

**CITY OF LAFAYETTE
ORDINANCE NUMBER
132**

**AN ORDINANCE RELATING TO THE DESIGNATION AND REGISTRATION OF
POTENTIALLY DANGEROUS DOGS AND DANGEROUS DOGS**

WHEREAS, the City of Lafayette has authority to enact ordinances to provide for the government and good order of the city, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of residence, trade, and commerce, and the promotion of health, safety, order, convenience, and the general welfare by such ordinances not inconsistent with the Constitution and laws of the United States or of this state as it shall deem expedient; and

WHEREAS, Minn. Stat. §§ 609 and 347 do not provide a sufficiently detailed process for the designation, appeal process, and registration process for potentially dangerous and dangerous dogs; and

WHEREAS, Nicollet County now has an ordinance referred to as the "Nicollet County Dangerous Dog Ordinance," which provides for the designation, appeal process, and registration process for potentially dangerous and dangerous dogs; and

WHEREAS, the City of Lafayette would like to adopt a City Ordinance that is the same as the Nicollet County Dangerous Dog Ordinance to apply within the City.

NOW, THEREFORE, the City Council of the City of Lafayette, Nicollet County, State of Minnesota, hereby ordains as follows:

1. Section 91.11 shall be added to the Lafayette Code of Ordinances as follows:

LAFAYETTE CITY CODE SECTION 91.11 - City of Lafayette Dangerous Dog Ordinance

91.11 SECTION 1: TITLE AND JURISDICTION.

This Ordinance shall be known, cited, and referred to as the "City of Lafayette Dangerous Dog Ordinance," except as referred to herein, where it shall be known as "this Ordinance." The provisions of this Ordinance shall apply to all dogs found or located in the City of Lafayette.

91.11 SECTION 2: PURPOSE AND INTENT.

It is the intent of the City to protect the health and safety of the public against the risks that dangerous and potentially dangerous dogs pose to persons and other animals in

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the City. By their very nature, dogs that are classified as "dangerous" or "potentially dangerous" pose a direct threat to the people and other animals that live in the same community or may otherwise come into contact with the dangerous or potentially dangerous dogs. Further, it is the intent of the City to afford dog owners due process when the owner's dog is classified as a dangerous dog or potentially dangerous dog, consistent with Minnesota Statutes Sections 347.50 to 347.56 or other related laws. This Ordinance shall only apply to dogs considered dangerous or potentially dangerous, and it shall not impact the regulation or control of other animals, whether wild or domestic.

91.11 SECTION 3: DEFINITIONS.

A. Animal Control Authority. "Animal Control Authority" shall mean the Nicollet County Sheriff; an agency of the state, County, or other governmental subdivision of the state which is responsible for animal control operations; or any Law Enforcement agent or other public official acting under their direction and control. Additionally, "Animal Control Authority" shall mean any individual, organization, partnership, or entity operating under contract to perform animal control operations pursuant to a written agreement authorized and approved by the City Council.

B. Board. "Board" shall mean the Nicollet County Board of Commissioners.

C. County. The "County" shall mean the County of Nicollet, a political subdivision of the State of Minnesota.

D. Dangerous Dog. A "Dangerous Dog" shall mean a dog that has:

1. Without provocation, inflicted substantial bodily harm on a person on public or private property; or
2. Killed a domestic animal without provocation while off the property of the owner or custodian; or
3. Been found to be a Potentially Dangerous Dog 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.

E. Proper Enclosure. "Proper Enclosure" shall mean a securely confined interior area or a securely enclosed and locked pen or kennel suitable to prevent the dog 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 either allow the public to lawfully enter or 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 barriers that prevent the dog from exiting.

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

G. Hearing Officer. "Hearing Officer" means a person, designated by the Board, who is tasked with making a determination in an Appeal Hearing of a designation of dangerous dog or potentially dangerous dog. The person appointed shall be a licensed doctor of veterinary medicine, or a qualified person trained in domestic animal husbandry.

H. Kill or Kills. "Kill" or "kills" shall mean the existence of a direct causal connection between the act of the attacking dog and the death of the person or other animal. For domestic animals that are euthanized following such an attack, "kill" or "kills" shall mean the death was the direct consequence of the attack; that extensive veterinarian assistance would be ultimately futile and only temporarily prolong the life of the animal; and that euthanasia merely hastened the inevitable death of the victim animal.

