Several municipalities have requested ordinance provisions regarding kennels, sanitation, prevention of cruelty, poisoning, detention periods, disturbing the peace (nuisances), and a number of other types of regulation. These inquiries suggest the need for a collection of ordinance provisions covering an array of subjects rather than the development of a single model ordinance on dog control.

This manual summarizes the basic authority of municipalities to regulate dogs. It also contains a brief synopsis of state laws on the subject, sample ordinance provisions for various types of dog regulations, and a typical ordinance that might be used as a guide in developing an ordinance desired by a city or town.

Lorelei Lein
General Counsel
June 2023

Contents

<u>Legal Aspects of Dog Control</u>	1
<u>State Statutes on Dog Control</u>	1
<u>Municipal Authority to Control Dogs</u>	5
<u>Municipal Ordinance Provisions</u>	6
<u>State Offenses Made Municipal Offenses</u>	6
<u>Sample Ordinance - Adoption of State Offenses by Reference</u>	8
<u>Optional Ordinance Provisions</u>	9
A. <u>Definitions in Ordinance</u>	9
B. <u>License and Registration</u>	10
C. <u>Dog Tag Required</u>	10
D. <u>Dog Tag Not Transferrable</u>	11
E. <u>Running at Large</u>	11
F. <u>Dog Detention Periods</u>	12
G. <u>Impounding of Dogs</u>	12
H. <u>Notice and Redemption</u>	13
I. <u>Dogs Suspected to Have Rabies</u>	13
J. <u>Nuisance Provisions</u>	14
K. <u>Abandonment of Domestic Animals</u>	15
L. <u>Cruelty to Animals</u>	15
M. <u>Kennels for Animals</u>	16
N. <u>Animal Control Center/Animal Shelter Provisions</u>	16
O. <u>Vicious Dogs</u>	17
<u>Sample Ordinance for the Control of Dogs</u>	20

Legal Aspects of Dog Control

State Statutes on Dog Control

Title 3 of the Code of Alabama, 1975, is the prevailing state law on animal control. Since the scope of this manual concerns dog control, only the relevant provisions from the Code will be included. Sample ordinances for control of other animals are available upon request from the League.

Sections 3-1-1 and 3-1-4 prohibit the keeping of any dog which has been known to kill or worry stock. These sections stipulate fines and a penalty of double the value of all stock killed or injured by the offending dog. Section 3-1-1 further states that no action shall be maintained against anyone for killing such a dog.

Section 3-1-2 imposes penalties for the keeping of rabid dogs which cause injury to people or to stock and Section 3-1-3 subjects the owner of a vicious animal to civil damages for injuries caused by such animals.

Section 3-1-5 deals with dogs running at large. Ordinary dogs having no vicious or mischievous propensities and are free commoners which the owner or keeper is under no duty to keep out of the public streets in absence of a statute or ordinance to the contrary. *Owen v. Hampson et al*, 62 So. 2d 245 (1952). Section 3-1-5 allows county governing bodies to prohibit dogs from running at large except in cities and towns that require a license tag to be kept on dogs. Section 3-1-6 imposes liability on an owner or keeper of a dog when the dog kills or injures livestock not on the premises of the owner or the keeper. Pursuant to Section 3-1-5.1 a local law requiring a dog to be kept on a leash or otherwise restrained does not apply to a dog that is trained to herd or protect livestock or to otherwise assist in agricultural work while the dog is engaged in agricultural work or a hunting dog while the dog is engaged in hunting wild game.

Section 3-1-7 prohibits proprietors and owners of places of public accommodation, amusement or recreation (such as hotels, restaurants, stores theaters, etc.), from refusing to permit a guide dog to accompany a blind person from entering such a place. The guide dog must wear a harness and the dog owner must present for inspection any credentials issued by an accredited school for training dog guides. Violation of this statute constitutes a misdemeanor and subjects the violator to a fine not to exceed fifty dollars (\$50.00). This section also applies to employees of an accredited school when they are training the dog. However, § 3-1-7, Ala. Code, 1975, does not provide a person with a private cause of action for discrimination. *See Hardesty v. CPRM Corp.*, 391 F.Supp.2d 1067 (M.D.Ala. 2005)

Section 3-1-10 prohibits any person from unlawfully, wantonly, or maliciously killing, disabling, disfiguring, destroying or injuring any animal that is the property of another. Persons convicted under this statute are liable for double the value of the animal, not to exceed one thousand dollars (\$1,000), and may also be imprisoned in the county jail, or sentenced to hard labor for the county for not more than six months. The injured party receives as much of the fine as is necessary to repair the loss.

Section 13A-11-14, Code of Alabama, 1975, makes cruelty to animals a Class B Misdemeanor. According to this provision, a person commits the crime of cruelty to animals, if, except as otherwise authorized by law, that person “intentionally or recklessly: (1) Subjects any animal to cruel mistreatment; or (2) Subjects any animal in his custody to cruel neglect; or (3) Kills or injures without good cause any animal belonging to another.”

Sections 13A-11-240 through 13A-11-247, Code of Alabama 1975, more specifically establish the crimes of cruelty to a dog or cat and of intentional extreme cruelty to a domesticated dog or domesticated cat. The law also provides for penalties in the first and second degree. A person commits the crime of cruelty to a dog or cat in the first degree if he or she tortures any dog or cat with the intent to inflict intense pain, serious physical injury or death upon the dog or cat or skins a domestic dog or cat or attempts to sell their fur or hide. Cruelty in the first degree is a Class C felony. A person commits the crime of cruelty to a dog or cat in the second degree if they

behave in a cruel manner or deprive the necessary sustenance or shelter, unnecessarily or cruelly beat any dog or cat. Cruelty in the second degree is a Class A misdemeanor. Any municipality may appoint one or more trained agents to inspect alleged violations of this law. Any appointment made pursuant to this section shall be made at a meeting of the local governing body duly called with notice. In the event a law enforcement officer or agent has reasonable belief or evidence of or having found a dog or cat to be neglected or cruelly treated may either remove the animal from its present location or order the owner to provide certain care to the animal at the owner's expense. Within 20 days of seizure of the animal, a hearing shall be set. This law also provides individuals immunity under certain situations.

Until 1983, Section 3-1-13 permitted employees of recognized humane societies to take charge of neglected or abused animals. A lien for the expenses of the care and keeping of such animals was imposed on the owner. The Alabama Supreme Court has ruled that Section 3-1-13 is unconstitutional because due process was not afforded the owners of such dogs. *Humane Soc'y v. Adams*, 439 So. 2d 150 (Ala. 1983).

Sections 3-6-1 through 3-6-4, Code of Alabama, 1975, are known as the "Postman's Law." Pursuant to the Postman's Law, dog owners are liable for injuries if their dog bites or injures any person lawfully on the owner's property. To mitigate damages, the dog owner may plead a lack of knowledge of the dog's propensity to injure. The owner of a dog may offer provocation of the injury as a defense. *Humphries v. Rice*, 600 So. 2d 975 (Ala. 1992); *Kent v. Sims*, 460 So. 2d 144 (Ala. 1984). Under *Humphries*, an owner of an animal is charged with knowledge of the propensities of the breed of animal he or she owns. *Humphries*, 600 So. 2d 975 (1992). Some uncertainty remains in the wake of *Humphries* as to the quantity and quality of proof necessary to invoke its rule. *Gentle v. Pine Valley Apartments*, 631 So.2d 928, 932 (1994). *King v. Breen* went further and held there is no cause of action for injuries inflicted by an animal that is negligently cared for by the owner if the owner does not have knowledge of any dangerous propensity of the animal. 560 So. 2d 186, 188 (1990). Also, *Humphries* does not go as far as charging all dog owners with the general knowledge that all dogs chase motor vehicles, and to hold that failing to properly train, supervise or maintain control over a dog so as to prevent it from running on a public road is an act of active negligence. *Williams v. Hill*, 658 So. 2d 381, 384 (1995).

If a plaintiff is attacked off the owner's property, the action is governed by common law rules of negligence and the plaintiff bears the burden of proving that the owner knew or should have known of the animal's dangerous propensities. *Rucker v. Goldstein*, 497 So. 2d 491 (Ala. 1986).

