

ARTICLE 17: ANGEL'S LAW

Section

[9-17-1](#) Findings and intent

[9-17-2](#) Short title

[9-17-3](#) Definitions

[9-17-4](#) Potentially dangerous dog

[9-17-5](#) Dangerous dog

[9-17-6](#) Irresponsible owners

[9-17-7](#) Hearings

[9-17-99](#) Penalty

§ 9-17-1 FINDINGS AND INTENT.

City Council finds that dangerous dogs threaten the health and safety of inhabitants of the city, especially young children and others unable to protect themselves from vicious attacks. City Council finds that owners who allow their dangerous dogs to run loose in the city or fail to safely and humanely restrain those dogs on their property are criminally and civilly liable for the harm those dogs cause. City Council further finds that owners who allow their dangerous dogs to run loose in the city or fail to safely and humanely restrain those dogs on their property create a nuisance that must be abated pursuant to the city's civil remedial powers under state law. City Council finds that it is reasonable to prevent the worst offenders from being able to own dogs in the City of Albuquerque.

(Ord. 2-2005)

§ 9-17-2 SHORT TITLE.

This article shall be referred to as "Angel's Law" and may sometimes be referred to herein as "this ordinance."

(Ord. 2-2005)

§ 9-17-3 DEFINITIONS.

For the purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AACC WEBSITE. An internet site maintained by AACC and accessible by the public and containing among other things a data base pertaining to dangerous dogs.

AGGRESSIVE. A dog that is objectively observable by a reasonable person as unnaturally and unjustifiably hostile toward humans or other animals.

ALBUQUERQUE ANIMAL CARE CENTER OF AACC. Any premises, locations or buildings designated as suitable by the Mayor for the care, custody and maintenance of animals seized by the city.

ANIMAL. Any living nonhuman mammal, bird, reptile, or amphibian not including insects.

ANIMAL CONTROL OFFICER OF ACO. Any person employed by the city, assigned to the Albuquerque Animal Care Center and charged with enforcement of this article and other animal laws or with any other task assigned by the Mayor from time to time.

AT LARGE. An animal on or off the premises of the owner that is not restricted by a secure fence or secure facility or on a leash controlled by a person capable of controlling the dog. Verbal commands do not constitute control.

CONFISCATE. The seizure of an animal by an ACO, police officer or other public official to protect the animal, other animals or the public.

CUSTODY. Possession and control of a dog by a person.

DANGEROUS DOG. A dog that has caused serious injury or was previously designated as a potentially dangerous dog and subsequently (1) causes injury to a person or animal that is less severe than a serious injury, (2) is observed by any person chasing or menacing a person or animal in an aggressive manner and without provocation or (3) is impounded at AACC two or more times. Police dogs are excepted from the definition.

DOG EXERCISE PARK. Any tract designated by the city for use by persons and dogs where dogs may be off leash and allowed to run free.

HARNESS. A well fitting apparatus that is not abrasive and restrains the dog by the body and shoulders without involvement of the neck.

HEARING OFFICER. The City Hearing Officer, as defined by the Independent Office of Hearings Ordinance (§§ [2-7-8-1](#) et seq. ROA 1994).

HUMANELY DESTROYED. Euthanized by a method commonly approved by veterinarians or the Mayor.

IMPOUND. Delivery and arrival of a dog to AACC for processing under the Albuquerque Animal Control Ordinance in the ordinary manner.

INTACT. A dog over six months old that is not spayed or neutered.

IRRESPONSIBLE OWNER. A dog owner deemed incapable or unable to safely or humanely own a dog.

LICENSED. A dog with a valid city license.

MAYOR. The Mayor of the City of Albuquerque or his or her designated representatives.

MICROCHIP. A passive transponder which can be implanted in an animal by injection and which is a component of a radio frequency identification (RFID) system. A system not compatible with the scanner used by AACC is not a **MICROCHIP.**

NOTICE OF APPEAL. A written notice from any person aggrieved by any action under this article which shall be in writing and state the action appealed from, the date the action or requirement was imposed and the grounds for the appeal.

