

CITY OF ARGO ORDINANCE 2019- 03-25

REGULATING DANGEROUS ANIMALS

WHEREAS, the City of seeks to protect its citizens and create an ordinance regulating Dangerous Animals within the City; and

WHEREAS, in order to establish proper regulation and in compliance with state law known as “Emily’s Law”.

NOW THEREFORE, be it ordained by the City Council of the City of Argo adopts as follows, to become effective on **JUNE 1, 2019**:

The Ordinance shall be known as:

Animal Control Statute as relates to Emily’s Law to establish Animal Control.

IN GENERAL – Definitions

As used in this ordinance, the following terms shall have the respective meanings ascribed to them unless the context clearly indicates otherwise:

At large or running at large refers to an animal that is not under restraint.

Under restraint. An animal shall be considered under restraint if it is confined or enclosed within a wall, fence or other enclosure on the premises of its owner or person in charge, is secured by a leash or lead or is confined within a kennel, crate or vehicle in a manner that prevents escape.

As used herein, the following words shall have the following meanings unless the context clearly indicates otherwise:

Animal means a dog, cat or other species of vertebrate that is kept as a household pet.

Animal control officer means any law enforcement officer appointed by the chief of police to enforce the provisions of this article.

Dangerous dog means any dog that may reasonably be assumed to pose a threat to public safety as demonstrated by any of the following behaviors or as otherwise defined by State or Local Law:

- (1) Attacks a person or domestic animal causing serious physical injury or death;
- (2) Behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious physical injury or death to one or more persons or domestic animals;

- (3) Is trained for or used in dog fighting or other illegal activity; or
- (4) Escalates the behavior which caused it to be designated as a potentially dangerous dog.

Dog means any member of the canine family.

Impounding officer means any person authorized by the city to impound animals under the provisions of this article, and includes agents and employees of the Jefferson County animal shelter or any other facility utilized by the city for impoundment of animals.

Nuisance. An animal shall be considered a nuisance if it:

- (1) Damages, soils or defecates on private property other than property possessed or controlled by the owner or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the animal owner or handler;
- (2) Causes unsanitary, dangerous or offensive conditions;
- (3) Causes a disturbance by excessive barking or other noise making; or
- (4) Chases vehicles, or molests, attacks, or interferes with persons or other domestic animals on public property.

Owner means a person having the right of property or custody of an animal or who keeps or harbors an animal or knowingly permits an animal to remain on or about any premises occupied, owned, or controlled by that person.

Potentially dangerous dog means any dog that has the potential to pose a threat to public safety as demonstrated by any of the following behaviors:

- (1) Causes a physical injury to a person or domestic animal that is less severe than a serious physical injury;
- (2) Chases or menaces a person or domestic animal in an aggressive manner;
- (3) Acts in a highly aggressive manner within a fenced yard/enclosure and appears to a reasonable person able to jump over or escape; or
- (4) Runs at large and has been impounded, or owners cited, two or more times within any 12-month period.

Proper enclosure means confinement indoors or confinement in a pen, fenced yard, or other structure measuring at least four feet in width, four feet in length, capped if there is a dog house inside or if the dog can climb fence, with secure sides, which provides proper protection from the elements for the dog, is suitable to prevent the entry of young children, and is designed to prevent the animal from escaping while on the owner's property. Such enclosure must be adequately ventilated and kept in a clean and sanitary condition. Animal control officers shall have the authority to determine whether or not this requirement is satisfied in any particular case.

Secure enclosure means confinement indoors or confinement in a pen, kennel or other structure measuring at least four feet in width, four feet in length, which has secure sides, a secure top attached to the sides, a secure bottom or floor attached to the sides or the sides must be embedded in the ground no less than two feet, and which is designed to prevent the animal from exiting the enclosure or anyone else from entering the enclosure except through a door which must be locked with a key or combination lock when the animal is inside. Such enclosure must be adequately ventilated and kept in a clean and sanitary condition. Animal control officers shall have the authority to determine whether or not this requirement is satisfied in any particular case.