I. Microchip or Microchipped. "Microchip" or "microchipped" shall mean a device or implantation of a device, authorized and generally accepted by the veterinary community, to be permanently implanted in the dog, allowing for permanent identification of the dog and the dog's owner, via scanning and reading of the microchip through the dog's skin and hair or fur.

J. Owner. "Owner" shall mean any person or persons, firm, organization, association, department, or corporation owning, possessing, keeping, harboring, having an interest in, or having care, custody, or control of the dog. Any person keeping or harboring a dog for five (5) consecutive days shall, for the purposes of this Ordinance, be deemed to be the owner thereof.

K. Potentially Dangerous Dog. A "Potentially Dangerous Dog" is one that:

1. When unprovoked, inflicts a bite on a person or a domestic animal on public or private property; or
2. When unprovoked, chases or approaches a person or domestic animal, 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.

L. Provocation or Provoked. "Provocation" or "provoked" shall mean an act that a person could reasonably expect may cause a dog to attack or bite.

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M. Substantial Bodily Harm. "Substantial bodily harm" shall mean 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.

N. Unprovoked. "Unprovoked" shall mean the condition in which the dog is not purposefully excited, stimulated, agitated, or disturbed. It shall be a rebuttable presumption that any attack on a child twelve (12) years of age or younger shall be deemed unprovoked, unless the child is engaged in the commission of a crime or illegal activity, including activities classified as "cruelty to animals" as defined in Chapter 343 of the Minnesota Statutes.

O. Warning. "Warning" shall mean the posted and obviously visible signage indicating the presence of a Potentially Dangerous Dog or Dangerous Dog on the property. The Warning shall be posted on the property of the dog owner, or in the location where the dog is maintained, harbored, or kept. Said Warning shall include, when deemed necessary by Law Enforcement, the Animal Control Authority, or the Hearing Officer, the Uniform Dangerous Dog symbol as designed and prepared by the Commissioner of the Minnesota Department of Public Safety. Said symbol, when required, shall be made available to the dog owner, by the Nicollet County Sheriff's Office. The Nicollet County Sheriff's Office may require a reasonable fee for copies of the designated Uniform Dangerous Dog symbol.

91.11 SECTION 4: PROHIBITIONS.

A. It shall be unlawful for any person to own, possess, keep, harbor, or have in one's possession a Potentially Dangerous Dog or Dangerous Dog, except as provided in this Ordinance.

B. It shall be unlawful for any person to own, possess, keep, harbor, or maintain a dog after having been ordered to relinquish or release the dog pursuant to the Order of a Hearing Officer, the County Board, or the District Court, when able to do so or reasonably able to direct others to do so on the person's behalf.

91.11 SECTION 5: POTENTIALLY DANGEROUS DOG DESIGNATION.

A. Designation as Potentially Dangerous Dog.

1. Any Law Enforcement officer or the Animal Control Authority shall designate any dog as a Potentially Dangerous Dog upon information and belief that the dog meets any of the criteria in Section 3.K of this Ordinance.

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2. When a dog is designated a Potentially Dangerous Dog, Law Enforcement or the Animal Control Authority, shall personally serve the owner(s) of the Potentially Dangerous Dog with the written Notification of Potentially Dangerous Dog. Personal service of this Notification shall be made upon the owner or a person of suitable age and discretion at the residence of such owner. Service on any one owner or joint-owner shall be effective as to all owners.

3. Notice requirements. The Notification of Potentially Dangerous Dog shall provide:

- a. A description of the dog designated as a Potentially Dangerous Dog;
- b. The authority for and purpose of the Potentially Dangerous Dog designation;
- c. The date, time, place, and circumstances under which the dog was declared potentially dangerous;
- d. The imposition of conditions, as set forth in Sections 5.C and 5.D, determined to be necessary and reasonable to continue owning, maintaining, or harboring a Potentially Dangerous Dog;
- e. An advisory informing the owner(s) that within fourteen (14) calendar days from the date of service, the owner may submit in writing to the Nicollet County Sheriff's Office a request for hearing and notice of intent to appeal the Potentially Dangerous Dog determination or the imposition of conditions placed on the owner (s) as set forth in Sections 5.C and 5.D of this Ordinance; and
- f. An advisory informing the owner(s) that, if the owner does not request a hearing by timely submitting a notice of intent to appeal within fourteen (14) calendar days, the Potentially Dangerous Dog designation will stand and the owner will be subject to all restrictions and conditions as set forth in the Notification of Potentially Dangerous Dog issued by Law Enforcement or the Animal Control Authority.

