

**ORDINANCE NO. 1987**

**ORDINANCE AMENDING CHAPTER 14 OF THE MUNICIPAL CODE  
PERTAINING TO THE REGULATION OF DANGEROUS ANIMALS**

**WHEREAS**, the Northport City Council has received complaints from two different neighborhoods about residents housing dangerous animals that have run loose and caused serious injury or death to other residents' pets; and

**WHEREAS**, these same residents have allowed these dangerous animals to run free, in violation of the City's leash laws causing concern and fear of serious bodily injury by other residents; and

**WHEREAS**, it is in the best interest of the City to regulate dangerous animals kept by residents within the City of Northport and provide penalties to those residents who do not responsibly control these potentially dangerous animals.

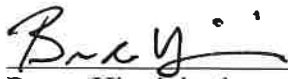
**IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHPORT,  
ALABAMA AS FOLLOWS:**


1. That Article VII, Section 14-170 through Section 14-181 be added to the Municipal Code and shall hereby read as Exhibit "A" which is attached hereto and incorporated herein by reference as if fully set out verbatim.
2. That this Ordinance shall become effective immediately.

**ORDAINED this the 28<sup>th</sup> day of January, 2019.**


**CITY COUNCIL OF THE  
CITY OF NORTHPORT**

**ATTESTED:**

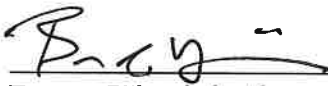
  
\_\_\_\_\_  
Bruce Higginbotham,  
City Administrator

  
\_\_\_\_\_  
Jay Logan  
Council President

**APPROVED** this the 28<sup>th</sup> day of January, 2019.

  
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Donna Aaron, Mayor

I hereby certify that the above and foregoing Ordinance was published on February 06, 2019 in the Northport Gazette, a newspaper of general circulation published in the City of Northport.

  
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Bruce Higginbotham, City Administrator

1st Reading: December 10, 2018  
Motion By: Roberts  
2nd Reading: January 28, 2019  
Motion By: Roberts  
Second By: Hinton  
Publication: February 06, 2019

# **EXHIBIT “A”**

## Chapter 14

### Article VII. Dangerous Animals

- Sec. 14-170 Purpose and Intent.
- Sec. 14-171 Definitions.
- Sec. 14-172 Impoundment
- Sec. 14-173 Sworn Statement; Dangerous Animal Investigation
- Sec. 14-174 Hearing; Procedures
- Sec. 14-175 Animal causing Serious Physical Injury or Death to a Person (Emily's Law)
- Sec. 14-176 Animal is dangerous but has not caused Serious Physical Injury or Death to a Person (Emily's Law)
- Sec. 14-177 Animal is dangerous and has caused Physical Injury, Serious Physical Injury or death to a Protected Animal
- Sec. 14-178 Presumptions
- Sec. 14-179 Owner Criminally liable for animal attack; Owner liable for impoundment expenses; penalty for failure to leash a dangerous animal; penalty for failure to surrender a dangerous animal; penalty for false reports.
- Sec. 14-180 Appeal
- Sec. 14-181 Miscellaneous

#### **14-170 - Purpose and Intent.**

It is the intent of the City of Northport to protect the health and safety of the public against the risks that Dangerous Animals pose to persons and other pets, domesticated animals or livestock in the City. The purpose of this ordinance is to afford animal Owners due process if an Owner's animal is determined to be a Dangerous Animal and to encourage animal Owners in the City to confine and properly train and control their animals so that their animals will not cause harm to other residents or to other pets, domesticated animals or livestock within the City.

