

Document Number: **A451111**

Filed and/or Recorded on
Aug 4, 2023 12:40 PM

Office of the County Recorder
Douglas County, Minnesota
Mary Skillings, Recorder

Document Recording Fees \$ 0.00

Document Total \$ 0.00

Return via **INTER-OFFICE**
DOUGLAS COUNTY COORDINATOR/HUMAN RESOURCE DEPT.
Pages: 8

DOUGLAS COUNTY ORDINANCE NO. 62701 - DANGEROUS DOG ORDINANCE

DOUGLAS COUNTY ORDINANCE NO. 62701

DOUGLAS COUNTY DANGEROUS DOG ORDINANCE

Douglas County finds it is important to provide an ordinance that will ensure the safety of the residents of Douglas County by regulating dangerous and potentially dangerous dogs.

NOW, THEREFORE, the Douglas County Board of Commissioners does hereby ordain as follows:

SECTION 1. TITLE. This ordinance amends the Douglas County Dangerous Dog Ordinance, Douglas County Ordinance No. 62701.

SECTION 2. PURPOSE. The purpose and intent of this ordinance is to ensure the safety of the residents of Douglas County by regulating dangerous and potentially dangerous dogs.

SECTION 3. INCORPORATION OF STATE LAW. Douglas County hereby incorporates Minnesota Statutes Section 347.50 through 347.54 into this ordinance. If any of the provisions of this ordinance are more restrictive than State law, then those more restrictive provisions shall apply and be enforced.

SECTION 4. DEFINITIONS.

Animal Shelter - Any premises designated by the County for the purposes of impounding and caring for all dogs found in violation of this ordinance.

Animal Control Officers - An officer employed by or under contract with the County who is responsible for animal control enforcement. This definition specifically includes any licensed peace officer within his or her jurisdiction in Douglas County.

Custodian - A person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog, excluding veterinarians or kennel operators provided that the dogs are kept only temporarily on the premises and are owned by others.

Dog - Any animal in whole or in part of the species *Canis familiaris*.

Dangerous Dog - "Dangerous dog" means any dog that has:

- 1) without provocation, inflicted substantial bodily harm on a human being on public or private property;
- 2) killed a domestic animal without provocation while off the owner's property; or
- 3) been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

Great Bodily Harm - "Great bodily harm" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

Hearing Examiner - A person or persons designated by the County to conduct the hearings prescribed in this ordinance.

Own - To keep, harbor, or have control, charge, or custody of a dog. This term shall not apply to dogs owned by others which are temporarily maintained on the premises of a veterinarian or kennel operator.

Owner - Any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog.

Potentially Dangerous Dog - "Potentially dangerous dog" means any dog that:

- 1) when unprovoked, inflicts bites on a human or domestic animal on public or private property;
- 2) when unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or
- 3) has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

Proper Enclosure - "Proper enclosure" means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

Provocation - an act that an adult could reasonably expect may cause a dog to attack or bite.

Substantial Bodily Harm - "Substantial Bodily Harm" means bodily injury which involves a temporary, but substantial disfigurement, or which causes a temporary, but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

Veterinarian - A veterinarian licensed in the State of Minnesota

SECTION 5. DOG ENFORCEMENT PROCEDURES. Under M.S. 347.53, any statutory county may regulate dangerous and potentially dangerous dogs. Nothing in M.S. 347.50 to 347.565 limits any restrictions that local jurisdictions may place on owners of dangerous or potentially dangerous dogs, except that local jurisdictions may not adopt an ordinance regulating dangerous or potentially dangerous dogs based solely on the specific breed of the dog (M.S. 347.51, subd. 8).

- A. The County Board shall, from time to time, designate animal control officers and/or licensed peace officers to enforce the provisions of this ordinance and the State of Minnesota dangerous dog statute within Douglas County. An animal control officer or licensed peace officer shall:
 - 1) have the right to demand the exhibition of a dog;
 - 2) be required to keep accurate records of the impoundment and disposition of all dogs within the custody of the County;
 - 3) be required to investigate reported injuries from dogs and keep accurate records of such cases;
 - 4) be required to keep accurate records of all money received and to comply with proper auditing and bookkeeping standards; and
 - 5) perform enforcement duties as prescribed as MN Statute Chapter 347.
- B. No person shall interfere with, hinder, or molest an animal control officer or licensed peace officer who is enforcing or attempting to enforce this ordinance or state law.
- C. No person shall seek to release any dog in the custody of an animal control officer or licensed peace officer except as herein provided.