B. Hearing - Potentially Dangerous Dog.

1. If an owner appeals a Potentially Dangerous Dog designation or conditions imposed, the hearing shall be held before a Hearing Officer not more than thirty (30) calendar days after the Nicollet County Sheriff's Office is notified of the owner's intent to appeal. The notice of appeal and request for hearing shall be made directly to the Nicollet County Sheriff's Office. If mailed, the written request must be postmarked within the specified time period. If personally served, the written request must be received within the specified time period.

2. At any time following the Potentially Dangerous Dog designation and any time pending hearing, the dog may be seized and kept by Law Enforcement or the Animal Control Authority, unless the owner shows proof, satisfactory to the Nicollet County Sheriff's Office, that the dog: (1) has met the requirements for rabies, vaccinations,

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distemper, and/or other conditions; (2) is kept only in a Proper Enclosure, unless restrained on a leash with muzzle; and (3) is otherwise maintained under circumstances which do not present an unreasonable risk of harm to persons or other domestic animals. All costs related to seizing the dog shall be borne by the dog owner(s).

3. At the hearing, the records of Law Enforcement and the Animal Control Authority related to the alleged bite(s), attack(s), or threatening behavior, medical or veterinarian records, and all reliable hearsay directly related to the alleged bite(s), attack(s), or behavior shall be admissible for consideration by the Hearing Officer without further foundation.

4. Law Enforcement or the Animal Control Authority shall be represented by the Nicollet County Attorney's Office. The owner may be represented by legal counsel hired by the owner at the owner's sole expense. The owner is not entitled to a public defender, court-appointed attorney, or any other legal representation at public expense.

5. At the hearing, Law Enforcement and/or the Animal Control Authority and the owner may present live testimony of witnesses, cross-examine witnesses, and present documents to support their respective positions. The Nicollet County Attorney's Office and the owner of the dog may apply to the District Court for subpoenas to compel the testimony of witnesses.

6. After considering all evidence relating to the alleged bite(s), attack(s), or threatening behavior, and no later than ten (10) business days after the hearing, the Hearing Officer shall issue its decision. The decision shall determine whether or not to uphold the Potentially Dangerous Dog designation. If the designation is upheld, the decision shall require that the dog have a microchip implanted, as set forth in Sections 3.1 and 5.C.a of this Ordinance, at the owner's expense. The Order may also direct Law Enforcement to seize the dog or, if not previously seized, to take the dog into custody, and it may impose any other conditions appropriate for continued ownership, harboring, or maintaining of a Potentially Dangerous Dog whether or not set forth in Sections 5.C and 5.D of this Ordinance. The decision must be delivered to the dog's owner personally or by certified mail as soon as practical and a copy must be provided to the Animal Control Authority.

7. In the event that the Potentially Dangerous Dog designation is upheld by the Hearing Officer, actual expenses of the hearing, up to a maximum of \$1,000.00, shall be the responsibility of the dog's owner.

C. Registration of a Potentially Dangerous Dog.

1. All Potentially Dangerous Dogs must be registered with the Nicollet County Sheriff's Office. An individual seeking to register a Potentially Dangerous Dog must present the Animal Control Authority with proof of the following:

a. Microchip: Proof the dog has been implanted with a microchip as defined by Section 3.1. If the dog has been seized, the owner must arrange for the dog to be microchipped before or at the time of release from custody of Law

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Enforcement or the Animal Control Authority. The name of the microchip manufacturer and identification number of the microchip must be provided to the Animal Control Authority. If the microchip is not implanted by the owner, it may be implanted by a qualified veterinarian under the direction of the Animal Control Authority. In either case, all costs related to implantation of the microchip must be borne by the dog's owner;

b. Annual Fee: The owner must, at the time of initial registration, and every year thereafter, submit an annual registration fee of \$500.00 per year to the Nicollet County Sheriff's Office; and

c. Vaccination: At the time of registration and as a condition of maintaining the dog in the owner's care, the dog owner must provide proof of proper vaccinations against rabies, distemper, or other conditions, and provide proof of such vaccination annually upon renewal of registration.

