

MARSHALL COUNTY ANIMAL CONTROL ACT

19-100

Sec. 1. This Act shall be known and may be cited as the Marshall County Animal Control Act.

Sec. 2. As used in this Act, unless the context otherwise requires, the terms specified in Sections 2.01 through 2.19 have the meanings ascribed to them in those Sections.

Sec. 2.01. "Administrator" means a veterinarian licensed by the State of Illinois and appointed pursuant to this Act, or in the event a veterinarian cannot be found and appointed pursuant to this Act, a non-veterinarian may serve as Administrator under this Act. In the event the Administrator is not a veterinarian, the Administrator shall defer to the veterinarian regarding all medical decisions.

Sec. 2.02. "Animal" means every living creature, other than man, which may be affected by rabies.

Sec. 2.03. "Animal Control Warden" means any person appointed by the Administrator to perform the duties set forth in this Act.

Sec. 2.03a. "Business day" means any day including holidays that the animal control facility is open to the public for animal reclaims.

Sec. 2.04. "Board" means the County Board of Marshall County, Illinois.

Sec. 2.04a. "Cat" means *Felis catus*.

Sec. 2.05. "Confined" means restriction of an animal at all times by the owner, or his agent, to an escape-proof building, house, or other enclosure away from other animals and the public.

Sec. 2.05a. "Dangerous dog" means (i) any individual dog anywhere other than upon the property of the owner or custodian of the dog and unmuzzled, unleashed, or unattended by its owner or custodian that behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or a companion animal or (ii) a dog that, without justification, bites a person and does not cause serious physical injury.

Sec. 2.06. "Department" means the Department of Agriculture of the State of Illinois.

Sec. 2.07. "Deputy Administrator" means a veterinarian licensed by the State of Illinois, appointed by the Administrator.

Sec. 2.08. "Director" means the Director of the Department of Agriculture of the State of Illinois, or his duly appointed representative.

Sec. 2.09. "District" means a geographic area consisting of 2 or more municipalities in their entirety.

Sec. 2.10. "District Board" means the governing body created to act as a single unit to effectuate this Act in a District and shall consist of 3 members of the Board of each county involved.

Sec. 2.11. "Dog" means all members of the family *Canidae*.

Sec. 2.11a. "Enclosure" means a fence or structure of at least 6 feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures that may be taken by the owner or keeper, such as tethering of the vicious dog within the enclosure. The enclosure shall be securely enclosed and locked and designed with secure sides, top, and bottom and shall be designed to prevent the animal from escaping from the enclosure. If the enclosure is a room within a residence, it cannot have direct ingress from or egress to the outdoors unless it leads directly to an enclosed pen and the door must be locked. A vicious dog may be allowed to move about freely within the entire residence if it is muzzled at all times.

Sec. 2.11b. "Feral cat" means a cat that (i) is born in the wild or is the offspring of an owned or feral cat and is not socialized, (ii) is a formerly owned cat that has been abandoned and is no longer socialized, or (iii) lives on a farm.

Sec. 2.11c. Intact animal. "Intact animal" means an animal that has not been spayed or neutered.

Sec. 2.12. "Has been bitten" means has been seized with the teeth or jaws so that the person or animal seized has been nipped, gripped, wounded, or pierced, and further includes contact of saliva with any break or abrasion of the skin.

Sec. 2.12a. "Impounded" means taken into the custody of the Marshall County Animal Control Facility, located on the grounds of the Marshall County Airport, Lacon, Marshall County, Illinois.

Sec. 2.13. "Inoculation against rabies" means the injection of an antirabies vaccine approved by the Department.

Sec. 2.14. "Leash" means a cord, rope, strap, or chain which shall be securely fastened to the collar or harness of a dog or other animal and shall be of sufficient strength to keep such dog or other animal under control.

Sec. 2.15. "Licensed veterinarian" means a veterinarian licensed by the State in which he engages in the practice of veterinary medicine.

Sec. 2.16. "Owner" means any person having a right of property in an animal, or who keeps or harbors an animal, or who has it in his care, or acts as its custodian, or who knowingly permits a dog to remain on any premises occupied by him or her. "Owner" does not include a feral cat caretaker participating in a trap, spay/neuter, return or release program.

Sec. 2.17. "Person" means any individual, firm, corporation, partnership, society, association or other legal entity, any public or private institution, the State of Illinois, municipal corporation or political subdivision of the State, or any other business unit.

Sec. 2.17a. "Peace officer" has the meaning ascribed to it in Section 2-13 of the Illinois Criminal Code of 1961.

Sec. 2.17b. "Police animal" means an animal owned or used by a law enforcement department or agency in the course of the department or agency's work.

Sec. 2.17c. "Potentially dangerous dog" means a dog that is unsupervised and found running at large with 3 or more other dogs.

Sec. 2.18. "Pound" or "animal control facility" may be used interchangeably and mean any facility approved by the Administrator for the purpose of enforcing this Act and used as a shelter for seized, stray, homeless, abandoned, or unwanted dogs or other animals.

Sec. 2.18a. "Physical injury" means the impairment of physical condition.

Sec. 2.19. "Registration certificate" means a printed form prescribed by the Department for the purpose of recording pertinent information as required by the Department under this Act.