## 14-171 - Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings respectively ascribed to them below:

- A. **"Animal"** unless otherwise stated, includes any living creature including, but not limited to, dogs, cats, cows, horses, birds, fish, mammals, reptiles, insects, fowl and livestock, but specifically excluding human beings.
- B. **"Animal Control Officer"** means any person employed by the City who performs animal control functions or any sworn law enforcement officer of the City.
- C. **"Attack"** means aggressive physical contact by an animal.
- D. **"Bitten"** means seized with the teeth so that the skin of the person seized has been gripped, or has been wounded or pierced, resulting in physical injury.
- E. **"Dangerous Animal"** means any animal that has bitten, attacked, or caused Physical Injury, Serious Physical Injury, or death to a person or a Protected Animal without justification, except a dog that is a police animal as defined by Alabama Code Section 13-A-11-260, used by law enforcement officials for legitimate law enforcement purposes.
- F. **"Impounded"** means taken into the custody of an animal control authority or provider of animal control services to the City.
- G. **"On a Suitable Leash"** defined
  1. "On a Suitable Leash means:
    - (a.) That the animal is attached to a leash that is no more than six (6) feet in length and of such material that the leash restrains the type and size of animal to which it is attached; and,
    - (b.) That the leash is continuously held by the person who restrains the animal such that the animal is under the person's physical control.
  2. A leashed animal that chases a person or domesticated animal a greater distance than six (6) feet or that bites a person or Protected Animal shall create a rebuttable presumption that the animal was not On a Suitable Leash and under reasonable control.
- H. **"Owner"** A person, firm, corporation, or organization having a right of property in an animal, or who keeps, fosters, or harbors an animal, or who has an animal in his or her care or acts as the custodian of an animal, or who permits an animal to remain on or about any premises occupied by him or her.
- I. **"Physical Injury"** means impairment of physical condition or substantial pain. (See **Alabama Code Section 13A-1-2 (12)**).
- J. **"Proper Enclosure of a Dangerous Animal"** means an enclosure for the confinement of an animal that has been declared dangerous that is suitable to prevent the entry of the general public that is constructed and at all times maintained in such a manner as to effectively prevent the animal from escaping the confines of enclosure and that does all of the following:

1. Is capable of being locked with a key or combination lock when the animal is within the structure.
  2. 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.
  3. Provides adequate ventilation and protection from the elements.
  4. Exhibits a sign conspicuously posted upon the pen or the structure containing the following "Dangerous Animal – No Trespassing".
  5. The enclosure shall be constructed to allow the animal to stand normally and without restriction and shall be not less than four times the length of the animal and two times the width of the animal.
  6. The enclosure shall be locked at all times while the animal is inside the enclosure.
- K. **"Protected Animal"** means a pet, domesticated animal or livestock owned or kept by a person within the City.
- L. **"Provoke"** and **Provocation"** means to perform a willful act or omission that an ordinary and reasonable person would conclude is likely to precipitate the bite or attack by an ordinary dog or other animal.
- M. **"Serious Physical Injury"** means physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ. (See **Alabama Code Section 13A-1-2 (14)**).
- N. **"Torment"** means an act or omission that causes unjustifiable pain, suffering, and distress to an animal for a purpose such as sadistic pleasure, coercion, or punishment that an ordinary and reasonable person would conclude is likely to precipitate a bite or attack.

#### **14-172 – Impoundment of Dangerous Animals.**

- A. The alleged dangerous animal shall be immediately impounded at the Tuscaloosa County Metro Animal Shelter for any of the reasons listed below:
1. Where the animal does not have a current rabies tag on its collar or the Owner of the animal cannot provide proof that the animal has been currently inoculated for rabies.
  2. When the animal causes Physical Injury or Serious Physical Injury to a person.
  3. Where the animal causes Physical Injury or Serious Physical Injury to a Protected Animal.

Provided however, the Owner of the animal shall be provided the opportunity to choose a veterinarian of his or her choosing to impound the animal in lieu of the county animal shelter. If the animal is impounded with a veterinarian chosen by the Owner of the animal, the Owner of the animal shall be liable for paying to the veterinarian the cost and expenses incurred in impounding, feeding, and providing veterinary care or treatment for the animal. If the municipality impounds the animal, the Owner of the animal shall be liable to the municipality for

the costs and expenses incurred in impounding, feeding, and providing veterinary care or treatment for the animal. The animal shall be impounded at the Tuscaloosa Metro Animal Shelter if and until the Owner chooses to use a veterinarian of his or her choice.