D. A dog owner seeking to possess, keep, harbor, or maintain a Potentially Dangerous Dog on the owner's property, the owner's residence, or other property under the owner's control must comply with the following conditions:

1. The owner of a dog that has been designated as a Potentially Dangerous Dog by Law Enforcement, the Animal Control Authority, or Hearing Officer must arrange for the dog to be microchipped, as set forth in Sections 3.1 and 5.C.a of this Ordinance, at the owner's expense;

2. The owner must post notice and warning of the presence of a Potentially Dangerous Dog on the front and back of the property, using signs and language that is understandable to children;

3. The owner and dog may be required to successfully complete an approved dog obedience class at the owner's expense and provide proof of that successful completion to the Nicollet County Sheriff's Office. Failure to successfully complete the course in a timely manner, if mandated, may result in the seizure of the dog by Law Enforcement or the Animal Control Authority;

4. The dog may be required to be kept in a Proper Enclosure, or be restrained by chain or leash not to exceed eight (8) feet in length, and muzzled, and under the control of a person eighteen (18) years of age or older at all times it is outdoors and not inside a Proper Enclosure;

91.11 SECTION 6: DANGEROUS DOG DESIGNATION.

A. Designation as Dangerous Dog.

1. Any Law Enforcement officer, the Animal Control Authority, or other authorized agent of the County shall designate any dog as a Dangerous Dog upon information and belief that the dog meets any of the criteria in Section 3.D of this Ordinance.

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2. When a dog is designated a Dangerous Dog, Law Enforcement or the Animal Control Authority shall personally serve the owner(s) of the Dangerous Dog with a written Notification of Dangerous Dog. The authority declaring the dog as dangerous shall give notice of this section by delivering or mailing it to the owner of the dog, or by posting a copy of it at a place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. Service on any one owner or joint-owner shall be effective service as to all owners.

3. Notice Requirements. This Notification of Dangerous Dog shall provide:

- a. A description of the dog designated as a Dangerous Dog;
- b. The authority for and purpose of the Dangerous Dog designation and seizure;
- c. The date, time, place, and circumstances under which the dog was declared dangerous;
- d. The telephone number and contact person where the dog is kept;
- e. The imposition of conditions determined to be necessary and reasonable for continued ownership, maintaining, or harboring of a Dangerous Dog as set forth in Sections 6.C and 6.D of this Ordinance;
- f. An advisory informing the owner(s) that, within fourteen (14) calendar days from the date of service, the owner may request a hearing concerning the Dangerous Dog designation and, if applicable, prior Potentially Dangerous Dog designations for the dog. If the owner fails to request a hearing within fourteen (14) calendar days of the date of the notice, the owner's right to a hearing under this Section will terminate;
- g. If a request for hearing is made within fourteen (14) calendar days of the Notice, the owner must immediately comply with the requirements of Sections 6.D.3 (Proper Enclosure), 6.C.1.c (Vaccination), and 6.E (Requirements for Maintaining a Dangerous Dog) of this Ordinance until such time as the Hearing Officer issues its decision;
- h. A statement that if the Hearing Officer upholds the Dangerous Dog declaration, the owner will have fourteen (14) calendar days from receipt of that decision to comply with all the requirements of Sections 6.C (Registration), 6.D (Conditions), and 6.E (Requirements of Maintaining a Dangerous Dog) of this Ordinance;
- i. The person claiming an interest in the dog is responsible for all actual costs of the care, keeping, and disposition of the dog, except to the extent that a Court or Hearing Officer finds that the seizure or impoundment was not substantially justified by law.

8. Hearing - Dangerous Dog.

1. If any owner requests a hearing to appeal the designation as a Dangerous Dog, the hearing shall be held before a Hearing Officer not more than fourteen (14) business days after the Nicollet County Sheriff's Office is notified of the owner's intent to appeal. The notice of appeal and request for hearing shall

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be made directly to the Nicollet County Sheriff's Office. If mailed, the written request must be postmarked within the specified time period. If personally served, the written request must be received within the specified time period.

2. At any time following the Dangerous Dog designation and any time pending hearing, the dog may be seized and kept by Law Enforcement or the Animal Control Authority, unless the owner shows proof, satisfactory to the Nicollet County Sheriff's Office, that the dog: (1) has met the requirements for rabies, vaccinations, distemper, and/or other conditions; (2) is kept only in a Proper Enclosure, unless restrained on a leash with muzzle; and (3) is otherwise maintained under circumstances which do not present an unreasonable risk of harm to persons or other domestic animals. All costs related to seizing the dog shall be borne by the dog owner(s).

