

STATE OF ALABAMA)

COUNTY OF MADISON)

RESOLUTION OF THE MADISON COUNTY COMMISSION

WHEREAS, on November 6, 2012, the citizens of Madison County, Alabama, approved an Amendment to the Constitution of the State of Alabama of 1901, previously referred to as Act No. 2011-352 of the Regular Session of the Legislature of Alabama, which is attached hereto and made a part hereof as Exhibit "A" (the "Amendment"); and

WHEREAS, the Amendment (i) established, for those areas of Madison County outside the corporate limits of any municipality, a procedure by which a dog can be declared dangerous and humanely destroyed, or returned to the owner, if certain requirements are met and the dog is securely enclosed; (ii) provided immunity for County officers and employees; and (iii) provided for certain penalties; and

WHEREAS, Section 6(c) of the Amendment provides that the Madison County Commission must establish an annual fee to register a dangerous dog; and

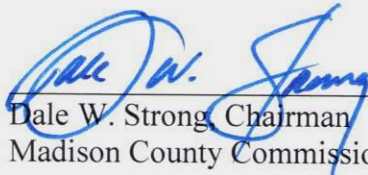
WHEREAS, Section 13 of the Amendment provides that the Madison County Commission must establish the date on which the provisions of the Amendment shall become effective.

NOW, THEREFORE, BE IT RESOLVED BY THE MADISON COUNTY COMMISSION, as follows:

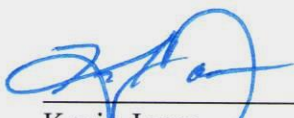
1. The provisions of the Amendment are hereby incorporated as if set out in full herein.
2. The annual license fee for a dangerous dog, as provided in Section 6(c) of the Amendment, is hereby established as \$100 per year.
3. The effective date of the Amendment is hereby established as May 1, 2013.

Done this the 18th day of March, 2013.

MADISON COUNTY COMMISSION


Dale W. Strong, Chairman
Madison County Commission

ATTEST:


Kevin Jones
County Administrator



Alabama Const. Amend. MADISON Cty., Sec. 0.60 (2012)

Sec. 0.60. Dangerous Dogs -- 2012.

Section 1. The people of the State of Alabama find and declare that: Certain dogs are an increasingly serious and widespread threat to the safety and welfare of citizens of this state by virtue of their unprovoked attacks on, and associated injury to, individuals; these attacks are in part attributable to the failure of owners to confine and properly train and control these dogs; existing laws inadequately address this problem; and it is therefore appropriate and necessary to impose requirements on the owners of dangerous dogs.

Section 2. The provisions of this constitutional amendment are applicable to those areas of Madison County outside the corporate limits of any municipality.

Section 3. The following words shall have the following meanings:

- (1) **Animal control officer.** Any person employed by Madison County who performs animal control functions.
- (2) **Attack.** Aggressive physical contact initiated by a dog.
- (3) **Bitten.** Seized with the teeth so that the skin of the person seized has been gripped or has been wounded or pierced.
- (4) **Dangerous dog.** A dog, regardless of its breed, that has bitten, attacked, or caused physical injury to a human being, without provocation, or has repeatedly bitten or caused physical injury to humans, except a dog used by law enforcement officials for legitimate law enforcement purposes, a certified guide dog for the blind, a hearing dog for the deaf, or a service dog for the disabled.
- (5) **Dog.** All members of the canine family including dog hybrids.
- (6) **Impounded.** Taken into the custody of law enforcement, the county pound, or an animal control authority or provider of animal control services to Madison County.
- (7) **Owner.** A person, firm, corporation, or organization having a right of property in a dog, or who keeps or harbors a dog, or who has a dog in his or her care or acts as the custodian of a dog, or who permits a dog to remain on or about any premises occupied by him or her.
- (8) **Physical injury.** An injury as defined in *Section 13A-1-2(12), Code of Alabama 1975*.
- (9) **Proper enclosure of a dangerous dog.** An enclosure for the confinement of a dog that has been declared dangerous which is suitable to prevent the entry of the general public and:
 - a. Is capable of being locked with a key or combination lock when the dog is within the structure.

b. Has secure sides and a secure top attached at all sides. All four sides of the fence or pen must be sunk at least two feet into the ground or the fence or pen must be built over a concrete pad to prevent the animal from digging out.

c. Provides adequate ventilation and protection from the elements.

d. Exhibits a sign conspicuously posted upon the pen or the structure containing the following: "Dangerous Dog - No Trespassing."

e. The enclosure shall be constructed to allow the dog to stand normally and without restriction and shall be not less than four times the length of the dog and two times the width of the dog.

