

RESOLUTION NO. 2022-47

**A RESOLUTION TO INCLUDE THE KILLING OR SERIOUS INJURY OF LIVESTOCK
AS AN OFFENSE APPLICABLE TO SECTION 3-6A-4, CODE OF ALABAMA 1975**

Section 1. (a) For the purposes of this chapter, the following words shall have the following meanings:

- (1) **Animal Control Officer.** Any person employed by the who performs animal control functions or any person who performs animal control functions who is employed by an entity under agreement or contract with the county to perform animal control functions or to enforce this chapter.
- (2) **Attack.** Aggressive physical contact by a dog.
- (3) **Bitten.** Seized with the teeth so that the skin of the livestock has been gripped, or has been wounded or pierced, resulting in physical injury
- (4) **Dangerous dog.** A dog, regardless of its breed, that has attacked, caused serious physical injury, or death to livestock without justification, except a dog that is a police animal as defined by Section 13A-11-260, Code of Alabama 1975, used by law enforcement for legitimate law enforcement purposes.
- (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 the county where the dangerous dog is found.
- (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. Impairment of physical condition or substantial pain.

(9) Proper enclosure of a dangerous dog. An enclosure for the confinement of a dog that has been declared dangerous that is suitable to prevent the entry of the general public and does all of the following:

- 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 dog 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 not be less than four times the length of the dog and two times the width of the dog.

(10) Serious physical injury. A 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.

Section 2. (a) In addition to the provisions of Section 3-6A-4, Code of Alabama 1975, the following procedures shall apply in St. Clair County when a dog kills, injures, or seriously injures livestock:

(1) When a person claims that a dog is dangerous, the person shall make a sworn statement before a city magistrate or sheriff setting forth the name of the dog owner, if known, the location where the dog is being kept in the city or county, and the reason he or she believes the dog to be dangerous.

(2) The sworn statement shall be delivered to an animal control officer who shall complete a dangerous dog investigation. When the sworn statement claims that a dog has killed or seriously injured livestock, the duties of the animal control officer, including but not limited to the dangerous dog investigation, shall be carried out by a law enforcement officer.

(b) An animal control officer or law enforcement officer may initiate a dangerous dog investigation in cases where a complaint has been made pursuant to subsection (a) and livestock has been bitten, received physical injury or serious physical injury or has died.

(c)

(1) In the event a dangerous dog investigation leads an animal control officer or law enforcement officer to believe the allegation is founded, all of the following shall occur:

a. The animal control officer or law enforcement officer shall file a summons for the owner of the dog, if known, with the district court.

b. The dog in question shall be impounded at the county pound as described in Section 3-7A-7, Code of Alabama 1975, or the county may enter into an agreement with an animal shelter or licensed veterinarian to impound the dog; provided, however, the owner of the dog shall be provided with the opportunity to choose a veterinarian of his or her choosing to

impound the dog in lieu of the county pound or animal shelter. If the dog is impounded with a veterinarian chosen by the owner of the dog, the owner of the dog shall be liable for paying to the veterinarian the cost and expenses incurred in impounding, feedings, and providing veterinary care or treatment for the dog.

c. The animal control officer or law enforcement officer shall send a copy of the investigation report to the county attorney.

(2) In lieu of the investigation, the owner of the alleged dangerous dog may consent to the dog being humanely euthanized.

(d) In the event the dangerous dog investigation leads the animal control officer or the law enforcement officer to believe the allegation is unfounded, the animal control officer or law enforcement officer shall advise the complainant of his or her findings and the animal control officer or law enforcement officer shall submit the results of the investigation to his or her supervisor.

(e) A copy of all investigations made pursuant to this section shall be kept on file in the animal control office or the sheriff's office.

(f) The county attorney may file a petition in the district court to declare dangerous the dog that caused physical injury, serious physical injury, or death to livestock in the jurisdiction of St. Clair County. The owner of the dog, if known, shall be served with a copy of the petition.

(g) A dog that is the subject of a dangerous dog 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 dog to be dangerous.

(h) The court hearing shall be held as soon as practicable. At the hearing, the county attorney shall present evidence that the dog is dangerous. To declare the dog dangerous, the court shall find by **reasonable satisfaction** that the dog attacked or caused physical injury, serious physical injury or death to livestock without justification.

(1) If the court determines that the dog is dangerous and has caused serious physical injury or death to livestock, 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 livestock, the court shall determine whether the dog has a propensity to cause future serious physical injury or death to persons or livestock. 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 the following conditions:

a. The dog shall be held in impound until the owner complies 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 dog shall be humanely euthanized.

b. The dangerous dog shall be microchipped.

c. The owner of the dangerous dog shall provide a copy of the certificate of the current rabies vaccination of the dog.

d. The dangerous dog shall be spayed or neutered.

e. 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.

f. 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 for a dog deemed dangerous by a court or pay a penalty of one hundred dollars (\$100) to the county for non-registration within two weeks.

g.

1. 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.

2. The surety bond required by sub paragraph 1 shall provide coverage for dog bites, injuries, or death to either persons or livestock caused by the dog.

3. The owner shall provide proof of the surety bond each time the annual dangerous dog registration fee is paid.

h. The owner of the dangerous dog shall provide proof to the court that he or she has constructed a proper enclosure for a dangerous dog.

(i) The pleading and practice in all cases to petition the court declare a dog to be dangerous under this section shall be in accordance with the Alabama Rules of Civil Procedure in this state, unless otherwise specified in this chapter. Any judicial determination in district court that a dog is dangerous may be appealed to the circuit court pursuant to requirements of the Alabama Rules of Civil Procedure and the order of the circuit court shall be final.

(j) It shall be presumed that a dog is not a dangerous dog pursuant to this chapter if the dog was on property owned by the owner of the dog when the event subject to a claim under this chapter occurred, or the livestock was trespassing on any property when the event subject to a claim under this chapter occurred.

Section 3. (a) If a dog that has previously been declared by a court to be dangerous, when unjustified, attacks and causes serious physical injury or death to livestock, the owner of the dog shall be guilty of a **Class B misdemeanor**.

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

(c) If a dog that has previously been declared by the court to be dangerous, when unjustified, attacks and causes physical injury to livestock, the owner of the dog shall be guilty of a Class C misdemeanor.

(d) If a dog that has not been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to livestock, 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 C misdemeanor.

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

(f)

(1) When a dog declared to be dangerous is outside and not contained in the proper enclosure of a dangerous dog pursuant to Section 2, the owner of the dangerous dog shall be present and restrain the dangerous dog with a secure collar and leash.

(2) An owner of a dog declared to be dangerous who violate subdivision (1) 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 a dog that is the subject of a dangerous dog investigation who refuses to surrender the dog 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 or law enforcement officer that a dog is dangerous is guilty of a Class C misdemeanor.

Section 4. Nothing in this resolution shall be construed to repeal other criminal laws, abrogate any civil remedies available under statutory or common law, or conflict with the laws of the State of Alabama. Whenever conduct prescribed by this resolution is also prescribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

IN WITNESS WHEREOF, the St. Clair County Commissioners have caused this Resolution to be executed on their behalf by Paul Manning, Chairman of the St. Clair County Commission, on this 26 day of April 2022.

Paul Manning

Paul Manning,

Chairman

ATTEST:

Tina Morgan

Tina Morgan, Administrator