OWNER. A person who possesses an animal, claims a right of possession of an animal superior to the rest of the world, has commensurate duties to protect and care for an animal and who may or may not have evidence of ownership including a valid license or permit. For the purposes of this article, any person assigned to care for an animal by the owner may have the rights and duties of an owner and any person over age 18 in a household may be deemed the **OWNER** with commensurate rights and duties.

PERSON. An individual, household, firm, partnership, corporation, company, society, association or legal entity, and every officer, agent or employee thereof.

POTENTIALLY DANGEROUS DOG. A dog capable of causing serious harm to humans or other animals and observed at large by any person or observed by any person on the property where the dog is kept under conditions leading any reasonable person to conclude that the owner has not taken adequate precautions to prevent the dog from being able to escape or young children from being able to enter. Police dogs are not included in the definition.

PROPER ENCLOSURE. Secure confinement in-doors or confinement by means of a secure fence.

PROPERTY. Real property where a dog is regularly found or observed by any person who would reasonably conclude that the dog is present on the property

by virtue of the fact that the dog is owned and in the custody of the owner or occupant of the real property.

PROVOKED. A dog that took action in response to a stimulus when a reasonable person would conclude that the dog was defending itself, its owner or an immediate family member of its owner, or another person within its immediate vicinity from an actual assault or was defending real property belonging to its owner or an immediate family member of its owner from a crime being committed on the owner's property at that time. **UNPROVOKED** shall mean the negative and opposite of **PROVOKED**.

REMEDIAL MEASURES. Repairs, modifications, additions or improvements to property or a fence to ensure that a dog cannot escape or a young child cannot enter. **REMEDIAL MEASURES** include but are not limited to signage appropriate to warn passersby, changes to a fence or enclosure of a previously open area.

RESPONSIBLE PERSON. A person at least 18 years old who is familiar with the dog and has the size, strength and experience to be able to keep the dog under complete control at all times.

SECURE FACILITY. A house or building from which any dog including a guard dog cannot escape.

SECURE FENCE. A barrier adequate to prevent a dog from leaving real property upon which the dog is or should be kept and to prevent young children from entering real property.

SEIZE. To take custody and control of dog.

SERIOUS INJURY. Any physical injury that results in broken bones or lacerations that require multiple sutures or cosmetic surgery.

STERILIZED or ALTERED. Humanely and professionally rendered incapable of procreation.

WARNING AND NOTICE OF REINSPECTION. A written document issued to a person or posted at the property and requiring remedial measures or other changes within a specified time period, informing occupants that the city will conduct a follow up inspection and informing occupants that failure to comply with the warning will lead to further legal action by the city.

(Ord. 2-2005; Am. Ord. 31-2007)

 **§ 9-17-4 POTENTIALLY DANGEROUS DOG.**

(A) *Designation as potentially dangerous dog.* Any person may report a potentially dangerous dog to AACC. Persons may make anonymous reports and AACC shall respond to anonymous reports under this article. Pursuant to any such report or otherwise, AACC shall seize and impound any at large dog in the ordinary manner or, if the dog is known to be found on a particular property, initiate an investigation and inspection of the property. After the inspection and investigation, AACC shall determine whether the dog is in fact a potentially dangerous dog. If AACC determines that the dog is a potentially dangerous dog, AACC shall so apprise the owner of the dog by written notice sent by certified mail, hand delivered or conspicuously posted on the property, which notice shall constitute actual and constructive notice. The owner may request an administrative hearing concerning AACC's determination that the dog is a potentially dangerous dog. AACC may impose remedial measures or require the owner to submit to any counseling or classes approved by the Mayor on the topic of owning a potentially dangerous dog. Without regard to whether the dog has been designated a potentially dangerous dog, no person shall chain, tie, or otherwise affix a dog to any stationary object for more than one hour in any twenty-four hour period. Any person may apply to AACC for a tethering permit.

(B) *Potentially dangerous dog response.*

(1) *Seizure for immediate danger.* Following notice to the owner, if AACC has probable cause to believe that a dog is a potentially dangerous dog and may pose an immediate danger to public safety, AACC may obtain a search warrant and impound the dog or impound the dog at the owner's request or with the owner's consent. If the owner requests a hearing, the dog shall remain in protective custody at AACC pending adjudication. AACC may impose remedial measures or deliver a Warning and Notice of Reinspection while the matter is pending a hearing. No private contract or covenant is a defense to Angel's Law. If the dog is impounded more than ten days with no response from the owner, the dog becomes the city property and shall be handled in the ordinary manner under the Albuquerque Animal Control Ordinance. The dog does not have to be placed for adoption if the Mayor determines that the dog poses a danger to any potential adopter or the public.