In 2018, "Emily's Law" was enacted and codified in Sections 3-6A-1 through 3-6A-8, Code of Alabama 1975. Emily's Law sets out a procedure for animal control officers or other law enforcement officers to conduct dangerous dog investigations. If the investigation causes the animal control officer or law enforcement officer to conclude that a dog is dangerous, the complainant is advised of the findings and the investigation results are submitted to the supervisor. See, Section 3-6A-4, Code of Alabama 1975. The municipal attorney or municipal prosecutor may file a petition in municipal court or district court to declare the dog dangerous, and a hearing is held to determine whether the dog is dangerous. See, Section 3-6A-4, Code of Alabama 1975. At the court hearing, the municipal attorney or municipal prosecutor shall present evidence that the dog is dangerous. If the court finds by a reasonable satisfaction that the dog bit, attacked, or caused physical injury, serious physical injury, or death to a person without justification, the court shall order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control official. See, Section 3-6A-4, Code of Alabama 1975. If the court determines that the dog is dangerous, but it has not caused serious physical injury or death to a person, the court shall determine whether the dog has a propensity to cause future serious physical injury or death. If the court determines by reasonable satisfaction that the dog has such a propensity, the court may order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control officer, or the court may order the dog be returned to its owner pursuant to all of the following conditions:

- The dangerous dog shall be microchipped.

- The owner of the dangerous dog shall provide a copy of the certificate of the current rabies vaccination of the dog.
- The dangerous dog shall be spayed or neutered.
- The owner of the dangerous dog shall be required to pay all expenses involved with the investigation, pickup, and impoundment, and any court costs or fees related to the hearing to determine whether the dog is dangerous.
- The owner of the dangerous dog shall be required to pay an annual dangerous dog registration fee of one hundred dollars (\$100) to the county or municipality for a dog deemed dangerous by a court or pay a penalty of one hundred dollars (\$100) to the county or municipality for non-registration within two weeks.
- The owner shall be required to obtain a surety bond of at least one hundred thousand dollars (\$100,000) and shall provide proof to the court or animal control office. See, Section 3-6A-4, Code of Alabama 1975.

The rabies control statute found in Sections 3-7A-11 of the Code of Alabama, 1975, imposes the duty upon the county board of health, with the approval of the State Health Officer and the State Veterinarian, to appoint within or prior to January of the appointing year a duly licensed veterinarian to be the county rabies inspector. The inspector's term of office extends throughout the year of appointment. The rabies inspector is charged with the duty of enforcing the statute within the county under the direction of the county board of health. The inspector has the authority to appoint licensed veterinarians as deputies, and the sheriff and police officers of each municipality are declared to be aides for the enforcement of the law and are instructed to cooperate with the inspector.

Animals required to be inoculated include all members of the canine family at least three months of age and all members of the feline family at least three months of age. The vaccination of animals for rabies is good for one year. § 3-7A-2, Code of Alabama, 1975.

Every owner of an animal that is required to be inoculated for rabies must have the animal inoculated by the rabies inspector, an authorized representative, or any duly licensed veterinarian when the animal reaches three months of age and annually thereafter. Each dog and each cat receives a certificate of inoculation and a rabies tag. The tag must be attached to the animal's collar or harness and worn at all times. Provision is made for replacement of lost tags. § 3-7A-2, Code of Alabama, 1975.

The inoculation fee is established prior to the first day of January each year by a committee composed of the State Health Officer, the State Veterinarian, and the President of the Alabama Veterinary Medical Association. § 3-7A-3, Code of Alabama, 1975.

Apprehended animals not wearing an inoculation tag and for which a certificate of inoculation cannot be produced are subject to penalty. The fine is limited to an amount equal to twice the inoculation fee set by the state, to be imposed by the rabies inspector on the owner of the animal, in addition to the fee prescribed for inoculation. § 3-7A-6, Code of Alabama, 1975.

This penalty, when collected, accrues to the officer making the apprehension, except in the case of rabies inspectors employed full time on salary. The penalty then accrues to the employing agency or agencies. §3-7A-6, Code of Alabama, 1975.

Every county must provide a suitable county pound for the detention of all animals found running at large in violation of the rabies statutes. Every municipality over 5,000 in population, in which a county pound is not located, must maintain a suitable pound or contribute their pro rata share to the staffing and upkeep of the county pound. Section 3-7A-7, Code of Alabama, 1975.

The impounding officer is required to give not less than seven days notice, in some form or manner, of the impoundment. If the owner of the animal is known, direct notice is required. If the animal remains impounded for at least seven days, the impounding officer may make the impounded animal available for adoption. §§ 3-7A-7 and 3-7A-8, Code of Alabama, 1975.

Owners may redeem impounded animals by paying for the inoculation of the animal (if a certificate of inoculation cannot be produced), by paying the penalty prescribed, and the boarding fee. The amount paid for the board and impoundment of the animal accrues to the city or county, depending upon the pound in which the animal was confined. §§ 3-7A-6 and 3-7A-8, Code of Alabama, 1975.

All animals impounded for lack of rabies inoculation, which are not redeemed by the owner within seven days, may be humanely destroyed and disposed of, provided the owner was given the required notice. The impounding officer may sell any animal not redeemed within the seven-day period rather than dispose them. The purchaser must pay the inoculation fee penalty and the boarding bill. § 3-7A-8, Code of Alabama, 1975.

Whenever the rabies officer or county health officer receives information that a person has been bitten by an animal required to be inoculated against rabies, the county health officer is required to quarantine the animal in the care of a duly licensed veterinarian for observation of rabies. It is unlawful for any person having knowledge of such an animal bite to refuse to promptly notify the proper officials. It is also unlawful for the owner of the animal to refuse to follow the instructions of the rabies inspector or other health official, or to sell, give away, transport to another area, or otherwise destroy the animal until it is released from quarantine. § 3-7A-9(a), Code of Alabama, 1975.

Instructions for quarantine of the offending animal must be delivered in person or by telephone or facsimile by the rabies inspector or an authorized agent to the owner of the animal. If instructions cannot be delivered in person, they should be mailed by regular mail, postage prepaid and addressed to the owner. Any expenses incurred in the quarantine are to be borne by the owner. § 3-7A-9(e), Code of Alabama, 1975.

All animals are quarantined in the same manner except that the period of incubation may differ. § 3-7A-9(c), Code of Alabama, 1975. The veterinarian under whose care the offending animal has been quarantined shall report the results of the observation to the attending physician of the person bitten. § 3-7A-9(f), Code of Alabama, 1975,

If the biting animal has no owner, as determined by the rabies inspector or if the owner of the biting animal agrees in writing, the animal can be humanely destroyed immediately after the bite and the head submitted for appropriate rabies examination by the State Health Department Laboratory. § 3-7A-9(b), Code of Alabama, 1975.

Canine corps dogs and seeing eye dogs are exempt from the quarantine period when the bite occurred in the line of duty and evidence of proper vaccination against rabies is presented. However, a licensed veterinarian must examine the dog at the end of ten days. § 3-7A-9(g), Code of Alabama, 1975.

Any person violating or aiding in or abetting the violation of the provisions of the rabies law is subject to prosecution in any court of competent jurisdiction, including municipal courts, and shall be charged with a Class C misdemeanor. § 3-7A-12, Code of Alabama, 1975.

Upon request by proper local officials, the State Health Officer may place certain areas of the state under a rabies quarantine to prevent the spread of rabies. In serious situations, the State Health Officer may place the area under quarantine without waiting for local request. § 3-7A-13, Code of Alabama, 1975.

Municipal Authority to Control Dogs

Section 11-45-1, Code of Alabama, 1975, authorizes municipalities to adopt ordinances to protect the public health, safety and welfare.

Additionally, the rabies statute, specifically Section 3-7A-14, Code of Alabama, 1975, states that "Nothing in this chapter shall be held to limit in any manner the power of any municipality to prohibit dogs or cats from running at large, regardless of rabies immunization status as herein provided; nor shall anything in this chapter be construed, in any manner, to limit the power of any municipality to further control and regulate dogs and other animals in such municipality."

In the case of *Birmingham v. West*, 183 So. 421 (1938), the Alabama Supreme Court upheld a Birmingham dog ordinance which was more stringent than the state law. The Court ruled that Section 89 of the Alabama Constitution of 1901 did not intend to limit the police power of a municipality, but it prohibits a municipality from making lawful that which the state law renders unlawful.