(10) Serious physical injury. An injury as defined in *Section 13A-1-2(14), Code of Alabama 1975*.

Section 4. (a) An animal control officer or law enforcement officer shall investigate any incident involving any dog reported to be dangerous.

(b) If a dog that is unowned and has been reported to be dangerous bites a person, the dog may be quarantined and destroyed pursuant to *Section 3-7A-9(b), Code of Alabama 1975*. For the purposes of this subsection, "bites" means the same as "has been exposed" as defined in *Section 3-7A-1(5), Code of Alabama 1975*.

(c) If there is probable cause to believe that an owned dog is dangerous and has caused serious physical injury to a human being, a law enforcement officer or animal control officer shall impound the dog pending disposition of a petition to declare a dog to be dangerous. Madison County may impound the dog at the county pound as described in *Section 3-7A-7, Code of Alabama 1975*, or may enter into an agreement with an animal shelter or licensed veterinarian to secure and impound dangerous dogs pursuant to this section. The owner of the dog shall be liable to Madison County for the costs and expenses incurred in impounding, feeding, and providing veterinary care or treatment for the dog.

(d) The district attorney, county attorney, or the designee of either, shall be authorized to file a petition in the district court to declare the dog that caused physical injury to a human being in Madison County to be dangerous. The owner of the dog shall be served with a copy of the petition.

(e) A dog that is the subject of a dangerous dog investigation may not be relocated and ownership shall not be transferred pending the outcome of the investigation and hearing to determine whether to declare the dog to be dangerous.

(f) The court hearing shall be held as soon as practicable. At the hearing, the district attorney, county attorney, or the designee of either, shall present evidence that the dog is dangerous and whether the dog caused serious physical injury to a human being.

(1) If the court determines that the dog is dangerous and has caused serious physical injury or death to a human being, the court shall order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control official.

(2) If the court determines that the dog is dangerous, but has not caused serious physical injury or death to a human being or other animal, the court shall issue orders authorized by this section.

(g) The pleading and practice in all cases to petition the court to declare a dog to be dangerous under this section shall be in accordance with the Alabama Rules of Civil Procedure unless otherwise specified by this amendment. The court may tax all costs of the proceedings including attorney's fees and expert witness fees to the owner of the dog.

Section 5. (a) A dog may not be declared dangerous in any of the following circumstances:

(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 premises occupied by the owner or custodian of the dog with the intent to commit a crime or was committing a crime; was teasing, tormenting, abusing, or assaulting the dog; or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog.

(2) When the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault.

(3) When the dog was responding to pain or injury or protecting itself, its kennel, or its offspring.

(4) When a person or domestic animal was disturbing the natural functions of the dog such as sleeping or eating.

(b) Neither growling nor barking, or both, shall alone constitute grounds upon which to find a dog to be dangerous.

Section 6. (a) If a court determines that a dog is dangerous, but does not order that the dog be destroyed because evidence was insufficient to determine that the dog caused serious physical injury, in addition to any other requirements imposed by the court, within 30 days of the issuance of the order declaring the dog to be dangerous, the owner of the dog shall register the dog with the Madison County Animal Control Department. All certificates of registration required to be obtained under this section shall only be issued to persons 18 years of age or older who present evidence of the following:

(1) A current certificate of rabies vaccination.

(2) A current photograph of the dog.

(3) That the dog will be confined to a proper enclosure when the dog is outdoors and unattended.

(4) That the dog has been neutered or spayed, unless medically not needed.

(5) That the dog has been permanently identified by tattooing or injecting an identification microchip using standard veterinary procedures and practices, and the name, address, and phone number of the veterinarian performing the identification procedure.

(6) A policy of insurance, such as homeowner's, or a surety bond in the amount of not less than one hundred thousand dollars (\$100,000) covering the medical or veterinary costs, or both, resulting from any future dangerous actions of the dog.