SECTION 6. REGULATIONS REGARDING POTENTIALLY DANGEROUS DOGS.

- A. **Determination.** An animal control officer or other law enforcement official shall determine a dog is a potentially dangerous dog if the officer believes, based upon the officer's professional judgment, that a dog:
- 1) has, when unprovoked, inflicted bites on a human or domestic animal on private or public property; or
 - 2) has, when unprovoked, chased or approached a person including a person on a bicycle, upon streets, sidewalks or any private or public property, other than the dog owner's property, in an apparent attitude of attack; or
 - 3) has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
- B. **Notice of potentially dangerous dog.** Upon the determination by an animal control officer or licensed peace officer that a dog is potentially dangerous, a record of the notice and the reasons for the determination shall be kept by the animal control officer or licensed peace officer that made the determination. The County shall provide a notice of a potentially dangerous dog to the owner of such dog by personally serving the owner or a person of suitable age at the residence of such owner. The notice shall describe the dog deemed to be potentially dangerous and identify the officer who has made the determination. The notice shall also inform the owner of the right to appeal the officer's determination within 14 days after receipt of the notice. If no timely appeal is received by the County, the dog shall be considered a potentially dangerous dog and record of the determination shall be maintained by the County. The determination of potentially dangerous dog may be used as evidence in any subsequent proceeding for a dangerous dog determination pursuant to Section 7(B) of this ordinance and/or MN Statute 347.50 Subd. 1(3).
- C. **Hearing Before Examiner.** If the owner timely appeals the officer's determination that the owner's dog is a potentially dangerous dog, a hearing shall be held within 30 days after receipt of the appeal by the County. Notice of the hearing date shall be sent to the dog owner by mail. At the hearing, the hearing examiner shall receive evidence of whether the dog is potentially dangerous or not. The Minnesota Rules of Evidence need not be strictly followed, and the records of the animal control officer or law enforcement official shall be considered without further foundation. After considering all evidence submitted, the hearing examiner shall make written findings of fact and reach a conclusion whether the dog is a potentially dangerous dog as defined in this ordinance. The findings and conclusions shall be made within 10 working days after the hearing and shall be thereafter personally served on the owner of the dog or a person of suitable age at the residence of such owner. The decision of the hearing examiner shall be final but is appealable to a court of law.
- D. **Effect of Determination.** If the dog is held to be potentially dangerous, the law enforcement agency shall keep a record of that determination. The determination of potentially dangerous dog may be used as evidence in any subsequent proceeding for a dangerous dog determination pursuant to Section 7 (B) of this ordinance and/or MN State Statute 347.50 Subd. 1(3).

SECTION 7. REGULATIONS REGARDING DANGEROUS DOGS.

- A. **Requirement.** No person may own a dangerous dog in Douglas County unless the dog is registered as provided in this section.
- B. **Determination of Dangerous Dog.** An animal control officer or other law enforcement official shall determine that a dog is a dangerous dog if the officer believes, based upon the officer's professional judgment, that a dog:
- 1) has, without provocation, inflicted substantial bodily harm on a human being on public or private property, or

- 2) has killed a domestic animal without provocation while off the owner's property; or
- 3) has been determined to be a potentially dangerous dog, and after the owner has been notified that the dog is potentially dangerous, the dog aggressively bites, attacks or endangers the safety of humans or domestic animals.

C. Law Enforcement Exemption. The provisions of this section do not apply to dogs used by law enforcement officials for police work.

D. Exemption. Dogs may not be declared dangerous if the threat, injury, or damage was sustained by a person:

- 1) who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
- 2) who was provoking, tormenting, abusing, or assaulting the dog who can be shown to have repeatedly, in the past, provoked, tormented, or assaulted the dog; or
- 3) who is committing or attempting to commit a crime.