Express statutory authority is given to municipalities by Section 11-47-110, Code of Alabama, 1975, to regulate and prevent dogs from running at large on the streets and to pass all laws necessary for the impounding and sale of such animals. This authority for a municipal governing body to regulate dogs extends throughout the corporate limits and police jurisdiction as well as on any property or rights-of-way belonging to the city or town. Section 11-47-110.1, Code of Alabama, 1975, specifically allows Class 5 and Class 8 municipalities to, by ordinance, establish penalties for violations of local animal control laws not to exceed \$1,000 per violation and to establish the position of certified animal control officer as well as the authorities and responsibilities of a certified animal control officer, which may include the authority to issue citations. The chief of police or his or her designee shall be responsible for certifying and revoking the certification of animal control officers, which shall include establishing minimum standards for training and experience that an individual must meet to qualify for certification. A certified animal control officer authorized by municipal ordinance to issue citations for violations of local animal control laws may do so by either certified mail or personal service. The municipal courts of the respective municipality have the authority to hear any appeal and impose and enforce civil penalties issued pursuant to this section. Section 11-47-110.1, Code of Alabama, 1975.

From the foregoing, it may be concluded that the extent to which a municipality may regulate dogs is left largely to the legislative discretion of the municipal governing body. Ordinances for dog control are adopted under the municipal police power and the courts have been reluctant to examine the wisdom or propriety of such laws unless they are palpably unreasonable.

Municipal Ordinance Provisions

State Offenses Made Municipal Offenses

Each city and town in Alabama is authorized to adopt an ordinance which makes the violation of certain state statutes within the jurisdiction of the city or town an offense against the municipality. *Ex parte Davis*, 200 Ala. 436, 74 So. 730, denying cert. to 15 Ala. App. 606, 74 So. 730 (1917); *Sloss Sheffield Steel & Iron Co. v. Smith*, 175 Ala. 260, 57 So. 29 (1911); *Birmingham v. Edwards*, 15 Ala. App. 459, 93 So. 233 (1922).

The reasoning behind this authority to adopt ordinances by reference is that offenses against the peace and dignity of the parent state are also against the laws of the local government.

Municipalities do not have the authority, however, to make a felony an offense against the municipality nor can municipalities adopt by reference misdemeanors covered by the Attorney General's Opinion of May 9, 1980.

Circuit Court prosecutors routinely encounter situations where a defendant is charged with a felony and either (1) a lesser-included offense or (2) an offense arising from the same incident as a felony charge. Many times the misdemeanor will be charged in municipal court without the knowledge of the District Attorney's office. As a result. We often have the felony prosecution challenged on double jeopardy grounds. With the proper response these challenges can be defeated, because the municipal court lacks jurisdiction and therefore any municipal conviction is void and jeopardy does not attach. It is essential to constitute jeopardy that the court in which the accused is put upon his trial shall have jurisdiction; if it is without jurisdiction, there can be no valid conviction, and hence there is no jeopardy. *Dutton v. State*, 807 So.2d 596 (Ala.Crim.App. 2001), *Benjamin F. Cox v. State*, 585 So.2d 182, 192 (Ala.Crim.App. 1991)(quoting *Anthony G. Cox v. State*, 462 So.2d 1047, 1051 (Ala.Crim.App. 1985)), U.S.C.A. Const.Amend. 5.

Section 6.04(b) of the Alabama Constitution of 1901, Amendment 328, grants all-inclusive jurisdiction to the Circuit Court, subject to limitations imposed by legislature. As applicable to state offenses, the legislature has excluded from the circuit courts original jurisdiction only for: (1) those misdemeanors for which no indictment was returned, [see §12-12-32(a)(3)], (2) misdemeanors which do not involve a felony charge (i.e., they are not lesser included offenses within a felony charge and they do not arise out of the same incident as a felony) [see §12-11-30(2) and A.R.Cr.P. 2.2], and (3) those misdemeanors that are traffic offenses [see §12-12-51]. Where an indictment has been returned, the circuit court has concurrent jurisdiction with the district court, [see §12-12-32(a)(3)], "except where the misdemeanor is a traffic infraction, in which case the district court has exclusive original jurisdiction." *Wright v. State*, 494 So.2d 177 (Ala.Crim.App. 1986)); *Henderson v. State*, 616 So.2d 406 (Ala.Crim.App. 1993).

As amended in 1996, § 12-11-30(2) , Ala. Code (1975), states, "The circuit court shall have exclusive original jurisdiction of all felony prosecutions and of misdemeanor or ordinance violations which are lesser included offenses within a felony charge or which arise from the same incident as a felony charge; except, that the district court shall have concurrent jurisdiction with the circuit court to receive pleas of guilty in felony cases not punishable by death..." In 1990 the Alabama Rules of Criminal Procedure were adopted. As amended, Alabama Rules of Criminal Procedure, Rule 2.2(a), states "All felony offenses and misdemeanor or ordinance violations which are lesser included offenses within a felony offense or which arise from the same incident as a felony offense shall be prosecuted in circuit court, except, that the district court shall have concurrent jurisdiction to receive guilty pleas and impose sentences in felony cases not punishable by death, including related and lesser included misdemeanor offenses, and may hold preliminary hearings with respect to felony offenses."

Where a defendant is arrested for a single incident and is charged with misdemeanors in Municipal Court and a felony in Circuit Court, the Municipal Court is without jurisdiction to prosecute. The municipal warrants, and

thus the municipal convictions are void because the misdemeanor offenses arose from the same incident as the felony offense. If the charging instrument and thus the conviction, are void the State may re-indict for the proper offense. See *Cogman v. State*, 870 So.2d 762 (Ala.Crim.App. 2003).

Because the Municipal Court lacks jurisdiction to hear the Misdemeanor charges, there can be no valid conviction in that court and jeopardy does not attach. The municipal convictions therefore would be void and not merely voidable. This can be a helpful tool in preventing serious charges from getting dismissed where the defendant either pleads guilty to a lesser offense in municipal court with hopes of “beating” the more serious charge, or fails to raise the issue at a municipal trial and later tries to use his conviction for a double jeopardy challenge.

If a municipality has a reference ordinance, offenders of covered state laws may be prosecuted within the municipal jurisdiction for the violation. Fines imposed should be retained in the municipal treasury.

A good example of an ordinance to adopt state offenses by reference follows below. Additional information on this subject is presented in *Selected Readings for the Municipal Official*, which is available on the League’s website.

Sample Ordinance - Adoption of State Offenses by Reference

BE IT ORDAINED BY THE CITY [TOWN] COUNCIL OF THE CITY [TOWN] OF _____, ALABAMA, AS FOLLOWS:

Section 1. Any person or corporation committing an offense within the corporate limits of the City [Town] of _____, Alabama, or within the police jurisdiction thereof, which is declared by a law or laws of the State of Alabama now existing or hereafter enacted to be a misdemeanor, shall be guilty of an offense against the City [Town] of _____, Alabama.

Section 2. Any person or corporation committing an offense within the corporate limits of the City [Town] of _____, Alabama, or within the police jurisdiction thereof, which is declared by a law or laws of the State of Alabama now existing or hereafter enacted to be a violation, shall be guilty of an offense against the City [Town] of _____, Alabama.

Section 3. Any person or corporation committing within the corporate limits of the City [Town] of _____, Alabama, or within the police jurisdiction thereof, an offense as defined by Section 13A-1-2 of the Alabama Criminal Code, which offense is not declared by a law or laws of the State of Alabama now existing or hereafter enacted to be a felony, misdemeanor or violation, shall be guilty of an offense against the City [Town] of _____, Alabama.

Section 4. Any person found to be in violation of Sections One (1), Two (2) and/or Three (3) of this ordinance shall, upon conviction, be punished by a fine of not less than One Dollar (\$1.00) nor more than Five Hundred Dollars (\$500.00) and/or may be imprisoned or sentenced to hard labor for the City [Town] for a period not exceeding six (6) months, at the discretion of the court trying the case. Any corporation found to be in violation of Sections One (1), Two (2) or Three (3) of this ordinance shall, upon conviction, be punished by a fine of not less than One Dollar (\$1.00) nor more than Five Hundred Dollars (\$500.00) at the discretion of the court trying the case.