B. However, impoundment shall not be required if:

1. The animal bites or attacks a person or Protected Animal which is trespassing on the property of the animal's Owner.
2. The animal bites or attacks a person who Provokes or Torments the animal; or
3. The animal responds in a manner that an ordinary and reasonable person would conclude was intended to protect a person if that person is engaged in a lawful activity or is the subject of an assault.

**14-173 – Sworn Statement; Dangerous Animal Investigation.**

- A. When a person claims that an animal is dangerous, the person shall make a sworn statement before a city magistrate setting forth the name of the animal Owner, if known, the location where the animal is being kept in the city, and the reason he or she believes the animal to be dangerous.
- B. The sworn statement shall be delivered to an Animal Control Officer who shall complete a dangerous animal investigation. When the sworn statement claims that an animal has caused Physical Injury, Serious Physical Injury or death to a person, or a Protected Animal, the duties of the Animal Control Officer, including, but not limited to, the dangerous animal investigation, shall be carried out by a law enforcement officer.
- C. An Animal Control Officer may initiate a dangerous animal investigation in cases where a complaint has been made pursuant to Section (A) and a person or Protected Animal has been bitten, received Physical Injury or Serious Physical Injury, has died or has other reasons to believe this such investigation is warranted.
- D. In the event a dangerous animal investigation leads an Animal Control Officer to believe the allegation is founded, or further action warranted, the following shall occur:
  1. The Animal Control Officer shall meet with his or her Supervisor (as determined by the Chief of Police). The Supervisor shall review the investigation and undertake any additional investigation he or she deems appropriate.
  2. The Supervisor shall meet with the City Prosecutor to determine if there is sufficient information to believe the allegations that the animal in question is or could likely be deemed to be dangerous.
- E. In the event the dangerous animal investigation leads the City Prosecutor to believe the allegation is unfounded, the Animal Control Officer shall advise the complainant of these findings and the Animal Control Officer shall submit the results of the investigation to his or her Supervisor.

- F. A copy of all investigations made pursuant to this section shall be kept on file in the Animal Control Office.
- G. No further action is required by the City.

**14-174 – Hearing in Municipal Court; Procedures.**

- A. In the event a dangerous animal investigation leads the City Prosecutor to believe the allegation is founded, all of the following shall occur:
  - 1. The Animal Control Officer shall file a summons for the Owner of the animal, if known, with the Municipal Court.
  - 2. The Animal Control Officer shall send a copy of the investigation file to the Municipal Prosecutor.
  - 3. The Municipal Prosecutor shall file a petition in the Municipal Court to declare dangerous the animal that caused Physical Injury, Serious Physical Injury, or death to a person or Protected Animal in the City. The Owner of the animal, if known, shall be served with a copy of the petition.
  - 4. An animal that is the subject of a dangerous animal investigation may not be relocated and ownership may not be transferred pending the outcome of the investigation and hearing to determine whether to declare the animal to be dangerous without permission of the Municipal Court. The animal shall be immediately impounded pursuant to Section 14-172 if the animal is not already impounded.
  - 5. The court hearing shall be held as soon as practicable. At the hearing, the Municipal Prosecutor shall present evidence that the animal is dangerous. To declare the animal dangerous, the court shall find by reasonable satisfaction that the animal bit, attacked, or caused Physical Injury, Serious Physical Injury, or death to a person or Protected Animal without justification or that the animal may likely cause harm to persons or Protected Animals in the future.
  - 6. In making its determination, the court may consider the size; breed characteristics of the animal; the propensity of the animal to cause future Physical Injury or Serious Physical Injury; the training, or lack thereof provided by the Owner of the animal; the enclosure used by the Owner to confine the animal and protect the public; and any other matter the court deems appropriate in making its decision. The court may also consider the following:
    - 1. The animal bites or attacks a person or Protected Animal which is trespassing on the property of the animal's Owner.
    - 2. The animal bites or attacks a person who Provokes or Torments the animal; or
    - 3. The animal responds in a manner that an ordinary and reasonable person would conclude was intended to protect a person if that person is engaged in a lawful activity or is the subject of an assault.