E. Notice of Dangerous Dog. Upon a determination by an animal control officer or other licensed peace officer that a dog is a dangerous dog as defined in this ordinance, the County shall provide a notice of dangerous dog to the owner of such dog by personally serving the owner or a person of suitable age at the residence of such owner. The notice shall describe the dog deemed to be dangerous and shall identify the name of the officer making the determination. The notice shall also inform the owner of the right to appeal the officer's determination within 14 days after receipt of the notice. Immediately upon receipt of the notice, the owner shall confine the dog in a proper enclosure as defined herein. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration. If no timely appeal is received by the County, the owner of the dangerous dog shall comply with the requirements set forth in paragraph G of Section 7, including, but not limited to, the registration of the dangerous dog with the County Auditor-Treasurer.

F. Hearing Before Examiner. If the owner timely appeals the officer's determination that the owner's dog is a dangerous dog, a hearing shall be held within 30 days after receipt of the appeal by the County. Notice of the hearing date shall be sent to the dog owner by mail. Pending the outcome of the appeal, the owner shall confine the dog in a proper enclosure as herein defined or shall muzzle the dog. The hearing examiner shall receive evidence whether the dog is dangerous or not. The Minnesota Rules of Evidence need not be strictly followed, and the records of the animal control officer or law enforcement official shall be considered without further foundation. After considering all evidence submitted, the County hearing examiner shall make written findings of fact and reach a conclusion whether the dog is a dangerous dog as defined in this ordinance. The findings and conclusions shall be made within 10 working days after the hearing and shall be thereafter personally served on the owner of the dog or a person of suitable age at the residence of such owner. The decision of the hearing examiner shall be final but is appealable to a court of law. If the officer's determination that the dog is a dangerous dog is upheld, then the dog must be registered within 5 days of the date the findings and conclusions are served to the owner.

G. Registration.

1. Registration: The Douglas County Auditor/Treasurer shall issue a Certificate of Registration to the owner of a dangerous dog if the owner presents sufficient evidence that:
 - a. there exists a proper enclosure for the dangerous dog, including photo evidence, and the enclosure may need to be approved by the Douglas County Sheriff's Department; and
 - b. a dangerous dog warning sign that is clearly visible and posted on the premises, including a warning symbol to inform children that there is a dangerous dog on the property. Photo

- evidence of such warning sign must be provided to the Douglas County Auditor-Treasurer upon registration of the dangerous dog; and
- c. a surety bond that has been issued by a surety company authorized to conduct business in the State of Minnesota and is in a form acceptable to Douglas County in the sum of at least \$300,000 payable to any person injured by the dangerous dog, or a policy of liability insurance that has been issued by an insurance company authorized to conduct business in the state of Minnesota in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog. A copy of the surety bond or proof of liability insurance must be provided to the County Auditor/Treasurer upon registration of the dangerous dog; and
 - d. Microchip identification needs to be implanted in the dog by a veterinarian per M.S. 347.515. The owner of the dangerous dog needs to provide to the Douglas County Auditor's Office at the time of registering the dangerous dog a document from veterinarian's office with Microchip identification number and current immunization record. All immunizations must be kept up to date on the dangerous dog.
2. Warning Symbol: For each Certificate of Registration granted to an owner for a dangerous dog, Douglas County shall provide for posting on the owner's property, a warning symbol to inform children that there is a dangerous dog on the property. The warning symbol is to be designed by and ordered from the Commissioner of Public Safety of the State of Minnesota. The county may charge the registrant a reasonable fee to cover its administrative costs and the cost of the warning symbol.
 3. Warning Tag: A dangerous dog registered under this section must have a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol affixed to the dog's collar at all times. Douglas County shall use the tag with the symbol designed and approved by the Commissioner of Public Safety in the State of Minnesota. The county may charge the registrant the cost of the warning tag.
 4. Registration Fee: \$500.00 per M.S. 347.51, subd. 2 (3)

SECTION 8: DANGEROUS DOGS: ADDITIONAL REQUIREMENTS.