Section 5. Any person found to be in violation of Section 32-5A-191, Code of Alabama, 1975, as amended, shall, upon conviction, be punished in accordance with the provisions of Section 32-5A-191, provided, however, that no fine shall exceed Five Thousand Dollars (\$5,000.00), and/or may be imprisoned or sentenced to hard labor for not more than one year.

Section 6. Any ordinance heretofore adopted by the City [Town] Council of the City [Town] of _____, Alabama, which is in conflict with this ordinance is hereby repealed to the extent of such conflict.

Section 7. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Section 8. This ordinance shall become effective on _____.

ADOPTED AND APPROVED THIS THE ____ DAY OF _____, 20__.

APPROVED: _____
Mayor

Attest: _____
City [Town] Clerk

Optional Dog Regulation Ordinance Provisions

Most municipalities prefer to adopt their own ordinances relating to the control of dogs. It has been noted that local dog ordinances may be more stringent than state law and still remain valid. The following sample provisions show the wide range of regulations which have been adopted from time to time and exemplify the variations which are available to local officials. Municipal officials should work with their attorneys to determine which of the following provisions should be included in a dog control ordinance. [**Note:** Language within brackets is optional with the municipal governing body.]

A. Definitions in Ordinance.

Customarily, the first section in most dog ordinances defines specific terms that are used in subsequent sections. The following is a good example of the dog ordinance definition section:

Section 1. Definitions. Wherever used in this ordinance, unless a contrary intention is clearly evident, the following terms shall be interpreted as herein defined:

1. The term “dog” shall mean and include all members of the canine family three months or more of age.
2. The term “person” shall mean and include individuals, firms, partnerships, and associations; the singular shall include the plural; and the masculine, the feminine and neuter.
3. The term “owner” shall mean and include any person having a right of property in the dog, or who keeps or harbors a dog, or who has it in his care, or acts as its custodian, or who permits a dog to remain on or about any premises occupied by him.
4. The term “inoculation against rabies” shall mean the injection, subcutaneously or otherwise, as approved by the State Health Officer and the State Veterinarian, of canine anti-rabies vaccine, approved by the State Health Officer and the State Veterinarian.
5. The term “at large” shall mean off the premises of the owner, and not under the control of the owner or his agent either by leash, cord, chain, or otherwise.
6. The term “animal shelter” [or animal control center] shall mean a facility designated by the city for the purpose of impoundment and care of animals that are found at large, surrendered by the owner, or otherwise held due to violation of city code or state law.
7. The term “animal control officer” shall mean the person employed by the supervisor of the animal control center [or animal shelter] or otherwise authorized by the city to assist the supervisor of the animal control center [or animal shelter] in the performance of his or her duties. Such officer shall be duly and legally authorized by the city to enforce this chapter and carry out all other duties expressed or implied in any city chapter relating to animals or animal control.

The definitions above are terms most commonly used in municipal dog ordinances and is not an extensive list of potential definitions. The definitions section will largely depend on the breadth and scope of the specific municipal dog ordinance.

B. License and Registration

Two basic types of ordinance provisions require the registration and licensing of dogs. One type of ordinance states that keeping or harboring an unlicensed dog is an offense. The second type requires that all dogs be licensed without spelling out an offense against the owner. Note the following two examples.

It shall be unlawful for any person to possess, keep or harbor in the city [or the police jurisdiction thereof], after the month of _____, any dog that does not have attached to it a dog license for the calendar year issued by the city clerk.

OR

All dogs kept, harbored, or maintained by their owners in the City of _____ [or the police jurisdiction thereof] shall be licensed and registered if over ____ months of age. Dog licenses shall be issued by the city clerk upon payment of a license tax of \$_____ for each male dog and each spayed female dog, and \$_____ for each unspayed female dog. The owner shall state at the time application is made for such license and upon printed forms provided for such purpose his name and address, and the name, breed, color and sex of each dog owned or kept by him. The provisions of this section shall not be intended to apply to dogs whose owners are non-residents temporarily with the city, nor to dogs brought into the city for the purpose of participating in any dog show, nor to “seeing-eye” dogs properly trained to assist blind persons when such dogs are actually being used by blind persons for the purpose of aiding them in going from place to place.

Note the exemptions contained in the second example. Some municipalities go further and specifically exempt societies for the prevention of cruelty to animals, boarding kennels, and veterinary hospitals and clinics.

C. Dog Tag Requirement

Whenever a municipality imposes a license for dogs, there is also the requirement that each dog wear a current dog tag. Note the examples below.

The city clerk shall prepare, or cause to be prepared, an adequate number of dog license tags for issue for each calendar year. A dog license shall consist of a disk having inscribed thereon the number of the calendar year for which issued and also the words “City of _____ Dog License.” The dog license tags herein provided for shall be numbered serially. One such tag shall be issued by the city clerk for the appropriate calendar year for each dog for which application for such tag is made, when the requirements of Section _____, hereafter, are complied with.

Before any dog license tag shall be issued for any dog, the applicant therefor shall pay the city clerk the sum of one dollar and deliver to the city clerk the certificate of some person herein authorized to vaccinate dogs showing the name, color, breed, sex, weight and age of the dog described in the certificate, and also showing that said dog has been vaccinated by said authorized person pursuant to the State Rabies Control Law, and showing, also, the date of vaccination, the name of the manufacturer of the vaccine administered, the manufacturer’s lot number of the vaccine administered, the number of cubic centimeters of the vaccine administered, and the method of administration of the vaccine; provided, however, that where five or more dogs all belonging to the same person are in the same kennel or pet show, a maximum annual fee of five dollars for the issuance of dog license tags for such dogs shall be charged. The city clerk shall not issue any license tag for any dog for any year other than the year in which such certificate shall show such dog to have been vaccinated.

The companion dog tag section to the second licensing provision in Section B above provides:

Upon payment of the license fee, the clerk shall issue to the owner a license certificate and a metallic tag for each dog so licensed. The shape of the tag shall be changed every year and shall have stamped thereon the year for which the tag was issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate will be issued by the clerk upon presentation of a receipt showing the payment of the license fee for the current year, and the payment of a \$ _____ fee for such duplicate. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee because of death of the dog or the owner leaving the city before the expiration of the license period.

An ordinance should require the owner to present a certificate to the clerk showing that the dog has been inoculated against rabies in accordance with the State Rabies Control Law. Some municipalities require proof of inoculation within six months prior to the license application; others deem sufficient an inoculation within twelve months prior to the license application.

The amount of the fee charged for the dog license varies. As a general rule, the license for an unspayed female is double that for male dogs and spayed females. In Alabama, the fees are designed to defray the costs of issuing the license and little more. When a higher license fee is charged, a municipality may be able to hire an officer to enforce the ordinance.

Changing the shape and color of the dog tag each year aids in determining whether a dog wears a current license tag and is especially helpful in municipalities where dogs are allowed to run at large.

D. Dog Tag Not Transferrable

The principal purpose of licensing dogs is to aid in the enforcement of the rabies control law. The purpose would be defeated if owners were allowed to transfer tags from one dog to another. Most ordinances contain a provision to prevent such swapping. Note the following example.

It shall be unlawful for any person to permit or allow any dog in his charge or control to wear a dog license tag issued for a different dog.

E. Running at Large

Some municipalities absolutely prohibit dogs from running at large at any time in the municipality and/or its police jurisdiction. Where licenses are required, all cities and towns prohibit unlicensed dogs from running at large. Practically all municipalities prohibit owners of female dogs from allowing them to run at large while in heat. Other municipalities allow licensed dogs to run at large during certain periods between certain hours. Note the following example:

It shall be unlawful for the owner or other person in charge of a dog, whether such dog has attached to him a license tag or not, to cause or permit such dog to be or run at large on or about any place, lot or premises or portion of the same within the city [and/or its police jurisdiction] which is not provided and equipped with a wall, fence or other enclosure in such manner as to prevent effectively the escape of such dog, and while at large on or about such place, lot or premises or portion of the same, such animal shall be kept within the limits of such wall, fence or enclosure. Whenever a dog is permitted to run at large within a wall, fence or other enclosure, as permitted in this section, it shall be the duty of the owner or person in charge of such dog to give public notice or warning that such dog is at large within said enclosure by conspicuous posting at every unlocked entrance to such enclosure.

It shall be unlawful for the owner or person in charge of a dog, whether such dog has attached to him a

license tag or not, to cause or permit such dog to run or be upon a street, sidewalk, thoroughfare or public place within the city, unless such dog be attached to a leash in the hands of said owners or person in charge.