Sec. 2.19a. "Serious physical injury" means a physical injury that creates a substantial risk of death or that causes death, serious disfigurement, protracted impairment of health, impairment of the function of any bodily organ, or plastic surgery.

Sec. 2.19b. "Vicious dog" means a dog that, without justification, attacks a person and causes serious physical injury or death or any individual dog that has been found to be a "dangerous dog" upon 3 separate occasions.

Sec. 3. The County Board Chairman with the consent of the County Board shall appoint an Administrator. Appointments shall be made as necessary to keep this position filled at all times. The Administrator may appoint an Animal Control Wardens to aid him or her, as authorized by the Board. The compensation for the Administrator and Animal Control Wardens shall be fixed by the Board. The Administrator may be removed from office by the County Board Chairman, with the consent of the County Board.

The Board shall provide necessary personnel, training, equipment, supplies, and facilities, and shall operate pounds or contract for their operation as necessary to effectuate the program. The Board may enter into contracts or agreements with persons to assist in the operation of the program and may establish a county animal population control program.

The Board shall be empowered to utilize monies from their General Corporate Fund to effectuate the intent of this Act.

The Board is authorized by ordinance to require the registration and may require microchipping of dogs and cats. The Board shall impose an individual registration fee of **TEN DOLLARS (\$10.00)** for sterilized dogs and cats for a one year license. The Board shall impose an individual dog registration fee of **THIRTY DOLLARS (\$30.00)** for sterilized dogs and cats for a three year license. The Board shall impose an individual registration fee of **TWENTY DOLLARS (\$20.00)** for intact dogs and intact cats for a one year license. The Board shall impose an individual registration fee of **SIXTY DOLLARS (\$60.00)** for intact dogs and intact cats for a three year license. **TEN DOLLARS (\$10.00)** of the individual registration fee for a one year license shall be placed in the Marshall County Animal Population Control Fund. **THIRTY DOLLARS (\$30.00)** of the individual dog registration fee for a three year license shall be placed in the Marshall County Animal Population Control Fund. When the money is placed in the Marshall County Animal Population Control Fund it shall be used to (i) spay, neuter, or sterilize adopted dogs or cats or (ii) spay or neuter dogs or cats owned by low income county residents who are eligible for the Food Stamp Program. All persons selling dogs or cats or keeping registries of dogs or cats shall cooperate and provide information to the Administrator as required by Board ordinance, including sales, number of litters, and ownership of dogs and cats. If microchips are required, the microchip number may serve as the county animal control registration number. In obtaining information required to implement this Act, the Department shall have power to subpoena and bring before it any person in this State and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed by law for civil cases in courts of this State.

This Section does not apply to feral cats.

Sec. 4. Duties and powers.

(a) It shall be the duty of the Administrator or the Animal Control Warden, through sterilization, humane education, rabies inoculation, stray control, impoundment, quarantine, and any other means deemed necessary, to control and prevent the spread of rabies and to exercise dog and cat overpopulation control. It shall also be the duty of the Administrator to investigate and substantiate all claims made under Section 19 of this Act.

(b) Municipalities may by ordinance determine the extent of the police powers that may be exercised by the Administrator, and Animal Control Wardens, which powers shall pertain only to this Act. The Administrator and Animal Control Wardens may issue and serve citations and orders for violations of this Act. The Administrator and Animal Control Wardens may not carry weapons unless they have been specifically authorized to carry weapons by county ordinance. Animal Control Wardens, however, may use tranquilizer guns and other nonlethal weapons and equipment without specific weapons authorization.

A person authorized to carry firearms by county ordinance under this subsection must have completed the training course for peace officers prescribed in the Peace Officer Firearm Training Act. The cost of this training shall be paid by the county.

(c) The sheriff and all sheriff's deputies and municipal police officers shall cooperate with the Administrator and his or her representatives in carrying out the provisions of this Act.

(d) The Administrator and animal control wardens shall aid in the enforcement of the Humane Care for Animals Act and have the ability to impound animals and apply for security posting for violation of that Act.

Sec. 5. All registration fees collected shall be due and payable to the Marshall County Treasurer. The Marshall County Treasurer, upon receipt of rabies vaccination certificates from a veterinarian, shall submit a statement for applicable registration fees to the owner of record, and said fees shall be remitted by the owner of record to the Marshall County Treasurer within thirty (30) days of the date of the initial statement. The Marshall County Treasurer shall place the monies in an Animal Control Fund. This fund shall be set up by her for the purpose of paying costs of the Animal Control Program. All fees collected shall be used for the purpose of paying claims for loss of livestock or poultry as set forth in Section 19 of this Act and for the following purposes as established by ordinance of the County Board: funds may be utilized by local health departments or county nurse's offices for the purchase of human rabies anti-serum, human vaccine, the cost for administration of serum or vaccine, minor medical care, and for paying the cost of stray dog control, impoundment, education on animal control and rabies, and other costs incurred in carrying out the provisions of this Act or any municipal ordinance concurred in by the Department relating to animal control, except as set forth in Section 19.

Sec. 6. In addition to any other fees provided for under this Act, Marshall County may charge a reasonable fee for the pickup and disposal of dead animals from private for-profit animal hospitals. This fee shall be sufficient to cover the costs of pickup and delivery and shall be deposited in the county's animal control fund.