3. At the hearing, the records of Law Enforcement and the Animal Control Authority related to the alleged bite(s), attack(s) or behavior, medical or veterinarian records, and all reliable hearsay directly related to the alleged attack(s) shall be admissible for consideration by the Hearing Officer without further foundation.

4. Law Enforcement or the Animal Control Authority shall be represented by the Nicollet County Attorney's Office. The owner may be represented by legal counsel hired by the owner at the owner's sole expense. The owner is not entitled to a public defender, court-appointed attorney, or any other legal representation at public expense.

5. At the hearing, Law Enforcement and/or the Animal Control Authority and the owner may present live testimony of witnesses, cross-examine witnesses, and present documents to support their respective positions. The Nicollet County Attorney's Office and the owner of the dog may apply to the District Court for subpoenas to compel the testimony of witnesses.

6. After considering all evidence relating to the alleged bite(s), attack(s), or behavior, and no later than ten (10) business days after the hearing, the Hearing Officer shall issue its decision. The decision shall determine whether or not to uphold the Dangerous Dog designation. If the decision is upheld, the Hearing Officer may: direct Law Enforcement or the Animal Control Authority to seize the dog, if not previously seized by the Animal Control Authority, and take it into custody; require that the owner have a microchip implanted as set forth in Section 3.1 and 6.C.1.a of this Ordinance, at the owner's expense; or require the owner to comply with any or all conditions for continued ownership, harboring, or maintaining of a Dangerous Dog, whether or not set forth in Sections 6.C, 6.D, and 6.E of this Ordinance. The decision must be delivered to the dog's owner personally or by certified mail as soon as practical and a copy must be provided to the Animal Control Authority.

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7. Failure to Release Dog following Hearing. Any owner who does any of the following acts after a decision by the Hearing Officer upholding the Dangerous Dog designation shall be guilty of a misdemeanor:

- a. Possesses, keeps, harbors, or maintains a Dangerous Dog; or
- b. Refuses to release to or fails to produce the Dangerous Dog to Law Enforcement or the Animal Control Authority pursuant to a demand of Law Enforcement or the Animal Control Authority.

8. Authority to Order Destruction of Dog. The Hearing Officer, upon upholding a Dangerous Dog designation, is authorized to order, as part of the disposition of the case, that the dog be destroyed based upon findings that either of the following criteria is present:

- a. The dog is dangerous, as demonstrated by a vicious attack, unprovoked attack, an attack without warning, or multiple attacks and the owner of the dog has demonstrated an inability or unwillingness to sufficiently control the dog in order to prevent injury to persons or other animals; or
- b. The owner cannot, will not, does not, or otherwise refuses to provide proof of liability insurance for the dog as required by Section 6.D.2.

9. In the event that the Dangerous Dog designation is upheld by the Hearing Officer, actual expenses of the hearing, up to a maximum of \$1,000.00, shall be the responsibility of the dog's owner.

C. Registration of a Dangerous Dog.

1. All Dangerous Dogs must be registered with the Nicollet County Sheriff's Office. An individual seeking to register a Dangerous Dog must present the Animal Control Authority with proof of the following:

- a. Microchip: Proof the dog has been implanted with a microchip as defined by Section 3.1. If the dog has been seized, the owner must arrange for the dog to be microchipped before or at the time of release from custody of Law Enforcement or the Animal Control Authority. The name of the microchip manufacturer and identification number of the microchip must be provided to the Animal Control Authority. If the microchip is not implanted by the owner, it may be implanted by a qualified veterinarian under the direction of the Animal Control Authority. In either case, all costs related to implantation of the microchip must be borne by the dog's owner;
- b. Annual Fee: The owner must, at the time of initial registration, and every year thereafter, submit an annual registration fee of \$500.00 per year to the Nicollet County Sheriff's Office; and

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c. Vaccination: At the time of registration and as a condition of maintaining the dog in the owner's care, the dog owner must provide proof of proper vaccinations against rabies, distemper, or other conditions, and provide proof of such vaccination annually upon renewal of registration.