Another ordinance which prohibits dogs from running at large states:

It shall be unlawful for any dog to run at large upon the streets, highways or alleys within the corporate limits of the City of _____, or for any owner or keeper of any dog to permit such dog to run at large upon the streets, highway or alleys within the corporate limits of the City of _____.

A typical ordinance provision relating to female dogs in heat reads as follows:

It shall be unlawful for the owner or keeper of a female dog to permit or suffer such dog to run at large within the City [and/or its police jurisdiction] at any time such dog is in heat.

Similarly, another popular provision relates to vicious or dangerous dogs.

It shall be unlawful for the owner or keeper of a fierce, vicious or dangerous dog to permit or suffer such dog to run at large at any time.

F. Dog Detention Periods

Practically all municipalities which allow dogs to run at large detain all dogs in the municipality during certain periods of the year. An example of this provision follows.

In order to better control the spread of rabies and to determine which dogs in the City [Town] of _____ and the police jurisdiction thereof are stray, homeless or wild dogs, the Chief of Police or the Mayor is hereby authorized to set apart and designate certain periods, from time to time, in which all owners of dogs in the City [Town] of _____ and the police jurisdiction thereof shall be required to keep their dogs on their premises and during such periods it shall be unlawful for any person to permit any dog to run at large in the City [Town] of _____ or the police jurisdiction thereof. All such periods shall be known as "Dog Detention Periods." In designating any such period, the Chief of Police or the Mayor shall give notice of the same by publishing said notice in some newspaper of general circulation in the City [Town] of _____, and may give additional notice in any manner as he may see fit. It shall be unlawful to permit any dog to run at large at any time of the year between the hours of 6:00 P.M. of one day and 6:00 A.M. of the following day.

G. Impounding of Dogs

The principal method of enforcing a dog ordinance lies in the impoundment of dogs which are in violation of the ordinance. Except in extreme cases, cities usually do not actively prosecute owners and keepers of dogs in violation of such ordinances. Examples of impoundment provisions are as follows:

Wherever a dog is found in or about any street, thoroughfare, place, lot or premises contrary to the provisions of this ordinance, it shall be the duty of animal control officer [chief of police, or other officer], or any other person employed by the city for that purpose, to take such animal into custody and remove or cause the same to be removed to the city animal shelter.

A second ordinance provision reads:

Any animal control officer, police officer, or other authorized agent is hereby authorized to apprehend any dog found running at large contrary to the provisions of this ordinance and to impound such dog in the city animal shelter/animal control center or other suitable place. The animal control center [or animal shelter] supervisor upon receiving any dog shall make a complete registry, entering the breed, the color and sex of such dog and whether licensed. If licensed he shall enter the name and address of the owner and the number of the license tax. Licensed dogs shall be separated from unlicensed dogs.

Or finally,

Any dog which shall run at large in violation of the provisions of this ordinance shall be taken up and impounded, and the owner or keeper of such dog so taken up and impounded shall be fined as follows:

- a. If such dog is not a fierce, vicious or dangerous dog, and is not a female dog when in heat, the sum of \$50 for each offense;
- b. If such dog is a fierce, vicious or dangerous dog, the sum of not less than \$50 nor more than \$100 for each offense;
- c. If such dog is a female when in heat, the sum of \$60 for each offense.

H. Notice and Redemption

Normally, an ordinance provides for notice to owners of impounded dogs and establishes the manner in which an impounded dog may be redeemed. The previous chapter covered state statutes setting out a procedure for notice and redemption of dogs impounded.

I. Dogs Suspected to Have Rabies

Many ordinances require the detention of dogs that have bitten a person or another animal to determine if the dogs are rabid. The following ordinance provision gives a comprehensive example of this type of regulation:

It shall be the duty of the owner or keeper of any dog which has bitten or injured any person, or which has displayed any symptoms which might be due to the infection of said dog with rabies, to immediately notify the animal control officer _____ of the City [Town] of _____ of that fact and to immediately deliver such dog or the carcass thereof to the animal control officer or to a police officer of the City [Town]. Any owner or keeper of any such dog who shall, upon demand of a police officer or the animal control officer, refuse to immediately deliver such dog or the carcass thereof to such officer shall be guilty of an offense against the City [Town] of _____, and shall upon conviction thereof be fined by the municipal judge or other court trying the cause, not more than \$500, or sentenced to not exceeding 6 months confinement in jail at hard labor for the City [Town], either or both at the discretion of the court trying the cause.

The animal control officer of the City [Town] shall upon receipt of any such notification or report of dog bites or suspicious symptoms as hereinabove described, immediately notify the County Health Officer or the County Rabies Inspector, and shall, in cooperation with such officers, determine as far as possible the identities of all persons known or suspected to have been bitten by, handled by or come in contact with such dog, so that said officers may give such persons, their parents or guardians, such warnings as may appear advisable.

Any dog biting a person or displaying suspicious symptoms as heretofore described in this section shall be held for observation to determine whether or not such dog has rabies. Such dog may be held in the City [Town, County] pound, to be there observed and examined by a licensed veterinarian designated by the Mayor, or may be held for observation in the kennels of such licensed veterinarian, or may, if the owner or keeper so desires and the Mayor approves, be kept for observation in the kennels of a licensed veterinarian designated by the owner or keeper.

Such dog shall be held under observation for a period of fifteen (15) days, provided that if the dog at any time shall show signs of illness indicative of rabies, then it shall be destroyed. The head of any dog whose carcass is delivered to the City [Town] or which is destroyed during said fifteen-day period shall be sent for examination for rabies to a laboratory designated by the County Health Officer.

The owner or keeper of such dog shall be liable for all veterinarian and laboratory fees accruing under this section, plus the daily fee for impounded dogs in this ordinance, for the period of time such dog is kept in the City [Town, County] pound.

If it does not appear during said fifteen days that such dog has or may have rabies, then the same shall be returned to the owner or the keeper upon payment of all veterinarian and laboratory fees accruing under this section, plus the daily fee for impounded dogs prescribed by this ordinance for each day such dog is kept in the City [Town] pound, provided, that if such dog is owned by a resident of the City [Town] it shall not be released until all the requirements of this ordinance relative to inoculation, registration and payment of dog license tax have been complied with.

J. Nuisance Provisions

Often the municipal governing body receives public nuisance complaints about dogs. These complaints are generally based on noise or unsanitary conditions caused by dogs. The following provisions have been aimed to prevent such problems.

It shall be unlawful for the owner or other person in charge of any dog to suffer or permit the loud and frequent or continued barking, howling, or yelping of such dog, as to annoy and disturb the neighbors.

Another example is as follows:

It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner as to constitute a public nuisance. By way of example and not of limitation, the following acts or actions by an owner or person in charge of an animal are declared to be public nuisances and are therefore unlawful:

1. Allowing or permitting an animal to damage the property of anyone other than its owner, including but not limited to getting into or turning over garbage containers, or damaging gardens, flowers and vegetables, or defecating upon the property of another.
2. Maintaining an animal in an insanitary environment which results in offensive odors or danger to the animal or to the public health, safety or welfare; or failing to maintain the animal in a condition of good order and cleanliness which increases the probability of disease transmission.
3. Maintaining the owner's property in a manner that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of animals on the property.
4. Allowing or permitting an animal to bark, whine, howl, crow or cackle in an excessive or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises.
5. Maintaining an animal that is diseased or dangerous to the public health without adequate medical treatment.
6. Maintaining an animal that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, joggers, bicycles or other vehicles, or animals being walked on a leash.
7. Maintaining an animal that is unlicensed.

Some provisions contain procedures for complaints regarding dog public nuisances:

Complaints of Public Nuisance Animals.

1. Whenever any person shall complain to animal control officer or city police officer concerning a public nuisance animal, the animal control officer or city police officer will notify the owner or keeper of said animal or animals by written warning, that a complaint has been received and that the person should take whatever steps necessary to alleviate the specified nuisance. Such warning may be hand delivered or delivered by United States mail.
2. If within seven days of the issuance of the warning specified in subsection (a), the owner or keeper of said animal or animals has not remedied or made substantial progress towards remedying the specified nuisance, then the complainant shall have the right to appear before the municipal court warrant clerk between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday and complete an affidavit/summons against the owner or keeper of said animal or animals. Before issuing said summons, the warrant clerk shall verify that the warning specified in subsection (a) was issued at least seven days prior to the filing of the affidavit by the complainant.