(2) *No immediate danger.* If the potentially dangerous dog does not pose an immediate threat to public safety and remedial measures or owner education may reasonably provide public safety, AACC may allow the dog to remain on the property and issue a Warning and Notice of Reinspection. If the inadequate conditions stated in the Warning and Notice of Reinspection are not cured by the time of the follow-up inspection, AACC shall seize the dog. The owner may file an appeal as provided by this article. If the dog is not on the property at the time of a failed reinspection and not surrendered at that time but subsequently located on the property or at large, the owner is in violation of § [1-1-99](#) ROA 1994 and the dog may be seized when discovered by AACC. AACC may impose reasonable remedial measures pertaining to any potentially dangerous dog or the

property and shall seize the dog upon any breach of a remedial measure imposed. If AACC does not impose remedial measures or seize a dog at a point in time, AACC is not precluded from those actions or other remedies in the future if conditions change or AACC receives a subsequent citizen report.

(Ord. 2-2005) [Penalty, see § 9-17-99](#)

 **§ 9-17-5 DANGEROUS DOG.**

(A) *Dangerous dog designation.* AACC may determine that a dog is a dangerous dog in accord with this article. The dog shall be immediately sterilized and microchipped and the microchip number supplied to AACC. AACC shall document and register the microchip number, a description of the dangerous dog, the address of the property owner and the name and date of birth of the owner and maintain the foregoing in a database available to the public twenty years from the date of first registration. Angel's Law does not apply to police dogs. AACC may convert a potentially dangerous dog to dangerous dog status upon a breach of any condition pertaining to the potentially dangerous dog. A dog does not have to bite a person or animal at more than one point in time in the dog's life to be deemed a dangerous dog under Angel's Law. If a dangerous dog causes harm, the owner is civilly liable as a matter of law and further shows that the owner knew or should have known about the propensity for harm. If AACC determines that the dog is a dangerous dog, AACC shall so apprise the owner of the dog by written notice sent by certified mail, hand delivered or conspicuously posted on the property. The owner may request an administrative hearing. This article does not abrogate AACC's duty and authority to humanely destroy dogs as required under other laws. The owners of dangerous dogs must comply with all other legal requirements pertaining to dogs including but not limited to licensing and vaccinations. No private contract or covenant is a defense to Angel's Law.

(B) *Requirements for dangerous dogs.* All dangerous dogs must be licensed, sterilized and microchipped without regard to any previously issued permits. The Mayor may list dangerous dogs, including the address of the property where located, on the AACC Website. Dangerous dog owners must allow inspections of the property by AACC at any reasonable time of day. The Mayor may charge reasonable fees for inspections and assess fines for failures of compliance on a list of fees and fines promulgated from the Mayor from time to time. If the owner refuses an inspection, AACC shall seize the dog under law and may humanely destroy the dog. AACC may impose remedial measures pertaining to dangerous dogs on one or more occasions. The Mayor may require the owner to submit to educational requirements for owners of dangerous dogs or socialization or other classes for the dog from time to time. Without limitation on the foregoing, the following requirements pertain to dangerous dogs:

(1) Dangerous dogs are not allowed in dog exercise parks and may not be taken off the property except on an adequate leash.

(2) When off the property, dangerous dogs shall be on an adequate leash and under the constant control of a responsible person. Dangerous dogs shall not be transported in a vehicle that might allow the dangerous dog to escape or gain access to any person or animal outside the vehicle.

(3) A dangerous dog shall not be chained, restrained or otherwise affixed to any stationary object at any time unless under the immediate and constant observation, care and control of a responsible person. Tethering permits shall not be issued for dangerous dogs.

(4) Dangerous dogs must be confined on the property by a secure fence or secure facility. Neither verbal commands nor electronic fences are sufficient.