**14-175 - Animal Causing Serious Physical Injury or death to a Person (Emily's Law).**

- A. To declare the animal dangerous, the court shall find by reasonable satisfaction that the animal bit, attacked, or caused Physical Injury, Serious Physical Injury, or death to a person without justification.
- B. If the court determines that the animal is dangerous and has caused Serious Physical Injury or death to a person, the court shall order the animal to be humanely euthanized by a licensed veterinarian or an authorized Animal Control Official. **(See Alabama Code Section 3-6A-4(h)(1)) (Emily's Law).**
- C. In lieu of the investigation or court proceedings, the Owner of the alleged dangerous animal may consent to the animal being humanely euthanized.

**14-176 – Animal is dangerous but has not caused Serious Physical Injury or Death to a Person (Emily's Law).**

- A. If the court determines that the animal is dangerous but has not caused Serious Physical Injury or death to a person, the court shall determine whether the animal has a propensity to cause future Serious Physical Injury or death. If the court determines by reasonable satisfaction that the animal has such a propensity, the court may order the animal to be humanely euthanized by a licensed veterinarian or authorized Animal Control Officer or the court may order the animal be returned to its Owner pursuant to all of the following conditions:
  - 1. The animal shall be held in impound until the Owner complied with all orders of the court, but if the Owner fails to comply with all orders of the court within 30 days of the court's order, the animal shall be humanely euthanized.
  - 2. The dangerous animal shall be microchipped.
  - 3. The Owner of the dangerous animal shall provide a copy of the certificate of the current rabies vaccination of the animal if appropriate for the animal.
  - 4. The dangerous animal shall be spayed or neutered.
  - 5. The Owner of the dangerous animal 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 animal is dangerous.
  - 6. The Owner of the dangerous animal shall be required to pay an annual dangerous animal registration fee of one hundred dollars (\$100) to the City for an animal deemed dangerous by a court or pay a penalty of one hundred dollars (\$100) to the City for non-registration within two weeks of the court order.
  - 7. 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.
  - 8. The surety bond required by subparagraph 7 shall provide coverage for bites, injuries, or death caused by the animal.

9. The Owner shall provide proof of the surety bond each time the annual dangerous animal registration fee is paid.
10. The Owner of the dangerous animal shall provide proof to the court that he or she has constructed a proper enclosure for a dangerous animal pursuant to Section 14-171. **(See Alabama Code Section 3-6A-4 (h)(2)) (Emily's Law).**

**14-177 – Animal is dangerous and has caused Physical Injury, Serious Physical Injury or death to a Protected Animal.**

- A. If the court determines that the animal is dangerous, and has caused Physical Injury, Serious Physical Injury or death to a Protected Animal, the court may order as set forth below. In addition, the court shall determine whether the animal has a propensity to cause future Physical Injury, Serious Physical Injury or death to a person or a Protected Animal. If the court determines by reasonable satisfaction that the animal has such a propensity, the court may order as set forth below:
1. The animal be humanely euthanized by a licensed veterinarian or an authorized Animal Control Officer.
  2. The animal be returned to the Owner pursuant to any or all of the restrictions set out in Section 14-176 as are appropriate under the circumstances.
  3. Any other conditions or requirements of the Owner to prevent future injury or damages by the animal to other persons or Protected Animals in the City as the court deems appropriate under the circumstances.
  4. The removal of the animal from the City.

**14-178 - Presumptions.**

- A. It is presumed that an animal is not a dangerous animal where:
1. The animal bites or attacks a person or Protected Animal which is trespassing on the property of the animal's Owner.
  2. The animal bites or attacks a person who provokes or torments the animal; or
  3. The animal responds in a manner that an ordinary and reasonable person would conclude was intended to protect a person if that person is engaged in a lawful activity or is the subject of an assault.

However, this presumption may be rebutted by credible evidence.