Sec. 7. (a) Every owner of a dog 4 months or more of age shall have each animal inoculated against rabies by a licensed veterinarian. Every animal shall have a second rabies vaccination within one year of the first. Terms of subsequent vaccine administration and duration of immunity must be in compliance with USDA licenses of vaccines used.

(b) Every owner of a cat that is a companion animal and is 4 months or more of age shall have each cat inoculated against rabies by a licensed veterinarian. Every cat that is a companion animal shall have a second rabies vaccination within one year of the first. Terms of subsequent vaccine administration and duration of immunity must be in compliance with USDA licenses of vaccines used. This subsection (c) does not apply to feral cats; however, if a feral cat is presented to a licensed veterinarian for sterilization, the feral cat shall be inoculated against rabies, unless the person presenting the feral cat for care provides an inoculation certificate showing that the feral cat has been inoculated against rabies, and the cost of the inoculation shall be paid by the person presenting the feral cat to a licensed veterinarian for care.

A veterinarian who inoculates a cat that is a companion animal shall issue an inoculation certificate to the owner which shall comply with any registration requirements adopted by the county under Section 3 of this Act. The owner shall pay any fee imposed by the county under Section 3 of this Act. A veterinarian who inoculates a feral cat shall issue an inoculation certificate to the person who presented the feral cat for veterinary care. The registration requirements or any fee imposed by the county under Section 3 of this Act shall not apply to feral cats.

Evidence of such rabies inoculation shall be entered on the registration certificate the form of which shall be approved by the Board and which shall contain the microchip number of the animal if it has one and which shall be signed by the licensed veterinarian administering the vaccine. Veterinarians, both inside and outside of Marshall County, including the Administrator, who inoculate a dog shall procure from the Marshall County Treasurer serially numbered tags, one to be issued with each registration certificate. Only one animal shall be included on each certificate. The veterinarian immunizing or microchipping an animal shall provide the Marshall County Treasurer a certificate of immunization and microchip number. The Marshall County Treasurer shall cause a rabies inoculation tag to be issued, at no additional fee, as it is included in the initial registration fee, for each animal inoculated against rabies.

Rabies vaccine for use on animals shall be sold or distributed only to and used only by licensed veterinarians. Such rabies vaccine shall be licensed by the United States Department of Agriculture.

If a licensed veterinarian determines in writing that a rabies inoculation would compromise an animal's health, then the animal shall be exempt from the rabies shot requirement, but the owner must still be responsible for the fees.

Sec. 8. Any dog or cat, this does not apply to feral cats, found running at large contrary to provisions of this Act may be apprehended and impounded. For this purpose, the Administrator shall utilize any existing or available animal control facility or licensed animal shelter. The owner shall pay a **TWENTY-FIVE DOLLAR (\$25.00)** public safety fine. A **ONE HUNDRED DOLLAR (\$100.00)** Impoundment Fee shall also be paid by the animal's owner or any incorporated municipality, by or through its authorized agent, requesting the removal of said animal from within its jurisdiction. In addition, if the animal is unlicensed, the animal's owner shall pay the initial registration fee of **TEN DOLLARS (\$10.00)** for a one year registration fee or **THIRTY-DOLLARS (\$30.00)** for a three year registration fee. The animal's owner shall also pay a **SIXTEEN DOLLAR (\$16.00)** one year rabies inoculation fee or a **TWENTY-FOUR DOLLAR (\$24.00)** three year rabies inoculation fee. A **THREE DOLLAR (\$3.00)** per day Boarding fee shall also be charged to the animal's owner. The public safety fine, sterilization fee, boarding fee, impoundment fee, one or three year rabies inoculation fee and one or three year registration fees shall be paid from the animal's owner to the Administrator. The Administrator shall retain the fees from both the one year and three year inoculation fees to pay for his cost of inoculation. The Administrator shall remit to the Marshall County Treasurer all fees that he does not retain, along with the registration certificates. These fees shall be remitted to the Marshall County Treasurer on or before the first business day of each month. An animal found running at large contrary to the provisions of this Act a second or subsequent time must be spayed or neutered within 30 days after being reclaimed unless already spayed or neutered; failure to comply shall result in impoundment and a **FIFTY DOLLAR (\$50.00)** sterilization fee shall be incurred.

A dog that is actively engaged in a legal hunting activity, including training, is not considered to be running at large if the dog is on land that is open to hunting or on land on which the person has obtained permission to hunt or to train a dog. A dog that is in a dog-friendly area or dog park is not considered to be running at large if the dog is monitored or supervised by a person.

Sec. 9. Impoundment; redemption. When dogs or cats are apprehended and impounded, they must be scanned for the presence of a microchip. The Administrator shall make every reasonable attempt to contact the owner as defined by Section 2.16 as soon as possible. The Administrator shall give notice of not less than 7 business days to the owner prior to disposal of the animal. Such notice shall be mailed to the last known address of the owner. Testimony of the Administrator, or his or her authorized agent, who mails such notice shall be evidence of the receipt of such notice by the

owner of the animal.