Serious physical injury means any physical injury which results in muscle tears, broken bones or lacerations requiring sutures or which requires corrective or cosmetic surgery.

Same — Impounding; redemption sale.

- (a) Any dog found running at large in the corporate limits of the city, whether on private or public property, shall be taken in charge by the proper authorities and placed in an impounding place or pen and there confined.
- (b) The owner of such animal may redeem same by paying a impound fee of \$100.00 together with all maintenance costs for the period of impound as described herein. The same to be paid to the city clerk.

Owner responsibilities.

- (a) Animals shall be kept under restraint at all times and shall not be allowed to run at large within the city limits or its police jurisdiction;
- (b) No animal shall be allowed to cause a nuisance
- (c) Owners shall ensure that their animal carries visible identification at all times in the form of tag, or other means to allow easy determination of the owner(s).
- (d) Animals over the age of three months must be immunized for rabies and must wear evidence of current immunization at all times as required by Code of Ala. 1975, § 3-7A-2, et seq.

Impoundment officer and animal control officer authority on unenclosed premises.

For the purpose of discharging the duties imposed by this article and to enforce its provisions, impounding officers and animal control officers are empowered to enter upon any unenclosed premises upon which an animal is running at large in violation of this article and in the presence of such impounding officers and animal control officers for the purpose of obtaining information for the issuance of a citation or of impounding such dog.

Interference.

No person shall interfere with, hinder or molest any impounding officer or animal control officer in the performance of any duty of such impounding officer or animal control officer or seek to release any animal in the custody of any impounding officer or animal control officer, except as provided in this article.

Impoundment of at large animals and owner redemption of same.

(a) Any animal found running at large in the city or its police jurisdiction may be impounded by any impounding officer and confined in an animal shelter in a humane manner.

(b) Immediately upon impounding an animal, the impounding officer shall make every reasonable effort to notify the owner and inform such owner of the conditions whereby custody of the animal may be redeemed.

(c) Animals not claimed by their owners within a period of seven full days in which the animal shelter is open to the public may be disposed of in a humane manner or made available for adoption.

(d) When an animal is found or observed running at large and its ownership is verified by an animal control officer, and said animal is otherwise in compliance with the other requirements of this article, an animal control officer may exercise the option of issuing a summons and complaint to the owner for violation of this article in lieu of impounding the animal. Impounded animals may be redeemed by their owners upon payment to the animal shelter of the following:

(1) The rabies immunization fee, if necessary, plus any penalty due under Code of Ala. 1975, § 3-7A-6 as amended;

(2) Boarding fees; and any associated costs including, but not limited to immunization or medical treatment while in the custody of the city.

(3) A fine up to \$500.00 and imprisonment up to 12 months as determined by the municipal court.

(e) No impounded animal over the age of three months shall be released from the animal shelter unless or until it has been immunized for rabies in compliance with Code of Ala. 1975, § 3-7A-2, et seq, as amended.

Designation of potentially dangerous or dangerous dogs.

(a) Any complaint made against a dog alleged to be potentially dangerous or dangerous shall be investigated by an animal control officer within two calendar days after the complaint.

(b) The animal control officer is authorized to designate a dog as potentially dangerous or dangerous based on the factors listed herein and shall notify the owner of the dog in writing by certified mail or hand delivery of such designation within five calendar days after completion of the investigation.

(c) The animal control officer shall, in designating a dog as potentially dangerous or dangerous, also consider the location relevance, the situation relevance/severity, and the aggression severity/danger as it applies to public safety.

(1) Location relevance shall be ranked as follows from low (1) to high (5):

- a. (1) The victim was uninvited on the property limits of the dog's owner;
- b. (2) The victim was invited on the property limits of the dog's owner;
- c. (3) The dog was off the property of its owner and was on leash;
- d. (4) The dog was off the property of its owner and was off leash with the owner present;
- e. (5) The dog was off the property of its owner and was off leash with the owner absent.