(5) No person convicted of animal cruelty or animal fighting in any jurisdiction at any time is allowed to own a dangerous dog or function as the responsible person pertaining to a dangerous dog. AACC may seize a dangerous dog whenever any evidence of animal fighting is present on the dangerous dog, on any other animal on the property or on the property. Any person who is registered with AACC and conceals or fails to inform AACC that they have been convicted of animal cruelty or animal fighting is subject to the criminal penalties in § [1-1-99](#) ROA 1994 for each day of possession of a dangerous dog in violation of this paragraph. The owner can request a hearing if AACC takes action under this paragraph.

(6) An owner of a dangerous dog shall at all times have an insurance policy with coverage of a minimum of \$100,000 pertaining to injury to any person or property caused by the dangerous dog. The Mayor may increase the minimum coverage amount from time to time by regulation.

(7) The owner of a dangerous dog shall not sell, loan, transfer, give, devise, board or otherwise convey ownership or custody and control of a dangerous dog to any other person in the city without notifying the recipient in writing that the dog is a dangerous dog and notifying AACC ten days prior to any change in the location of the property upon which the dangerous dog is or should be kept.

(8) Dangerous dogs shall never be allowed access to, or allowed within the proximity of, a young child unless under the immediate and constant control of a responsible person.

(9) No lessee shall own or possess a dangerous dog on a leasehold without the written consent of the lessor.

(Ord. 2-2005) [Penalty, see § 9-17-99](#)

 **§ 9-17-6 IRRESPONSIBLE OWNERS.**

The Mayor may determine under Angel's Law or other laws that a person is an irresponsible owner. A violation of Angel's Law is a basis for the Mayor's determination that a person is an irresponsible owner. If any person is deemed an irresponsible owner, the Mayor may order that such person is barred from the ownership, custody or control of animals in the City of Albuquerque for so long as the Mayor deems necessary. The order shall be in writing delivered by certified mail, hand delivered or conspicuously posted on the property. Transient irresponsible owners may be served by publication. The order may be appealed but shall remain in force unless overturned by the Hearing Officer or a court of competent jurisdiction. An owner may petition the hearing officer for removal of the irresponsible owner designation two years after the date served but bears the burden of clear and convincing evidence. Any person who owns an animal after the date of designation as an irresponsible owner is subject to a continuing violation of § [1-1-99](#) ROA 1994. The City Council and the Mayor want Angel's Law to be strictly enforced by the courts.

(Ord. 2-2005) [Penalty, see § 9-17-99](#)

 **§ 9-17-7 HEARINGS.**

(A) Any person aggrieved by this article may file a Notice of Appeal on a form obtained from AACC or the City Clerk. The Notice of Appeal shall be filed with the City Clerk with a \$50 hearing fee ten calendar days including weekends and holidays from the date of the action appealed from. The Hearing Officer shall schedule and hold a hearing within 90 days from the date of the Notice of Appeal unless a continuance is sought and obtained from the Hearing Officer in which case the 90-day period shall be tolled. Exhaustion of administrative remedies is a predicate to any court action. No administrative remedy, remedial measure, seizure or other action by AACC or the Mayor is stayed on appeal.

(B) The Hearing Officer is in charge of the proceedings and may exclude any person for inappropriate conduct. The rules of evidence are relaxed. The appeal is administrative in nature and the aggrieved party is not entitled to confront any private person who reported a matter to AACC. The Hearing Officer may consider and give appropriate weight to hearsay or any competent extraneous evidence relied upon by an ACO to take action under Angel's Law. The appellant dog owner must prove by a preponderance of the evidence that the state action is unreasonable or arbitrary and capricious. Any person appealing the Mayor's determination that the person is an irresponsible owner must prove by clear and convincing evidence that they were in fact responsible at the time of the Mayor's order or that circumstances have changed such that the person is now able to humanely and responsibly own a dog in the city. The

Hearing Officer shall render a written decision served upon all interested parties within ten days from the date the hearing is completed. The Hearing Officer may affirm, reverse or remand to AACC with written instructions.

(Ord. 2-2005)

 **§ 9-17-99 PENALTY.**

Any violation of this article subjects the violator to the penalty provided by § [1-1-99](#) ROA 1994 and each day of a continuing violation is a separate petty misdemeanor offense. Any violation of this article is not a lesser included offense for a violation of a similar provision of any other law.

(Ord. 2-2005)