**14-179 – Owner Criminally liable for animal attack; Owner liable for impoundment expenses; penalty for failure to leash a dangerous animal; penalty for failure to surrender a dangerous animal; penalty for false reports.**

**I. – Injury to Persons (Emily’s Law).**

- A. If an animal that has previously been declared by a court to be dangerous, when unjustified, attacks and causes Serious Physical Injury or death to a person, the Owner of the attack shall be guilty of a Class B felony.
- B. If an animal that has not been declared by a court to be dangerous, when unjustified, attacks and causes Serious Physical Injury or death to a person, and the Owner of the animal had prior knowledge of the dangerous propensities of the animal yet demonstrated a reckless disregard of the propensities under the circumstances, the Owner of the animal shall be guilty of a Class C felony.
- C. If an animal that has previously been declared by a court to be dangerous, when unjustified, attacks and causes Physical Injury to a person, the Owner of the animal shall be guilty of a Class A misdemeanor.
- D. If an animal that has not been declared by a court to be dangerous, when unjustified, attacks and causes Physical Injury to a person, and the Owner of the animal had prior knowledge of the dangerous propensities of the animal yet demonstrated a reckless disregard of the propensities under the circumstances, the Owner of the animal shall be guilty of a Class B misdemeanor.
- E. In addition to any fines imposed by the court, a person guilty of violating Section (A), (B), (C), or (D) shall pay all expenses, including, but not limited to, shelter, food veterinary expenses for boarding, and veterinary expense necessitated by impoundment of the animal, medical expenses incurred by a victim from an attack by a dangerous animal, and other expenses required for the destruction of the animal.
- F. When an animal declared to be dangerous is outside and not contained in the proper enclosure of a dangerous animal pursuant to Section 14-171 the Owner of the dangerous animal shall be present and shall restrain the dangerous animal with a secure collar and suitable leash.
  - 1. An Owner of an animal declared to be dangerous who violates subdivision (F) shall be guilty of a Class C misdemeanor, except that a second or subsequent adjudication or conviction is a Class B misdemeanor.
- G. An Owner of an animal that is the subject of a dangerous animal investigation who refuses to surrender the animal to an Animal Control Officer or law enforcement officer, upon the request of the Animal Control Officer or law enforcement officer, shall be guilty of a Class C misdemeanor.

- H. Any person who knowingly makes a false report to an Animal Control Officer for law enforcement officer that an animal is dangerous is guilty of a Class C misdemeanor. **(See Alabama Code Section 3-6A-5) (Emily's Law).**

## **II. – Injury to a Protected Animal.**

- A. If an animal that has previously been declared by a court to be dangerous, when unjustified, attacks and causes Physical Injury, Serious Physical Injury or death to a Protected Animal, the Owner of the animal shall be guilty of a misdemeanor.
- B. If an animal that has not been declared by a court to be dangerous, when unjustified, attacks and causes Physical Injury or Serious Physical Injury or death to a Protected Animal and the Owner of the animal had prior knowledge of the dangerous propensities of the animal yet demonstrated a reckless disregard of the propensities under the circumstances, the Owner of the animal shall be guilty of a misdemeanor.
- C. In addition to any fines imposed by the court, a person guilty of violating subsection (A), or (B) shall pay all expenses, including, but not limited to, shelter, food, veterinary expenses for boarding, and veterinary expenses necessitated by impoundment of the animal, medical expenses incurred by a victim from an attack by a dangerous animal, and other expenses required for the destruction of the animal.

### **14-180 - Appeal.**

The pleading and practice in all cases to petition the court to declare an animal to be dangerous under this section shall be in accordance with the Alabama Rules of Civil Procedure and rules of the courts governing municipal courts in this state unless otherwise specified by this chapter. Any judicial determination in municipal court or district court that an animal is dangerous may be appealed to the circuit court pursuant to the requirements of the Alabama Rules of Civil Procedure and the other of the circuit court shall be final.

### **14-181 - Miscellaneous.**

- A. Nothing in this chapter shall be construed to restrict or negate the requirements of the rabies control law contained in Alabama Code Sections 3-7A-1 to 3-7A-15 inclusive.
- B. Nothing in this chapter is designed to abrogate any civil remedies available under statutory or common law, including, but not limited to, Emily's Law, found at Alabama Code Sections 3-6A-1 through 8.
- C. Nothing in this chapter shall be construed to repeal other criminal laws. Whenever conduct prescribed by this chapter is also prescribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

D. This law shall become effective immediately.