In case the owner of any impounded dog or cat desires to make redemption thereof, he or she may do so by doing the following:

a. Presenting the Administrator proof of current rabies inoculation and registration, if applicable, which shall be presented to the Marshall County Treasurer.

b. Paying the Administrator for the rabies inoculation of the dog or cat and registration, if applicable, at the rates defined in Sec. 8 above, which said inoculation fees shall be retained by the Administrator for his cost of administering the inoculation.

c. Paying the Administrator for the board of the dog or cat for the period it was impounded at the rate defined in Sec. 8 above, which shall be presented to the Marshall County Treasurer.

d. Paying the Administrator an impoundment fee at the rate defined in Sec. 8 above as a penalty for the first offense and for each subsequent offense, which shall be presented to the Marshall County Treasurer.

e. Paying the Administrator a \$25 public safety fine to be presented to the Marshall County Treasurer for deposit into Marshall County's animal control fund.

f. Paying for microchipping if not already done, which fee shall be retained by the Administrator for the cost of administering the microchip.

g. Paying the above stated **FIFTY DOLLAR (\$50.00)** sterilization fee, which shall be refunded to the dog's owner in full, upon presentation of a certificate of sterilization within fourteen (14) days to the Marshall County Treasurer.

A licensed Illinois Animal Humane Society shall be allowed to make redemption of any animal, it may do so by doing the following:

a. Paying the Administrator for the rabies inoculation of the dog or cat at the rates defined in Sec. 8 above, which said inoculation fees shall be retained by the Administrator for his cost of administering the inoculation. The Administrator shall forward a certificate of inoculation to the Marshall County Treasurer at this time.

b. Signing a written statement that the animal will be spayed or neutered within 42 days along with microchipping. Furthermore, said organization shall collect the Public safety fine of \$25.00 and the applicable annual or three year registration fees. Said fine and fees shall be remitted along with a certificate of sterilization to the Marshall County Treasurer for deposit in the applicable accounts within 42 days.

The boarding fee, sterilization fee, microchipping fee and impoundment fee shall not be charged to a licensed Illinois Animal Humane Society who shall contribute animal food to the animal control facility.

The payments required for redemption under this Section shall be in addition to any other penalties invoked under this Act and the Marshall County Public Health and Safety Animal Population Control Act. An animal control agency shall assist and share information with the Director of Public Health in the collection of public safety fines.

Sec. 10. When not redeemed by the owner, agent, or caretaker, a dog or cat must be scanned for a microchip. If a microchip is present, the registered owner must be notified. After contact has been made or attempted, dogs or cats deemed adoptable by the animal control facility shall be offered for adoption, or made available to a licensed humane society or rescue group. If no placement is available, it shall be humanely dispatched pursuant to the Humane Euthanasia in Animal Shelters Act. An animal pound or animal shelter shall not adopt or release any dog or cat to anyone other than the owner unless the animal has been rendered incapable of reproduction and microchipped, or the person wishing to adopt an animal prior to the surgical procedures having been performed shall have executed a written agreement promising to have such service performed, including microchipping, within a specified period of time not to exceed 30 days. Failure to fulfill the terms of the agreement shall result in seizure and impoundment of the animal and any offspring by the animal pound or shelter, and any monies which have been deposited shall be forfeited and submitted to the Marshall County Pet Population Control Fund on a yearly basis. This Act shall not prevent humane societies from engaging in activities set forth by their charters; provided, they are not inconsistent with provisions of this Act and other existing laws. No animal shelter or animal control facility shall release dogs or cats to an individual representing a rescue group, unless the group has been licensed or has a foster care permit issued by the Illinois Department of Agriculture or is

a representative of a not-for-profit out-of-state organization.

Sec. 11. The owner of any animal which exhibits clinical signs of rabies, whether or not the animal has been inoculated against rabies, shall immediately notify the Administrator or the Animal Control Warden, and shall promptly confine the animal, or have it confined, under suitable observation, for a period of at least 10 days, unless officially authorized by the Administrator or the Animal Control Warden, in writing, to release it sooner. Any animal that has had direct contact with the animal and that has not been inoculated against rabies, shall be confined as recommended by the Administrator or the Animal Control Warden.

Sec. 12. Dog or other animal bites; observation of animal.

(a) Except as otherwise provided in subsection (b) of this Section, when the Administrator or, if the Administrator is not a veterinarian, the Deputy Administrator receives information that any person has been bitten by an animal, the Administrator, the Animal Control Warden, or his or her authorized representative, shall have such dog or other animal confined under the observation of a licensed veterinarian for a period of 10 days. A veterinarian shall report the clinical condition of the animal immediately, with confirmation in writing to the Administrator or the Animal Control Warden within 24 hours after the animal is presented for examination, giving the owner's name, address, the date of confinement, the breed, description, age, and sex of the animal, and whether the animal has been spayed or neutered, on appropriate forms approved by the Administrator. The Administrator or the Animal Control Warden shall notify the attending physician or responsible health agency. At the end of the confinement period, the veterinarian shall submit a written report to the Administrator or Animal Control Warden advising him or her of the final disposition of the animal on appropriate forms approved by the Administrator. When evidence is presented that the animal was inoculated against rabies within the time prescribed by law, it shall be confined in a house, or in a manner which will prohibit it from biting any person for a period of 10 days, if a licensed veterinarian adjudges such confinement satisfactory. The Administrator may permit such confinement to be reduced to a period of less than 10 days. At the end of the confinement period, the animal shall be examined by a licensed veterinarian.

Any person having knowledge that any person has been bitten by an animal shall notify the Administrator or the Animal Control Warden promptly.