K. Abandonment of Domestic Animals

Some cities wish to include an ordinance provision which prohibits the abandonment of domestic animals.

It shall be unlawful for any person to abandon or set loose with the intention of avoiding the responsibility for the custody or care of any domestic animal within the city limits or police jurisdiction of the City [Town] of _____. Each person who does abandon, or knowingly and willfully permits such abandonment, or aids in the abandonment of any animal shall be in violation of this section.

L. Cruelty to Animals

Generally, cruelty to dogs is outlawed by an ordinance that outlaws cruelty to all animals. Cruelty to dogs can be denounced with the following ordinance provisions.

It shall be unlawful for any person to mistreat, torture, disfigure, mutilate, torment, or cruelly tease an animal; deprive an animal of food, water, or shelter; keep an animal under unsanitary conditions; leave an animal unattended in a vehicle without proper ventilation; beat, kill or injure an animal without good cause; override, overdrive or overload an animal; and/or to set out upon any public or private property any stakes, pits, snares, traps, poisons, antifreeze, or other devices or substances intended to cause harm, injury or death to any animal. This section shall not be construed as prohibiting the branding or dehorning of livestock, or any other acts considered customary in the management or care of livestock.

Another example is:

No person shall override, overdrive, overload, torture, torment, maim, mutilate, deprive of necessary sustenance or cruelly kill, beat, bruise, wound, cause or procure to be overridden, overdriven, overloaded, driven while overloaded, cruelly beaten, mutilated or cruelly killed, any domestic animal, whether belonging to himself or to another, or, either as owner or otherwise, inflict unnecessary cruelty upon the same, or upon any living creature, or use, work, ride or employ in any manner any bruised, maimed, sick or lame beast of burden or working animal, or fail to provide any domestic animal with proper food, drink or protection from the weather; provided that this section shall not be construed as prohibiting the dehorning of cattle.

Some ordinances simply adopt the state code by reference.

- a. Adoption of state law. Any person or corporation committing the offense of cruelty to animals within the corporate limits of the city which is declared by law or laws of the state now existing (see Ala. Code § 13A-11-14 and § 13A-11-241 (1975)) or hereinafter enacted to be a misdemeanor offense of cruelty to an animal shall be guilty of an offense against the city.
- b. The animal control doctor of [City or Town] shall serve as agent of the city to protect dogs and cats from cruelty and to prevent such cruelty, pursuant to Ala. Code § 13A-11-242 (1975).

M. Kennels for Animals

The following language regarding kennels may be included in a dog control ordinance.

The owning, harboring, or keeping of dogs over _____ weeks of age in excess of _____ [number of dogs] upon any property in the City of _____ shall be deemed a nuisance per se; provided that the owner or keeper may secure from, and at the discretion of the governing body, a permit to keep or harbor dogs in excess of _____ upon adequately showing that the premises are so situated that special circumstances exist which would not constitute a nuisance to the neighborhood. The governing body may limit said permit as to time and may also limit the maximum number of dogs that may be maintained at any one time. Additionally, upon a showing that the owner or keeper of dogs maintains a kennel where dogs are bred or a pack of dogs maintained within kennel premises in such manner and upon such premises as shall not constitute a nuisance in the neighborhood, the governing body, at its discretion, may issue a kennel permit. All dogs in such kennels shall be registered and all dogs shall be immunized in accordance with the requirements of this ordinance, provided further, in lieu of all license and registration fees a kennel permit shall be issued upon payment of the sum of \$ _____.

The following limitations on kennels may be preferred by the municipal governing body.

No person shall keep or maintain or suffer or permit to be kept or maintained upon any premises owned or controlled by him or it, any dog, male or female, kept mainly for breeding purposes, within _____ hundred feet of any dwelling house other than that of the owner or person in control of such dog.

Another similar example is:

In any portion of the City of _____, excepting the manufacturing district fixed and established by the Zoning Code of the City of _____, as it now exists or may hereafter be amended, no person shall establish, keep or maintain, or suffer or permit to be established, kept or maintained, upon premises owned or controlled by him or it, in the City of _____, any dog kennel, any portion of which is situated within _____ feet of any dwelling house other than the dwelling house of the owner or person in control of such kennel.

N. Animal Control Center / Animal Shelter Provisions

Some dog ordinances carry separate provisions for the establishment of an animal control center and the appointment of a director/supervisor of the animal control center and animal control officers. A good example is presented below.

- a. Any public or municipal animal control center/animal shelter established and maintained by the City of _____ shall be conducted and operated by a supervisor/director under the supervision, direction and control of the city council. The animal control center/animal shelter supervisor/director shall be a suitable person appointed by the mayor by and with the approval of the council. The animal control/animal shelter director/supervisor shall have limited police powers necessary to carry out the duties of

the office, shall hold office for such time as the council may direct, and shall receive as compensation such amount as the council may by resolution determine.

- b. It shall be the duty of the animal control/animal shelter director/supervisor and any animal control officer to impound any dog found running at large contrary to the provisions of this ordinance. The animal control center shall provide adequate and wholesome food for animals and shall provide careful and humane treatment toward said animals and shall provide for humane destruction of animals as provided in this ordinance.
- c. The City of _____ may enter into a lease or contract with some regularly incorporated society organized for the expressed purpose of prevention of cruelty to animals, for the use of its facilities for the restraining and impounding of dogs. Any such lease or contract shall provide for the maintenance of suitable impounding quarters; for the humane care of animals impounded therein; for the destruction or disposition of dogs impounded as provided in this ordinance or other ordinances applicable thereto and it shall be the duty of the city council to generally supervise the operation of the pound operated and maintained by said lessee in order to carry out the purpose of this ordinance, to the extent provided in said lease or contract.

Another example is as follows:

Creation of the [Town/City] Animal Shelter/Animal Control Center.

- a. There is hereby created within the [City/Town] animal shelter/animal control center charged with administration and enforcement of this chapter.
- b. The director/supervisor of the shelter/ center shall be appointed by the mayor in the same manner as any department head of the city. The director shall be the supervisor over the [City/Town] animal shelter/animal control center and over the employees assigned to the shelter.
- c. All enforcement officers assigned to the shelter shall be known as animal control officers (ACOs).
- d. ACOs may have full police powers, provided that the ACO has completed the appropriate training, as required by law. Any provision of this chapter referring to the director shall also mean and include any authorized employee acting in the director's stead and under his or her supervision.

Sheltering of Stray or Abandoned Animals.

- a. Any person finding a stray animal within the city limits may deliver such animal to the shelter for confinement. The animal shall be cared for in the shelter for not less than five (5) working days. If the animal is not claimed by its rightful owner, the shelter shall place the animal for adoption or shall transport the animal to an adoption agency, or otherwise dispose of the animal as provided for in this chapter.
- b. Animals claimed within the five-day period shall be returned to the rightful owner after the owner has provided proof of rabies inoculation and paid all required fees and fines.
- c. Animals not claimed within the five-day period shall become the property of the shelter.

O. Vicious Dogs

After Emily's Law was enacted in 2018 many municipalities passed ordinances regarding vicious dogs and dangerous dog investigations. Some municipalities simply passed ordinances that tracks with the relevant state law. For example, the City of Montgomery passed an ordinance that tracks with Ala. Code Section 3-6A-4 which establishes the proper procedure for conducting a dangerous dog investigation. (See https://library.municode.com/al/montgomery/codes/code_of_ordinances?nodeId=COOR_CH4AN_ARTIVVIAN_S4-123VIANINFI).