- A. An owner of a dangerous dog shall keep the dog, while on the owner's property, in a proper enclosure. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.
- B. An owner of a dangerous dog must renew the registration of the dog annually until the dog is deceased. If the dog is removed from the jurisdiction, it must be registered as a dangerous dog in its new jurisdiction.
- C. An owner of a dangerous dog must notify the animal control authority in writing of the death of the dog or its transfer to a new location where the dog will reside within 30 days of the death or transfer, and must, if requested by the animal control authority, execute an affidavit under oath setting forth either the circumstances of the dog's death and disposition or the complete name, address, and telephone number of the person to whom the dog has been transferred or the address where the dog has been relocated.
- D. An animal control authority shall require a dangerous dog to be sterilized at the owner's expense. If the owner does not have the animal sterilized within 30 days, the animal control authority shall seize the dog and have it sterilized at the owner's expense.

E. A person who owns a dangerous dog and who rents property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal that the person owns a dangerous dog that will reside at the property.

F. A person who transfers ownership of a dangerous dog must notify the new owner that the animal control authority has identified the dog as dangerous. The current owner must also notify the animal control authority in writing of the transfer of ownership and provide the animal control authority with the new owner's name, address, and telephone number.

SECTION 9. CONFISCATION.

Douglas County will follow M.S. 347.54 regarding confiscation of a dangerous dog as noted here within this ordinance.

A. **Seizure.** Any animal control officer or licensed peace officer having jurisdiction shall immediately seize any dangerous or potentially dangerous dog if:

1. after 14 days of the owner receiving notice that the dog is dangerous, the dog is not validly registered under Section 7 of this ordinance (as per M.S. 347.51); and no appeal has been filed with Douglas County; or after 5 days from the owner's receipt of the findings and conclusions upholding the dangerous dog determination, the owner is not in compliance with Section 7 of this ordinance;
2. after 14 days after the owner has notice that the dog is dangerous, the owner does not secure the proper liability insurance or surety coverage as required under Section 7 of this ordinance (as per M.S. 347.51);
3. the dog is not maintained in the proper enclosure;
4. the dog is outside the proper enclosure and not under physical restraint of a responsible person as required under Section 8 of this ordinance (as per M.S. 347.52); or
5. the dog is not sterilized within 30 days, per Section 8 of this ordinance (as per M.S. 347.52, paragraph (d)).
6. If an owner of a dog is convicted of a crime for which the dog was originally seized, the court may order that the dog be confiscated and destroyed in a proper and humane manner, and that the owner pay the costs incurred in confiscating, confining, and destroying the dog.

B. **Reclaimed.** A dangerous dog seized under this ordinance may be reclaimed by the owner of the dog upon payment of impounding and boarding fees and presenting proof to the appropriate animal control authority that the requirements of Section 7 of this ordinance will be met for the regulations regarding dangerous dogs. A dog not reclaimed under this ordinance within seven (7) days may be disposed of in a manner permitted by law, and the owner is liable to the animal control authority for costs incurred in confining and disposing of the dog.

C. **Subsequent offenses; seizure.** If a person has been convicted of a misdemeanor for violating a provision of Minnesota Statute 347.51, 347.515, or 347.52 and/or this ordinance, and the person is charged with a subsequent violation relating to the same dog, the dog must be seized by the animal control authority having jurisdiction. If the owner is convicted of the crime for which the dog was seized, the court shall order that the dog be destroyed in a proper and humane manner and the owner pay the cost of confining and destroying the animal. If the owner is not convicted of the crime for which the dog was seized and no other provisions of this ordinance apply, the owner may reclaim the dog upon payment to the animal control authority of the fees incurred for the care and boarding of the dog. If the dog is not reclaimed by the owner within seven (7) days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of in a manner permitted by law, and the owner is liable to the animal control authority for the cost incurred in confining, impounding, and disposing of the dog.

SECTION 10. PENALTIES. Unless otherwise specifically noted herein, a violation of any provision of this ordinance shall be a misdemeanor under Minnesota law.

SECTION 11. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this decision if for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this division. The Board of Commissioners hereby declares that it would have adopted the division in each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 12. EFFECTIVE DATE. This ordinance replaces all previous versions of the Douglas County Dangerous Dog Ordinance Number 62701 and shall be in full force and effect on the 2nd day of May 2023.

Douglas County Board of Commissioners



Charlie Meyer, Board Chair



Attested

Heather Schlangen
Douglas County Coordinator