It is unlawful for the owner of the animal to euthanize, sell, give away, or otherwise dispose of any animal known to have bitten a person, until it is released by the Administrator or the Animal Control Warden, or his or her authorized representative. It is unlawful for the owner of the animal to refuse or fail to comply with the reasonable written or printed instructions made by the Administrator or the Animal Control Warden, or his authorized representative. If such instructions cannot be delivered in person, they shall be mailed to the owner of the animal by regular mail. Any expense incurred in the handling of an animal under this Section and Section 12 shall be borne by the owner. The owner of a biting animal must also remit to the Marshall County Treasurer, for deposit into the Marshall County Pet Population Control Fund, a \$25 public safety fine within 30 days after notice.

(b) When a person has been bitten by a police dog that is currently vaccinated against rabies, the police dog may continue to perform its duties for the peace officer or law enforcement agency and any period of observation of the police dog may be under the supervision of a peace officer. The supervision shall consist of the dog being locked in a kennel, performing its official duties in a police vehicle, or remaining under the constant supervision of its police handler.

Sec. 13. Whenever a case of rabies has occurred in a locality, or when the proper officials of a government unit are apprehensive of the spread of rabies, the Administrator shall act to prevent its spread among dogs and other animals. The Department may order:

a. That all dogs or other animals in the locality be:

1. Kept confined within an enclosure, or
2. Kept muzzled and restrained by leash.

b. That all owners or keepers of dogs or other animals take prophylactic measures as it deems necessary to prevent the spread of rabies.

c. Other measures as may be necessary to control the spread of rabies. The Administrator may determine the area of the locality in which, and the period of time during which, such orders shall be effective.

Sec. 14. (a) In order to have a dog deemed "vicious", the Administrator, Animal Control Warden or law

enforcement officer must give notice of the infraction that is the basis of the investigation to the owner, conduct a thorough investigation, interview any witnesses, including the owner, gather any existing medical records, veterinary medical records or behavioral evidence, and make a detailed report recommending a finding that the dog is a vicious dog and give the report to the States Attorney's Office and the owner. The Administrator, State's Attorney, Animal Control Warden or any citizen of the county in which the dog exists may file a complaint in the circuit court in the name of the People of the State of Illinois to deem a dog to be a vicious dog. Testimony of a certified applied behaviorist, a board certified veterinary behaviorist, or another recognized expert may be relevant to the court's determination of whether the dog's behavior was justified. The petitioner must prove the dog is a vicious dog by clear and convincing evidence. The Administrator shall determine where the animal shall be confined during the pendency of the case.

A dog may not be declared vicious if the court determines the conduct of the dog was justified because:

(1) the threat, injury, or death was sustained by a person who at the time was committing a crime or offense upon the owner or custodian of the dog, or was committing a willful trespass or other tort upon the premises or property owned or occupied by the owner of the animal;

(2) the injured, threatened, or killed person was abusing, assaulting, or physically threatening the dog or its offspring, or has in the past abused, assaulted, or physically threatened the dog or its offspring; or

(3) the dog was responding to pain or injury, or was protecting itself, its owner, custodian, or member of its household, kennel, or offspring.

No dog shall be deemed "vicious" if it is a professionally trained dog for law enforcement or guard duties. Vicious dogs shall not be classified in a manner that is specific as to breed. If the burden of proof has been met, the court shall deem the dog to be a vicious dog.

If a dog is found to be a vicious dog, the owner shall pay a \$100 public safety fine to be deposited into the Marshall County Pet Population Control Fund, the dog shall be spayed or neutered within 10 days of the finding at the expense of its owner and microchipped, if not already, and the dog is subject to enclosure. If an owner fails to comply with these requirements, the Administrator or Animal Control Warden shall impound the dog and the owner shall pay a \$500 fine plus impoundment fees to the animal control agency impounding the dog. The judge has the discretion to order a vicious dog be euthanized. A dog found to be a vicious dog shall not be released to the owner until the Administrator or Animal Control Warden approves the enclosure. No owner or keeper of a vicious dog shall sell or give away the dog without approval from the Administrator or court. Whenever an owner of a vicious dog relocates, he or she shall notify both the Administrator of County Animal Control where he or she has relocated and the Administrator of County Animal Control where he or she formerly resided.

(b) It shall be unlawful for any person to keep or maintain any dog which has been found to be a vicious dog unless the dog is kept in an enclosure. The only times that a vicious dog may be allowed out of the enclosure are (1) if it is necessary for the owner or keeper to obtain veterinary care for the dog, (2) in the case of an emergency or natural disaster where the dog's life is threatened, or (3) to comply with the order of a court of competent jurisdiction, provided that the dog is securely muzzled and restrained with a leash not exceeding 6 feet in length, and shall be under the direct control and supervision of the owner or keeper of the dog or muzzled in its residence.

Any dog which has been found to be a vicious dog and which is not confined to an enclosure shall be impounded by the Administrator, Animal Control Warden, or the law enforcement authority having jurisdiction in such area.

If the owner of the dog has not appealed the impoundment order to the Marshall County Circuit Court within 15 working days, the dog may be euthanized.

Upon filing a notice of appeal, the order of euthanasia shall be automatically stayed pending the outcome of the appeal. The owner shall bear the burden of timely notification to animal control in writing.