(2) Situation relevance/severity shall be ranked as follows from low (1) to high (9):

- a. (1) Chasing, harassing or worrying waterfowl/small animals;
- b. (2) Chasing, harassing or worrying livestock;
- c. (3) Attacking waterfowl/small animals;
- d. (4) Attacking livestock;
- e. (5) Attacking dogs/cats;
- f. (6) Threatening human adults;
- g. (7) Threatening human children;
- h. (8) Attacking human adults;
- i. (9) Attacking human children.

(3) Aggression severity/danger shall be ranked as follows from low (1) to high (12):

- a. (1) Bark;
- b. (2) Growl;
- c. (3) Snap/lunge, no contact;
- d. (4) Bite and release leaving no marks;
- e. (5) Bite and release leaving marks with no broken skin;
- f. (6) Bite and release leaving a scratch;

- g. (7) Bite and release leaving one to four punctures;
- h. (8) Bite and release leaving one to four punctures plus lacerations;
- i. (9) Multiple bite attack;
- j. (10) Bite without releasing with puncture/lacerations;
- k. (11) Severe mauling;
- l. (12) Fatality.

(d) Dogs shall be determined less dangerous when the evidence indicates lower numbers in the rankings. Dogs shall be determined to be more dangerous as the evidence indicates higher numbers in the rankings. For example, the animal control officer may refrain from designating a dog as potentially dangerous or dangerous when it scores very low in the rankings, whereas the animal control officer should designate a dog as dangerous when it scores very high in the rankings.

(e) If the animal control officer has evidence that a dog is potentially dangerous or dangerous and poses an imminent threat to public safety, following notice to the owner, the officer may order the dog impounded pending the investigation and designation required under subsections (a) and (b) herein. Prior notice is not required to be given when a dog has caused serious physical harm or death to any person or has escaped and is at large, in which case the animal control officer shall cause said animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person or animal. Any dog seized under this paragraph shall be impounded until the owner complies with any requirements imposed under this article. The owner of the dog shall be liable to the city for the costs and expenses of impoundment if the dog is later designated as potentially dangerous or dangerous. No dog shall be designated potentially dangerous or dangerous if:

- (1) The dog was used by a law enforcement official for legitimate law enforcement purposes;
- (2) The threat, injury or damage was sustained by a person;
 - a. Who was committing at the time a willful trespass or other tort upon the premises lawfully occupied by the owner of the dog;
 - b. Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
 - c. Who was committing or attempting to commit a crime; or
- (3) The dog was:

- a. Responding to pain or injury, or was protecting itself or its offspring; or
- b. Protecting or defending a human being within the immediate vicinity of the dog from attack or assault.

(f) After receipt of notice specified in subsection (b) herein, the owner may, within five calendar days, file with the city clerk a petition for review of the designation. Upon the filing of a petition for review, said petition shall be scheduled for a hearing before the animal control review board, such hearing to be held not more than ten business days following the filing of the petition, and notice shall be given to the owner and the animal control officer of the place, date and time of the hearing. Such notice shall also be posted at city hall. The animal control review board shall hear from the owner, animal control officer and any other interested citizens on the issue of the animal's designation as potentially dangerous or dangerous and upon consideration of the same shall vote to affirm, vacate or modify the designation based on the criteria set forth in this section. The decision of the animal control review board on the issue of designation shall be final; however, the decision of the animal control review board shall not prevent an animal control officer from later designating the same dog as potentially dangerous or dangerous based on subsequent events.

(g) The chief of police or his or her designee shall maintain a list of all dogs within the city limits and its police jurisdiction which have been designated as potentially dangerous or dangerous, including in such list the name, address and telephone number of the owner, any identification number(s) assigned to the dog, and the date of the designation.