(7) If the owner of the dangerous dog is not the owner of the property where the dog is kept, the owner of the dog must obtain from the property owner written permission for the dangerous dog to be kept there.

(8) A notarized affidavit from the owner of the dangerous dog stating that the dog will be under the control of a person 18 years or older when the dog is not in a proper enclosure or inside a building and that the dog will not be allowed outside the property of its owner except in emergencies or for normal or necessary medical or health-related treatment.

(b) If the owner fails to provide a proper enclosure for the dangerous dog or fails to provide a certification of dangerous dog registration to the court within 30 days of the issuance of the court's declaration that the dog is dangerous, the dog shall be humanely euthanized.

(c) The owner of the dangerous dog shall pay an annual fee to register the dog pursuant to the provisions of this amendment. The amount of the dangerous dog registration fee shall be established by the Madison County Commission. The payment of the dangerous dog registration fee shall be in addition to any regular dog licensing fee required by Madison County.

(d) An animal control officer or law enforcement officer may make whatever inquiry is deemed necessary to ensure compliance with this amendment and any court order issued pursuant to this amendment.

(e) Prior to a dangerous dog being sold or given away, the owner shall advise the new prospective owner in writing that the dog has been declared to be dangerous by a court and shall provide the Madison County Animal Control Department the name, address, and telephone number of the new owner. The new owner shall comply with all of the requirements of this amendment.

Section 7. The owner of a dog which has been declared to be dangerous by a court may petition the district court to remove the dangerous dog designation 18 months after the judicial declaration was issued. A copy of the petition shall be served upon the district attorney or county attorney. The court may remove the dangerous dog designation and eliminate any requirements of this amendment if the owner of the dog has not violated this amendment and any orders of the court, and if the court is satisfied from the evidence that the dog is no longer dangerous.

Section 8. (a) If a dog that has previously been declared by a court to be dangerous, when unprovoked, shall cause serious physical injury or kill a human being the owner of the dog shall be guilty of a Class C felony.

(b) If a dog that has not been declared by a court to be dangerous, attacks and causes serious physical injury or death to any human being, and the owner of the dog had prior knowledge of the dangerous propensities of the dog, yet demonstrated a reckless disregard of the propensities under the circumstances, the owner of the dog shall be guilty of a Class A misdemeanor.

(c) In addition to any fines imposed by the court, a person guilty of violating subsections (a) and (b) of this section shall pay all expenses, including, but not limited to, shelter, food, veterinary expenses for boarding and veterinary expenses necessitated by impoundment of the dog, medical expenses incurred by a victim from an attack by a dangerous dog, and other expenses required for the destruction of the animal.

(d) An owner of a dog declared to be dangerous by a court who does not contain the dog in a proper enclosure shall be guilty of a Class C misdemeanor.

(e) An owner of a dog declared to be dangerous by a court who has been adjudicated guilty of subsection (d) and subsequently fails to contain a dangerous dog in a proper enclosure shall be guilty of a Class B misdemeanor.

Section 9. Nothing in this amendment shall be construed to repeal other criminal laws. Whenever conduct prescribed by any provision of this amendment is also prescribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

Section 10. (a) Nothing in this amendment shall be construed to restrict or negate the requirements of the rabies control law contained in *Sections 3-7A-1 to 3-7A-16, inclusive, Code of Alabama 1975.*

(b) Nothing in this amendment is designed to abrogate any civil remedies available under statutory or common law.

Section 11. Any person who knowingly makes a false report to a law enforcement officer or an animal control officer that a dog is dangerous is guilty of a Class C misdemeanor.

Section 12. Madison County, its district attorney and its county attorney and any of its, or their employees or agents, and the individual issuing the dangerous dog certificate or registration shall be immune from any and all liability for any actions taken or for any failure to act pursuant to this amendment.

Section 13. The Madison County Commission shall establish the date on which these provisions shall become effective.

HISTORY: Acts 2011, No. 11-352.

NOTES: Editor's notes.

Amendment proposed by Acts 2011, No. 11-352, submitted at the November 6, 2012 election, and ratified November 28, 2012 by a vote of 94650 for, and 31293 against.