Guide dogs for the blind or hearing impaired, support dogs for the physically handicapped, and sentry, guard, or police-owned dogs are exempt from this Section; provided, an attack or injury to a person occurs while the dog is performing duties as expected. To qualify for exemption under this Section, each such dog shall be currently inoculated against rabies in accordance with Section 7 of this Act. It shall be the duty of the owner of such exempted dog to notify the Administrator of changes of address. In the case of a sentry or guard dog, the owner shall keep the Administrator advised of the location where such dog will be stationed. The Administrator shall provide police and fire departments with a

categorized list of such exempted dog, and shall promptly notify such departments of any address changes reported to him.

(c) If the animal control agency has custody of the dog, the agency may file a petition with the court requesting that the owner be ordered to post security. The security must be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred by the animal control agency or animal shelter in caring for and providing for the dog pending the determination. Reasonable expenses include, but are not limited to, estimated medical care and boarding of the animal for 30 days. If security has been posted in accordance with this Section, the animal control agency may draw from the security the actual costs incurred by the agency in caring for the dog.

(d) Upon receipt of a petition, the court must set a hearing on the petition, to be conducted within 5 business days after the petition is filed. The petitioner must serve a true copy of the petition upon the defendant.

(e) If the court orders the posting of security, the security must be posted with the Marshall County Circuit Clerk within 5 business days after the hearing. If the person ordered to post security does not do so, the dog is forfeited by operation of law and the animal control agency must dispose of the animal through adoption or humane euthanization.

Sec. 15.1. Dangerous dog determination.

(a) After a thorough investigation including: sending, within 10 business days of the Administrator or Animal Control Warden becoming aware of the alleged infraction, notifications to the owner of the alleged infractions, the fact of the initiation of an investigation, and affording the owner an opportunity to meet with the Administrator or Animal Control Warden prior to the making of a determination; gathering of any medical or veterinary evidence; interviewing witnesses; and making a detailed written report, the Animal Control Warden or law enforcement agent may ask the Administrator, or his or her designee, to deem a dog to be "dangerous". No dog shall be deemed a "dangerous dog" unless shown to be a dangerous dog by a preponderance of evidence. The owner shall be sent immediate notification of the determination by registered or certified mail that includes a complete description of the appeal process.

(b) A dog shall not be declared dangerous if the Administrator, or his or her designee, or the Director determines the conduct of the dog was justified because:

(1) the threat was sustained by a person who at the time was committing a crime or offense upon the owner or custodian of the dog or was committing a willful trespass or other tort upon the premises or property occupied by the owner of the animal;

(2) the threatened person was abusing, assaulting, or physically threatening the dog or its offspring;

(3) the injured, threatened, or killed companion animal was attacking or threatening to attack the dog or its offspring; or

(4) the dog was responding to pain or injury or was protecting itself, its owner, custodian, or a member of its household, kennel, or offspring.

(c) Testimony of a certified applied behaviorist, a board certified veterinary behaviorist, or another recognized expert may be relevant to the determination of whether the dog's behavior was justified pursuant to the provisions of this Section.

(d) If deemed dangerous, the Administrator, or his or her designee, or the Animal Control Warden shall order (i) the dog's owner to pay a \$50 public safety fine to be deposited into the Marshall County Pet Population Control Fund, (ii) the dog to be spayed or neutered within 14 days at the owner's expense and microchipped, if not already, and (iii) one or more of the following as deemed appropriate under the circumstances and necessary for the protection of the public:

(1) evaluation of the dog by a certified applied behaviorist, a board certified veterinary behaviorist, or another recognized expert in the field and completion of training or other treatment as deemed appropriate by the expert. The owner of the dog shall be responsible for all costs associated with evaluations and training ordered under this subsection; or

(2) direct supervision by an adult 18 years of age or older whenever the animal is on public premises.

(e) The Administrator may order a dangerous dog to be muzzled whenever it is on public premises in a

manner that will prevent it from biting any person or animal, but that shall not injure the dog or interfere with its vision or respiration.

(f) Guide dogs for the blind or hearing impaired, support dogs for the physically handicapped, and sentry, guard, or police-owned dogs are exempt from this Section; provided, an attack or injury to a person occurs while the dog is performing duties as expected. To qualify for exemption under this Section, each such dog shall be currently inoculated against rabies in accordance with this Act and performing duties as expected. It shall be the duty of the owner of the exempted dog to notify the Administrator of changes of address. In the case of a sentry or guard dog, the owner shall keep the Administrator advised of the location where such dog will be stationed. The Administrator shall provide police and fire departments with a categorized list of the exempted dogs, and shall promptly notify the departments of any address changes reported to him or her.

(g) An animal control agency has the right to impound a dangerous dog if the owner fails to comply with the requirements of this Act.

Sec. 15.2. Dangerous dogs; leash. It is unlawful for any person to knowingly or recklessly permit any dangerous dog to leave the premises of its owner when not under control by leash or other recognized control methods.

Sec. 15.3. Dangerous dog; appeal.

(a) The owner of a dog found to be a dangerous dog pursuant to this Act by the Administrator may file a complaint against the Administrator in the circuit court within 35 days of receipt of notification of the determination, for a de novo hearing on the determination. The proceeding shall be conducted as a civil hearing pursuant to the Illinois Rules of Evidence and the Code of Civil Procedure, including the discovery provisions. After hearing both parties' evidence, the court may make a determination of dangerous dog if the Administrator meets his or her burden of proof of a preponderance of the evidence. The final order of the Marshall County Circuit Court may be appealed pursuant to the civil appeals provisions of the Illinois Supreme Court Rules.