(h) If any dog previously designated as potentially dangerous has not exhibited any of the behaviors specified herein within 36 months since the date of the designation, the potentially dangerous designation may be removed at the discretion of the chief of police; provided, however, then that same dog may again be designated a dangerous or potentially dangerous dog if it again exhibits any of the specified behaviors.

Holding permit for potentially dangerous and dangerous dogs.

(a) If a dog is designated potentially dangerous, the owner may be issued an annual holding permit upon satisfaction of the following conditions:

- (1) The owner is at least 21 years of age or older;
- (2) Evidence of a current rabies vaccination;
- (3) The owner has a proper enclosure as defined herein;
- (4) The potentially dangerous dog has been spayed or neutered;
- (5) A permit fee, in an amount as set forth in the city schedule of fees in the city clerk's office, shall be paid in full.

- (6) The potentially dangerous dog has been implanted with a microchip containing owner identification information and which information is registered with the police department.
- (b) If a dog is designated dangerous, the owner may be issued an annual holding permit upon satisfaction of the conditions set forth in subsection (a) above and the following additional conditions:
- (1) The owner of the dangerous dog has permission from the property owner or any homeowner's association where the dog will be kept if applicable, however, no dangerous dog may be kept in a multiple family dwelling;
 - (2) The owner has a secure enclosure as defined herein;
 - (3) The owner has posted on the premises where the dog is kept a clearly visible written warning sign that there is a dangerous dog on the property with a conspicuous warning symbol that informs children of the presence of a dangerous dog, which sign shall be visible from the public roadway or 50 feet whichever is less;
 - (4) Any other conditions established by the animal control officer which may be reasonably necessary to protect the public at large;
 - (5) A permit fee, in the amount of \$50.00 annually paid to the city clerk's office, shall be paid in full.
- (c) The animal control officer may require impoundment of the dog until the owner of the dog has satisfied all the requirements necessary to obtain the required annual holding permit. Such requirements must be met within 30 days of the designation and must be renewed annually with a new permit application.
- (d) The animal control officer may deny issuance of a holding permit for a dangerous dog that has caused serious physical injury to a human or animal when in the judgment of the animal control officer the dog represents a continuing threat of serious physical harm to human beings. If a holding permit is denied under these conditions, if not already impounded, the animal control officer must order that the dog be immediately impounded by the impounding officer.
- (e) If the owner does not satisfy the requirements in subsection (a) or (b) within 30 days, or if the animal control officer denies issuance of an annual permit under subsection (d), the dog may be disposed of as follows:
- (1) Potentially dangerous dogs may be made available for adoption if all of the conditions set forth in subsection (a) above are satisfied and an annual holding permit is issued before the adoption is consummated. Under no

circumstances may a dog that has been designated dangerous be made available for adoption;

- (2) Arrangements may be made to remove the dog from the city limits and its police jurisdiction no later than the 30th day following the designation. The owner must notify the animal control officer of the address where the dog will be domiciled and the name of the new owner, if applicable. The animal control officer shall promptly notify the chief of police or sheriff of the city or county where the animal shall be domiciled and include with said notice a copy of the potentially dangerous or dangerous dog designation; or

- (3) The dog shall be humanely euthanized at the expiration of the 30-day period set forth above, or earlier if the owner consents.

(f) The animal control officer may order the immediate impoundment of a potentially dangerous or dangerous dog if the owner fails to abide by the annual holding permit.

Potentially dangerous and dangerous dog owner responsibilities.

(a) Potentially dangerous or dangerous dogs may not be kept in the city limits or its police jurisdiction unless the owner possesses a valid holding permit.

(b) Owners of potentially dangerous or dangerous dogs must comply with the conditions of the annual holding permit at all times.

(c) At all times when a potentially dangerous dog is not indoors or in a proper enclosure, such dog must be kept on a secure leash of no more than four feet in length and under the control of a person who is over the age of 18 years old, who is familiar with the dog and has the size and experience to keep the dog under control at all times.