The following is a good example of a provision that covers keeping of vicious dogs and destruction of vicious dogs:

- a. The owner shall confine within a building or secure enclosure every fierce, dangerous or vicious dog, and not take that dog out of the building or secure enclosure unless the dog is on a leash and is securely muzzled. The owner of the dog shall post a written notice in letters not less than two inches high upon the place of confinement so as to be easily seen warning that a vicious dog is on the premises. It shall be prima facie evidence that a dog is fierce, dangerous or vicious if it fiercely or viciously bites or attacks another animal not on its owner's premises or if it shall bite, attack or fiercely or viciously assault or chase any person who is not at the time on the owner's premises.
- b. Any dog as is described in subsection (a) of this section found at large shall be impounded by the animal control officers in the animal control center and when, in the judgment of a licensed veterinarian and/or the supervisor of the animal control center, that dog should be destroyed for reasons of public safety or humane reasons, it may not be redeemed.
- c. If it is determined by a licensed veterinarian that the dog should be destroyed, the owner shall be notified in writing within 24 hours of such decision or one business day. The owner shall have seven days to file an appeal of the decision with the supervisor of the animal control center and the city clerk. The city clerk shall place the appeal before the city council within ten days for a hearing on the decision to destroy the dog.

Some ordinances create exceptions to declaring a dog dangerous after a dangerous dog investigation. For example:

An animal may not be declared dangerous in any of the following circumstances, if sufficient evidence is presented and proven during the court hearing:

1. When an injury or damage was sustained by a person who at the time of the injury or damage was committing a willful trespass or other tort upon the premises occupied by the owner of the animal with the intent to commit a crime or was committing a crime, or was teasing, tormenting, abusing, or assaulting the animal, or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the animal;
2. When the animal was protecting or defending a person within the immediate vicinity of the animal from an attack or assault;
3. When the animal was responding to pain or injury or protecting itself, its kennel, or its offspring while it and the offspring were confined to the property of the owner;
4. When a person or domestic animal was disturbing the natural functions of the animal such as sleeping or eating.

Growling or barking alone shall not constitute grounds upon which to find an animal to be dangerous.

The following provision accounts for dogs declared dangerous but not ordered destroyed.

- a. If a court determines that an animal is dangerous, but does not order that the animal be destroyed because evidence was insufficient to determine that the animal caused serious physical injury to a human, the owner of the animal shall comply with the following requirements in addition to any other requirement imposed by order of the court:
 1. Within 30 days of the issuance of the order declaring the animal to be dangerous, the owner of the animal shall be required to register the animal with the animal control center/animal shelter. All certificates of registration required to be obtained under this section shall only be issued to persons 19 years of age or older which represent evidence of the following:

- (a) Copy of a current certificate of rabies vaccination;
- (b) Copy of a current color photograph of the animal depicting the size, color and any other distinguishing markings;
- (c) Certification that the animal will be confined to a proper enclosure when the animal is outdoors and unattended;
- (d) Certification that the animal has been neutered, spayed, or otherwise sterilized unless medically not needed, as determined by a licensed veterinarian;
- (e) Certification that the animal has been permanently identified by tattooing or injecting of an identification microchip using standard veterinary procedures and practices; and the certification shall include the name, address, and phone number of the veterinarian performing the identification procedure;
- (f) Copy of a policy of insurance, such as homeowners, or a surety bond in the amount of not less than \$100,000.00 covering the medical or veterinary costs, or both, resulting from any future dangerous action of the animal;
- (g) A notarized affidavit from the owner of the dangerous animal stating that the animal will be under the control of a person 19 years or older when the animal is not in a proper enclosure or inside a building and that the animal will not be allowed outside the property of its owner except in emergencies, for normal or necessary medical or health related treatment, or for exercise as allowed under this chapter; and
- (h) Certification that the owner of the dangerous animal has completed a two-hour training class on the subject of caring for and controlling aggressive and dangerous animals as presented by the animal control.

2. All registrations, certifications and requirements of this subsection shall be re-submitted to the animal control annually for the life of the animal, or until the dangerous animal determination is removed by a court of competent jurisdiction.

- b. If the owner fails to provide a proper enclosure for the dangerous animal within 14 days or fails to provide any of the requirements listed under subsection (a) for dangerous animal registration to the court within 45 days of the issuance of the court's declaration that the animal is dangerous, the animal shall be humanely euthanized.
- c. The owner of the dangerous animal shall pay an annual fee to register the animal pursuant to the provisions of this act. The amount of the dangerous animal registration fee shall be \$100.00.
- d. An animal control officer or law enforcement officer may make whatever inquiry, investigation, or on-site inspection deemed necessary to ensure compliance with this division and any court order issued pursuant to this article.
- e. Prior to a dangerous animal being sold or given away, the owner shall advise the new prospective owner in writing that the animal has been declared to be dangerous by a court and shall provide the animal control center the name, address, and telephone number of the new owner. The new owner, if a resident of the city, shall comply with all the requirements of the act, including submitting of all filings required under subsection (a), and any applicable court orders relating to the animal purchased.

Additionally, state law requires that dogs declared dangerous but not destroyed be contained in a proper enclosure defined by state law. The Alabama statute that defines a proper enclosure for dangerous dogs is Ala. Code Section 3-6A-3; therefore, a municipality can copy the language from the statute verbatim or simply adopt by reference.

Sample Ordinance for the Control of Dogs

The following sample dog ordinance contains basic regulations usually desired by most municipal governing bodies. The sample ordinance merely covers the basics and is by no means intended to be all inclusive. Each municipality has issues related to dog control specific to its community; therefore, each municipal ordinance will be different. Your municipal attorney will be your best resource in drafting or otherwise amending your dog ordinances. For more examples of sample ordinances for the control of dogs visit <https://library.municode.com/al>. The cities of Birmingham, Montgomery, and Mobile all have good examples and provide different approaches to regulating dogs.

BE IT ORDAINED BY THE CITY [TOWN] COUNCIL OF THE CITY [TOWN] OF _____, ALABAMA, AS FOLLOWS:

Section 1. Definition of “Dog.”

The term “dog shall mean and include all members of the canine family three months or more of age.

Section 2. Vaccination Required.

It shall be unlawful for any person to possess, keep or harbor in the City [Town], after the ____ day of _____, of any year, any dog which has not been vaccinated as provided in this ordinance within _____ prior to such ____ day of _____.

Section 3. By Whom Performed and Manner of Vaccination.

In order to be sufficient hereunder, vaccination shall be accomplished by a physician, surgeon or veterinarian duly licensed as such by the state board thereunto, duly authorized, or shall be accomplished by a rabies inspector or deputy rabies inspector appointed pursuant to Chapter 7A of Title 3 of the Code of Alabama, by injecting beneath the skin of the dog at least five cubic centimeters of canine anti-rabies vaccine, manufactured by a person licensed for such manufacture by the United States Public Health Service, for each twenty pounds, or a fraction of twenty pounds, of the weight of the dog up to eighty pounds.

Section 4. License Tag Required.

After the ____ day of _____ and prior to the ____ day of _____ of each year, every owner of a dog shall obtain a dog license tag from the City Clerk, which said license tag shall be for the period of _____ of the current year through _____ of the following year. It shall be unlawful for any person to possess, keep or harbor in the City [Town], after the ____ day of _____ of any year, any dog which does not have attached to it a dog license tag as hereinafter required.

Section 5. Preparation and Description of Tag.

The City [Town] Clerk shall cause to be prepared, and shall keep on hand for issue, an adequate number of dog license metal tags. Each such tag shall have inscribed thereon the words, “_____ Dog License” or an abbreviation thereof as “_____ Dog Lic.” Each such license tag shall bear a serial number and shall specify, by abbreviation or otherwise, the expiration date thereof. One such tag shall be issued for each appropriate twelve-month period for each dog for which application is made, but only when such dog has been vaccinated as required herein.

Section 6. Fee for Tag: Certificate.

Before any dog license tag shall be issued for any dog, applicant therefor shall pay the City [Town] Clerk the sum of \$_____ and exhibit to the City [Town] Clerk the certificate of some person herein authorized to vaccinate dogs showing the color, breed, sex, weight, and age of the dog for which a dog license tag is sought, and that the dog described in the certificate has been vaccinated by said authorized person in accordance with Sections 3 and 4 of this ordinance, showing also the date of vaccination by said authorized person, the name of the manufacturer of the vaccine administered, the manufacturer’s lot number of the vaccine administered,

the number of cubic centimeters of vaccine administered, and the method of administration of the vaccine; provided, however, that where five or more dogs all belonging to the same person are in the same kennel or pet shop, a maximum fee of \$ _____ for the issuance of dog license tags for such dogs shall be charged and five dog license tags delivered. The City [Town] Clerk is authorized to issue a dog license tag for any dog upon the presentation of a certificate showing vaccination, within six months prior to the application for such license, in the manner provided by Section 4 hereof.