(b) The owner of a dog found to be a dangerous dog pursuant to this Act by the Administrator may, within 14 days of receipt of notification of the determination, request an administrative hearing to appeal the determination. The administrative hearing shall be conducted pursuant to the Department of Agriculture's rules applicable to formal administrative proceedings, 8 Ill. Adm. Code Part 1, Subparts A and B. An owner desiring a hearing shall make his or her request for a hearing to the Illinois Department of Agriculture. The final administrative decision of the Department may be reviewed judicially by the Marshall County Circuit Court or, in the case of a corporation, the county where its registered office is located. If the plaintiff in a review proceeding is not a resident of Illinois, the venue shall be in Sangamon County. The Administrative Review Law and all amendments and modifications thereof, and the rules adopted thereto, apply to and govern all proceedings for the judicial review of final administrative decisions of the Department hereunder.

(c) Until the order has been reviewed and at all times during the appeal process, the owner shall comply with the requirements set forth by the Administrator or Marshall County Circuit Court.

(d) At any time after a final order has been entered, the owner may petition the circuit court to reverse the designation of dangerous dog.

Sec. 15.4. Potentially dangerous dog. A dog found running at large and unsupervised with 3 or more other dogs may be deemed a potentially dangerous dog by the animal control warden or administrator. Potentially dangerous dogs shall be spayed or neutered and microchipped within 14 days of reclaim. The designation of "potentially dangerous dog" shall expire 12 months after the most recent violation of this Section. Failure to comply with this Section will result in impoundment of the dog or a fine of \$500.

Sec. 16. Animal attacks or injuries. If a dog or other animal, without provocation, attacks, attempts to attack, or injures any person who is peaceably conducting himself or herself in any place where he or she may lawfully be, the owner of such dog or other animal is liable in civil damages to such person for the full amount of the injury proximately caused thereby.

Sec. 16.5. Expenses of microchipping. A clinic for microchipping companion animals of Marshall County residents should be conducted at least once a year under the direction of the Administrator or, if the Administrator is not a veterinarian, the Deputy Administrator at the animal control facility, animal shelter, or other central location within Marshall County. The maximum amount that can be charged for microchipping an animal at this clinic shall be \$15. Funds

generated from this clinic shall be deposited in the Marshall County Animal Control Fund.

Sec. 17. For the purpose of making inspections hereunder, the Administrator, or his or her authorized representative, or any law enforcement officer may enter upon private premises, provided that the entry shall not be made into any building that is a person's residence, to apprehend a straying dog or other animal, a dangerous or vicious dog or other animal, or an animal thought to be infected with rabies. If, after request therefore, the owner of the dog or other animal shall refuse to deliver the dog or other animal to the officer, the owner shall be in violation of this Act.

Sec. 18. Any owner seeing his or her livestock, poultry, or equidae being injured, wounded, or killed by a dog, not accompanied by or not under the supervision of its owner, may kill such dog.

Sec. 18.1. The owner or keeper of a dog is liable to a person for all damages caused by the dog pursuing, chasing, worrying, wounding, injuring, or killing any sheep, goats, cattle, horses, mules, poultry, ratites, or swine belonging to that person.

Sec. 19. Any owner having livestock, poultry, or equidae killed or injured by a dog shall, according to the provisions of this Act and upon filing claim and making proper proof, be entitled to receive reimbursement for such losses from the Animal Control Fund; provided, he or she is a resident of Marshall County and such injury or killing is reported to the Administrator within 24 hours after such injury or killing occurs, and makes affidavit stating the number of such animals or poultry killed or injured, the amount of damages and the owner of the dog causing such killing or injury, if known.

The damages referred to in this Section shall be substantiated by the Administrator through prompt investigation and by not less than 2 witnesses. The Administrator shall determine whether the provisions of this Section have been met and shall keep a record in each case of the names of the owners of the animals or poultry, the amount of damages proven, and the number of animals or poultry killed or injured.

The Administrator shall file a written report with the Marshall County Treasurer as to the right of an owner of livestock, poultry, or equidae to be paid out of the Animal Control Fund, and the amount of such damages claimed.

The County Treasurer shall, on the first Monday in March of each calendar year, pay to the owner of the animals or poultry the amount of damages to which he or she is entitled. The county board, by ordinance, shall establish a schedule for damages reflecting the current market value.

If there are funds in excess of amounts paid for such claims for damage in that portion of the Animal Control Fund set aside for this purpose, this excess shall be used for other costs of the program as set forth in this Act.

Sec. 20. The payment to any owner of sheep, goats, cattle, horses, mules, swine, or poultry of monies out of the Animal Control Fund for damages resulting from loss or injury to any such animals, shall not be a bar to an action by such owner against the owner of the dog committing such injury or causing such loss for the recovery of damages therefore. The court or jury, before which such action is tried, shall ascertain from evidence what portion, if any, of the damages sought to be recovered in such action has been paid to the plaintiff in such action by the Marshall County Treasurer, and in case the plaintiff in such action recovers damages, the court shall enter judgment against the defendant, in the name of the plaintiff for the use of the county, for the amount which the plaintiff has received on account of such damages from the Marshall County Treasurer, if such recovery shall equal or exceed the amount so received by such plaintiff from the County Marshall County Treasurer; and the residue of such recovery, if any there be, shall be entered in the name of the plaintiff in such action to his own use. If the amount of the recovery in such action shall not equal the amount previously paid the plaintiff on account of such damages by the Marshall County Treasurer, then the judgment shall be entered as heretofore stated for the use of the Animal Control Fund, for the full amount of such recovery. The judgment shall show on its face what portion of the judgment is to be paid to the Animal Control Fund, and what portion is to be paid to the plaintiff in such action, and the judgment when collected shall be paid over to the parties entitled thereto in their proper proportions.