(d) At all times when a dangerous dog is not indoors or in a secure enclosure, such dog must be caged or muzzled and restrained with a secure leash of no more than four feet in length and under the control of a person who is over the age of 18 years old, who is familiar with the dog and has the size and experience to keep the dog under control at all times.

(e) Dangerous dogs must be maintained exclusively on the owner's property except as necessary to receive medical treatment or examination.

(f) If a potentially dangerous or dangerous dog has been sold or given away the owner shall within 24 hours provide the police department with the name, address, and telephone number of the new owner of the dog.

(g) If a potentially dangerous or dangerous dog escapes or is at large, or has attacked a domestic animal or human being the owner must immediately notify the police department.

(h) If a potentially dangerous or dangerous dog has died, the owner must give notice to the police department within five business days.

Penalties.

- (a) An owner of a potentially dangerous dog who violates the provisions of this article shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine up to \$500.00 and/or imprisonment up to 12 months as determined by the municipal court.
- (b) Any law enforcement officer may, in lieu of placing a person under custodial arrest pursuant to this article, issue a summons and complaint to any person who is charged with violating any provision of this article.
- (c) Any person who has received a notice of a violation of this article and who has not appeared or executed bond for appearance in the municipal court to answer such charge, and who desires to waive trial on the question of his guilt or innocence of such charge and to voluntarily settle such charge out of court, may apply to the city magistrate within 72 hours after issuance of such notice of violation to voluntarily pay to the city magistrate in settlement of such alleged offense the sum as set forth in the city fee schedule, if the offense charged is the first such offense by the owner or person charged within 12 months from the date of such citation. The city magistrate is authorized to receive such amount in settlement of such alleged offense and to give receipt therefore. In the event of such payment, no prosecution for the alleged offense shall thereafter be instituted or maintained in the municipal court. If a person receiving a citation for violation of this article as herein provided has within the preceding 12 months from the date of such citation settled or been convicted of one or more such violations, he may not be permitted to settle the instant alleged offense, but may be required to stand trial in municipal court as determined by the court.

Illegally removing dog from confinement.

- (a) It shall be unlawful for any person to take a dog from a confinement or restraint of its owner or of the person in charge of it or to cause a dog to escape from such confinement or restraint without specific permission from the owner or person in charge or control of the dog.
- (b) Any person who violates this section shall be guilty of a misdemeanor according to law, and, upon conviction, shall be punished by a fine in an amount up to \$500.00 and/or imprisonment up to 12 months as determined by the municipal court.

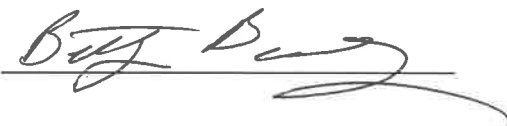
Administration.

- (a) This article shall be administered by the chief of police with oversight by the mayor.
- (b) The chief of police may appoint one or more trained agents to investigate alleged violations of this article, to make arrests and issue summons and complaints for violations of this article, to order impoundment of animals and to make designations of potentially dangerous or dangerous animals.
- (c) The chief of police or his or her designee shall be responsible for issuing annual holding permits for potentially dangerous dogs and may make use of such forms or procedures as it deems necessary to efficiently issue such annual permits.

Animal control review board.

- (a) The animal control review board shall be comprised of the chief of the police department, the chief of the fire and rescue department, the city clerk, the magistrate and the mayor.
- (b) The vote of a majority of the members of the animal review control board shall be required to affirm, vacate or modify a potentially dangerous or dangerous dog designation.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF ARGO,
ALABAMA** on this 25 day of March, 2019.



Betty Bradley, **Mayor**

ATTEST:



City Clerk,

I, Casie Bethune, City Clerk of the City of Argo, hereby certify that the above Ordinance was duly adopted by the City Council of the City of Argo at a regular meeting held on the 25 day of March, 2019.



City Clerk