Section 7. Delinquent Licenses.

All licenses hereinbefore prescribed in this ordinance which shall not have been paid within the time hereinabove provided shall be delinquent and a delinquent fee of \$ _____ shall be added to the amount of each license.

Section 8. Dog to Wear Tag Issued for It.

It shall be unlawful for any person to permit or allow any dog in his charge or control to wear a dog license tag issued for a different dog.

Section 9. Untagged Dog: Impounding.

Any dog which is found in the City [Town] after the ____ day of _____ of any year and which does not have attached to it a dog license tag for the twelve months period commencing _____ next preceding is hereby declared to be a public nuisance and danger, and it shall be the duty of the animal control center/animal shelter director/supervisor and any animal control officer to take up and impound every such dog. Any such dog, so impounded, may be retaken or redeemed from the animal shelter/animal control center by the owner thereof within ____ days from impoundment, or at any time thereafter before sale or destruction thereof, by paying to the animal control center/animal shelter director/supervisor the sum of _____ dollars, plus the cost of keeping such dog in the animal control center/animal shelter at the rate of _____ per day. Every such dog which has remained in the animal control center/animal shelter for ____ days and which has not been redeemed or taken by the owner within such time may be sold to the highest bidder for cash, after having first given seven days written notice of the time of the sale with a description of the dog to be sold, by posting such notice upon the bulletin board at the animal control center/animal shelter, which said place, open to the public; provided, however, that no such dog shall be sold at a price less than _____ dollars, plus the cost of keep at the rate hereinabove prescribed. No such dog shall be released from the animal control center/animal shelter either to the owner or to a purchaser, unless and until the same shall have been vaccinated as prescribed in this article and a vaccination certificate and license tag, as likewise prescribed, shall have been issued therefor. For the purpose of issuing a license tag, the animal control center/animal shelter director/supervisor shall have the authority of a deputy clerk. All money received by the animal control center/animal shelter director/supervisor as a result of the issuance of a license tag, redemption or purchase of dogs shall be promptly remitted to the City [Town] Clerk. Dogs not redeemed or purchased as herein provided shall be destroyed by the animal control center/animal shelter director/supervisor in a humane manner. Such dogs as may be voluntarily delivered to the animal control center/animal shelter director/supervisor for destruction, and such as shall be rabid, shall be promptly destroyed by the poundmaster in a humane manner without holding same for redemption or advertising same for sale.

[Note: The following section should be omitted if the municipal governing body will allow dogs to run at large.]

Section 10. Dogs Running At Large.

It shall be unlawful for the owner or other person in charge of a dog, whether such dog has attached to him a license tag or not, to cause or permit such dog to be or run at large on or about any place, lot or premises or portion of the same within the City [Town] which is not provided and equipped with a wall, fence or other enclosure in such manner as to prevent effectively the escape of such dog, and while at large on or about such a place, lot or premises or portion of the same, such animal shall be kept within the limits of such wall, fence or enclosure. Whenever a dog is permitted at large within a wall, fence or other enclosure, as permitted under this section, it shall be the duty of the owner or person in charge of the dog to give public notice or warning that such dog is at large within said enclosure by conspicuous posting at every unlocked entrance to such enclosure.

Section 11. Impounding of Dogs.

Whenever a dog is found running at large contrary to the provisions of this article, it shall be the duty of the animal control center/animal shelter director/supervisor and any animal control officer, or of any other person employed by the City [Town] for that purpose, to take such animal into custody and remove or cause the same to be removed to the city animal shelter/animal control center and placed in charge of the city animal control center/animal shelter director/supervisor.

Section 12. Disposition of Impounded Dogs.

Any dog impounded under the provisions of this article shall be dealt with as provided in Section 9.

Section 13. Barking or Howling Dogs.

It shall be unlawful for the owner or other person in charge of any dog to suffer or permit the loud and frequent or continued barking, howling, yelping of such dog, as to annoy and disturb the neighbors.

Section 14. Vicious Dogs.

It shall be unlawful for the owner or other person in charge thereof to harbor or keep in the City [Town] a vicious dog, unless the same is securely confined or bound in such manner as to prevent such dog from biting or attacking a person or other animal. It shall be prima facie evidence that a dog is a vicious dog if it shall bite or fiercely attack any person or any other animal, while not on the owner's premises.

Section 15. Vicious Dog Investigation

- a. When any person claims that an animal is vicious, he shall make a sworn statement before a magistrate in the city setting forth the name of the animal's owner or custodian, the location where the animal is being kept in the city, and the reason he believes the animal to be vicious. The sworn statement may be completed by any person having contact with the animal. The sworn statement will be delivered to the animal control unit and an animal control officer will complete a vicious animal investigation.
- b. Animal control officers are authorized to initiate a vicious animal investigation in cases where a bite or serious injury to any person has been reported.
- c. In the event the vicious animal investigation leads the animal control officer to believe the allegation is founded:
 1. The animal control officer will file a summons for the owner of the animal with the municipal court;
 2. The animal in question will be impounded at the animal shelter;
 3. A hearing date will be held in municipal court within 14 days of the date of service;

- d. In the event the vicious animal investigation leads the animal control officer to believe the allegation is unfounded, the animal control officer will advise the complainant of his findings and submit the results of the investigation to the animal control supervisor.
- e. A copy of all investigations made pursuant to this section will be kept on file in the animal control office.
- f. If the municipal court determines the animal is a vicious animal:
 - 1. The animal will be held in impound until the owner complies with all orders of the court; however, the animal will be humanely destroyed if the owner fails to comply with all orders of the court within 20 days of the court's order.
 - 2. The vicious animal shall be microchipped.
 - 3. The vicious animal shall be spayed/neutered.
 - 4. The owner shall be required to pay all expenses involved with the pickup and impoundment of the animal at a rate of \$35.00 to the animal shelter for the pickup of the animal, one-half of which will be returned by the animal shelter to the city general fund, and a fee of \$20.00 per day, per animal for each day the animal was housed at the animal shelter. The total amount of the daily housing fee is to be retained by the animal shelter.
 - 5. The owner shall be required to pay an annual \$100.00 registration of animals deemed vicious by municipal court or penalty of \$100.00 for non-registration within two weeks. The owner must provide proof of liability insurance as required by Section 15(f)(6) each time the annual registration fee is paid.
 - 6. The owner shall be required to obtain liability insurance coverage of at least \$100,000.00 and provide proof of insurance to the municipal court or animal control office. The insurance must provide coverage for animal bites, injuries or death caused by an animal.

Section 16. Keeping Vicious Dogs; destruction of animal for humane reasons.

- a. The owner shall confine within a building or secure enclosure every fierce, dangerous or vicious dog, and not take that dog out of the building or secure enclosure unless the dog is on a leash and is securely muzzled. The owner of the dog shall post a written notice in letters not less than two inches high upon the place of confinement so as to be easily seen warning that a vicious dog is on the premises. It shall be prima facie evidence that a dog is fierce, dangerous or vicious if it fiercely or viciously bites or attacks another animal not on its owner's premises or if it shall bite, attack or fiercely or viciously assault or chase any person who is not at the time on the owner's premises.
- b. Any dog as is described in subsection (a) of this section found at large shall be impounded by the animal control officers in the animal control center and when, in the judgment of a licensed veterinarian and/or the supervisor of the animal control center, that dog should be destroyed for reasons of public safety or humane reasons, it may not be redeemed.
- c. If it is determined by a licensed veterinarian that the dog should be destroyed, the owner shall be notified in writing within 24 hours of such decision or one business day. The owner shall have seven days to file an appeal of the decision with the supervisor of the animal control center and the city clerk. The city clerk shall place the appeal before the city council within ten days for a hearing on the decision to destroy the dog.

Section 17. Violations of Ordinance.

Any person or persons violating this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished for such violation by a fine not exceeding \$500 and may also be imprisoned to hard labor upon the streets or public works or in the work house or house of correction of the City [Town] not exceeding six months, either or both at the discretion of the court trying the cause.

Section 18. Conflicting Ordinances.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

APPROVED: _____
Mayor

Attest: _____
City [Town] Clerk



Alabama League of Municipalities

P.O. Box 1270

Montgomery, AL 36102

334-262-2566

www.almonline.org

Municipal Regulation of Dogs, Revised October 2023

©2023 Alabama League of Municipalities