D. A dog owner seeking to possess, keep, harbor, or maintain a Dangerous Dog on the owner's property, the owner's residence, or other property under the owner's control must comply with the following conditions:

1. The Dangerous Dog must meet all the registration requirements of Section 6.C of this Ordinance;

2. Liability Insurance: At the time of registration and as a condition of maintaining the dog in the owner's care, the dog owner must provide a surety bond issued by a surety company authorized to conduct business in this State in a form acceptable to the Animal Control Authority in the sum of at least \$300,000.00 per person and \$600,000.00 per incident, payable to any person(s) injured by the Dangerous Dog; or a policy of liability insurance issued by an insurance company authorized to conduct business in this State in the amount of at least \$300,000.00 per person and \$600,000.00 per incident, insuring the owner for any personal injuries inflicted by the Dangerous Dog. At a minimum, the dog owner shall provide proof of the liability insurance to the Nicollet County Sheriff's Office annually when the owner pays the annual fee specified in Section 6.C.1.b;

3. Proper Enclosure: The dog must be maintained in a Proper Enclosure as defined in Section 3.E of this Ordinance;

4. Display Warning/Posting as Dangerous Dog: The owner must clearly post the warning on the property with the Uniform Dangerous Dog symbol, as specified by the Commissioner of the Minnesota Department of Public Safety. Posting must include the front and rear of the owner's property and on the Proper Enclosure in which the dog is maintained. The owner shall pay the fee for cost of the sign to the Animal Control Authority;

5. Dangerous Dog Collar: A registered Dangerous Dog must have a standardized, easily identifiable tag identifying the dog as dangerous, containing the Uniform Dangerous Dog symbol, and shall be affixed to the dog's collar at all times; and

6. Proper Restraint: The dog must be restrained by chain or leash not to exceed eight (8) feet in length, must be muzzled, and must be under the physical control of a person eighteen (18) years of age or older at all times it is outdoors and not inside a Proper Enclosure.

E. Requirements for Maintaining a Dangerous Dog.

1. 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 proper restraint and under the physical restraint of a

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person eighteen (18) years of age or older. 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.

2. 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.

3. 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 thirty (30) calendar 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.

4. The 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 thirty (30) calendar days, the Animal Control Authority shall seize the dog and have it sterilized at the owner's expense.

5. 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.

6. A person who transfers ownership of a Dangerous Dog must notify the new owner that the Animal Control Authority or Hearing Officer has designated the dog as a Dangerous Dog. 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.

91.11 SECTION 7: APPEALS, REVIEWS, AND COMPLIANCE.

A. Appeals of Dangerous Dog and Potentially Dangerous Dog Determinations.

1. The decision of the Hearing Officer is a quasi-judicial determination that may be appealed by Writ of Certiorari to the Minnesota Court of Appeals. An order from the Hearing Officer for the destruction of a dog shall be stayed upon receipt of a notice of appeal if the notice of appeal is served on the Nicollet County Sheriff's Office within seven (7) business days of service of said order on the owner.

B. Review of Designation.

1. No sooner than six (6) months after a dog is designated as a Dangerous Dog, and then annually thereafter, an owner may request that the Animal Control Authority review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If

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the Animal Control Authority finds sufficient evidence that the dog's behavior has changed, the Animal Control Authority may rescind the Dangerous Dog designation.

C. Compliance with Designation.

1. Upon receipt of the Notification of Dangerous Dog or Hearing Officer's decision following a hearing, the owner or custodian of the dog shall comply with the requirements as set forth in the original Notification, or, if a hearing is held, the decision of the Hearing Officer.

2. If an owner or custodian of the dog fails to comply with any conditions set forth in the written Notification or as subsequently specified in the Hearing Officer's decision and fails to request a hearing as provided in Sections 5.8 and 6.8 of the Ordinance, the dog may be seized by Law Enforcement or the Animal Control Authority.

D. Subsequent Offenses.

If an owner of a dog which has been designated dangerous or potentially dangerous is subject to the conditions of this Section and has allegedly failed to comply with the conditions, the dog must be seized by Law Enforcement or the Animal Control Authority. Notice shall be provided to the owner of the basis for the seizure and the right to request a hearing before a Hearing Officer, as set forth in Section 5.8 or Section 6.8, to determine whether the conditions were violated. A request for hearing must be made within fourteen (14) calendar days of the seizure. If the owner fails to timely request a hearing, or is found to have violated the conditions, the Hearing Officer shall order the dog destroyed in a proper and humane manner and the owner shall pay the costs of confining the dog. If the owner is found not to have violated the conditions, the owner may reclaim the dog under conditions set by the Animal Control Authority.