Sec. 21. The Marshall County Board shall have general supervision of the administration of this Act and may make reasonable rules and regulations, not inconsistent with this Act, for the enforcement of this Act and for the guidance of Administrators, including removing the Administrator for noncompliance with any provision of this Act.

Sec. 22. Nothing in this Act shall be held to limit in any manner the power of any municipality or other political subdivision to prohibit animals from running at large, nor shall anything in this Act be construed to, in any manner, limit the power of any municipality or other political subdivision to further control and regulate dogs, cats or other animals in such

municipality or other political subdivision provided that no regulation or ordinance is specific to breed.

Sec. 23. The invalidity of any Section or parts of any Section of this Act or any rule or regulation pursuant thereto shall not affect the validity of the remainder of this Act, or any rule or regulation.

Sec. 24. (a) Except as otherwise provided in this Act, any person violating or aiding in or abetting the violation of any provision of this Act, or counterfeiting or forging any certificate, permit, or tag, or making any misrepresentation in regard to any matter prescribed by this Act, or resisting, obstructing, or impeding the Administrator or any authorized officer in enforcing this Act, or refusing to produce for inoculation any dog in his possession, or who removes a tag from a dog for purposes of destroying or concealing its identity, is guilty of a Class C misdemeanor for a first offense and for a subsequent offense, is guilty of a Class B misdemeanor.

Each day a person fails to comply constitutes a separate offense. The Marshall County State's Attorney to whom the Administrator reports any violation of this Act shall cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner provided by law.

(b) If the owner of a vicious dog subject to enclosure:

(1) fails to maintain or keep the dog in an enclosure or fails to spay or neuter the dog within the time period prescribed; and

(2) the dog inflicts serious physical injury upon any other person or causes the death of another person; and

(3) the attack is unprovoked in a place where such person is peaceably conducting himself or herself and where such person may lawfully be; the owner shall be guilty of a Class 3 felony, unless the owner knowingly allowed the dog to run at large or failed to take steps to keep the dog in an enclosure then the owner shall be guilty of a Class 2 felony. The penalty provided in this paragraph shall be in addition to any other criminal or civil sanction provided by law.

(c) If the owner of a dangerous dog knowingly fails to comply with any order regarding the dog and the dog inflicts serious physical injury on a person or a companion animal, the owner shall be guilty of a Class 4 felony. If the owner of a dangerous dog knowingly fails to comply with any order regarding the dog and the dog kills a person the owner shall be guilty of a Class 3 felony.

Sec. 25. Any officer failing, refusing, or neglecting to carry out the provisions of this Act shall be guilty of a petty offense and shall be fined not less than \$25 nor more than \$100 for each offense.

Sec. 26. Rules. The Marshall County Board shall administer this Act and shall promulgate rules necessary to effectuate the purposes of this Act. The Marshall County Board may, in formulating rules pursuant to this Act, seek the advice and recommendations of humane societies and societies for the protection of animals.

Sec. 27. Liability.

(a) Any municipality or political subdivision allowing feral cat colonies and trap, sterilize, and return programs to help control cat overpopulation shall be immune from criminal liability and shall not be civilly liable, except for willful and wanton misconduct, for damages that may result from a feral cat. Any municipality or political subdivision allowing dog parks shall be immune from criminal liability and shall not be civilly liable, except for willful and wanton misconduct, for damages that may result from occurrences in the dog park.

(b) Any veterinarian or animal shelter who in good faith contacts the registered owner of a microchipped animal shall be immune from criminal liability and shall not, as a result of his or her acts or omissions, except for willful and wanton misconduct, be liable for civil damages.

(c) Any veterinarian who sterilizes feral cats and any feral cat caretaker who traps cats for a trap, sterilize, and return program shall be immune from criminal liability and shall not, as a result of his or her acts or omissions, except for willful and wanton misconduct, be liable for civil damages.

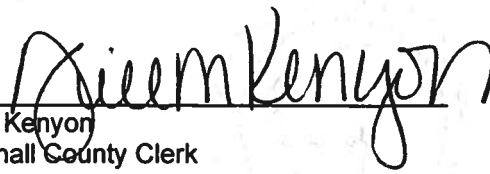
(d) Any animal shelter worker who microchips an animal shall be immune from criminal liability and shall not, as a result of his or her acts or omissions, except for willful and wanton misconduct, be liable for civil damages.

Upon approval of this Ordinance by the Marshall County Board of Supervisors, this Ordinance shall be in full force and effective on January 1, 2020.

Dated this 12th day of December, 2019



Gary Kroeschen
Marshall County Board



Jill M Kenyon
Marshall County Clerk

Ayes: 11
Nays: 0
Absent: 1