E. Confiscation of Dog.

Law Enforcement or the Animal Control Authority shall immediately seize any Dangerous Dog or Potentially Dangerous Dog if:

1. The dog is not validly registered with the Nicollet County Sheriff's Office within fourteen (14) calendar days of a designation that the dog is dangerous or potentially dangerous by Law Enforcement, the Animal Control Authority, or a Hearing Officer.

2. The owner does not secure and provide proof of the proper liability insurance or surety coverage as required in Section 6.D.2 within fourteen (14) calendar days of a final determination by Law Enforcement, the Animal Control Authority, or a Hearing Officer that the dog is a Dangerous Dog or Potentially Dangerous Dog;

3. The dog is not maintained in a Proper Enclosure as required in Section 6.D.3 of this Ordinance;

4. The dog is outside the Proper Enclosure and not under physical restraint of a responsible person as required under Section 6.E.1 of this Ordinance; or

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5. The dog is not sterilized within thirty (30) calendar days, pursuant to Section 6.E.4 of this Ordinance.

F. If an owner of a dog is convicted of a crime for which the dog was originally seized, the District 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.

G. Reclamation of Seized Dog.

A Dangerous Dog or Potentially Dangerous Dog seized under Section 7.E above 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 this Ordinance are and will be met. A dog not reclaimed under this Section within seven (7) calendar 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.

H. Subsequent Violations

If a person has been convicted of a misdemeanor for violating a provision of Minnesota Statutes Sections 347.51, 347.515, or 347.52, 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 dog. If the owner is not convicted and the dog is not reclaimed by the owner within seven (7) calendar 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.

91.11 SECTION 8: EXEMPTIONS.

A. A dog may not be declared dangerous if the threat, injury, or damage was sustained by a person who:

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

B. Law Enforcement Exemption. Dangerous Dog or Potentially Dangerous Dog designations shall not apply to a Law Enforcement canine used by Law Enforcement officials for police work.

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91.11 SECTION 9: DESTRUCTION OF DOGS IN CERTAIN CIRCUMSTANCES.

Suffering Beyond Cure. Notwithstanding any other provision of this Ordinance, any dog taken into custody may be immediately disposed of when the dog is suffering and is believed to be beyond cure, as determined in writing by a licensed doctor of veterinary medicine, through reasonable care and treatment.

91.11 SECTION 10: PENALTIES.

A. Any person found to have violated the conditions for maintaining, harboring, or keeping a Potentially Dangerous or Dangerous Dog as required under this Ordinance, is guilty of a misdemeanor, punishable by up to a \$1,000 fine and/or 90 days in jail.

B. Any person who willfully fails to comply with the Order of a Hearing Officer, the County Board or District Court, is guilty of a misdemeanor, punishable by up to a \$1,000 fine and/or 90 days in jail.

C. A person who violates a provision of Minnesota Statutes Sections 347.51, 347.515, or 347.52 is guilty of a misdemeanor, punishable by up to a \$1,000 fine and/or 90 days in jail.

D. A person who removes a microchip from a Dangerous Dog or Potentially Dangerous Dog, fails to renew the registration of a Dangerous Dog, fails to account for a Dangerous Dog's death or change of location where the dog will reside, signs a false affidavit with respect to a Dangerous Dog's death or change of location where the dog will reside, or fails to disclose ownership of a Dangerous Dog to a property owner from whom the person rents property is guilty of a misdemeanor, punishable by up to a \$1,000 fine and/or 90 days in jail.

E. A person who is convicted of a second or subsequent violation of Minnesota Statutes Section 347.55 (a) or (b) is guilty of a gross misdemeanor, which is punishable by a fine of \$3,000 and/or 365 days in jail.

F. An owner who violates Minnesota Statutes Section 347.542, subdivision 1, is guilty of a gross misdemeanor, which is punishable by a fine of \$3,000 and/or 365 days in jail.

91.11 SECTION 11: EFFECTIVE DATE.

This ordinance shall be in full force and effect from and the date of its passage and publication according to law, whichever occurs first.

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ADOPTED by the City Council of the City of Lafayette, Minnesota this ___th day
of ___, 2020.

AYES:

NAYS:

PRESENT-NOT VOTING:

ABSENT:

Tom Sandberg Mayor

ATTEST:

Sandy Burger City Clerk

First Reading: 9/14/2020
Second Reading/Adoption:
Publication: