BOARD OF COUNTY COMMISSIONERS
WRIGHT COUNTY, MINNESOTA

ORDINANCE NO. 10-01

An Ordinance For Dangerous and Potentially Dangerous Dogs in Wright County

(See Attached)

STATE OF MINNESOTA)
ss.
County of Wright)

I, Lee Kelly, duly appointed, qualified, and acting Clerk to the County Board for the County of Wright, State of Minnesota, do certify that the attached amendments were adopted by the Board of Commissioners, Wright County, Minnesota, at their session held on the 19th day of January, 2010, now on file in my office, and have found the same to be a true and correct copy thereof.

Witness my hand and official seal at Buffalo, Minnesota, this 19th day of January, 2010.

Lee R Kelly
Special Projects Administrator

WRIGHT COUNTY

Ordinance Number 10-01

DANGEROUS AND POTENTIALLY DANGEROUS DOG ORDINANCE

Adopted by the Wright County Board of Commissioners on the 19th day of January, 2010.

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AN ORDINANCE FOR DANGEROUS AND POTENTIALLY DANGEROUS DOGS IN WRIGHT COUNTY

The Board of Commissioners of the County of Wright, State of Minnesota, does hereby ordain and adopt this Ordinance establishing regulations and standards for the management of Dangerous and Potentially Dangerous Dogs pursuant to Minnesota Statutes Chapter 347.

SECTION 1 – PURPOSE AND INTENT

It is the intent of Wright County to protect the public against the health and safety risks posed by Dangerous and Potentially Dangerous Dogs. By their very nature, dogs 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 them. The intent of this Ordinance is to govern and control Dangerous and Potentially Dangerous Dogs located within Wright County. This Ordinance uses the same framework as Minnesota Statutes Sections 347.50 – 347.565, which govern Dangerous Dogs. This Ordinance does not regulate, govern, or control dogs not considered Dangerous or Potentially Dangerous, or otherwise impact the regulation and control of other animals, whether wild or domestic.

SECTION 2 – TITLE

This Ordinance shall be known as, and may be cited and referenced as, the "Wright County Dangerous and Potentially Dangerous Dog Ordinance;" and, when referred to herein, it shall be referenced to as "this Ordinance."

SECTION 3 – VALIDITY

All sections and provisions of this Ordinance are deemed severable in nature. Should a court of competent jurisdiction declare any particular section or provision to be void, invalid, or unenforceable, that decision shall not affect the validity of this Ordinance as a whole nor be construed as a determination that any other section or provision is void, invalid, or unenforceable.

SECTION 4 – JURISDICTION

This Ordinance shall apply to all areas of the County of Wright; except this Ordinance does not apply in any city or town which has a dangerous dog ordinance complying with state law and which has declared itself to be the Animal Control Authority within its jurisdiction. This Ordinance also does not apply to any dog used by law enforcement officials for police work.

SECTION 5 – INCORPORATION

This Ordinance expressly adopts and incorporates the provisions of Minnesota Statutes Sections 347.50 – 347.565. When the provisions of this Ordinance impose greater restrictions than those of any other statute, ordinance, rule or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any other statute, ordinance, rule or regulation impose greater restrictions than this Ordinance, the provision of such statute, ordinance, rule or regulation shall be controlling.

SECTION 6 – DEFINITIONS

For the purpose of this Ordinance, the terms defined in this section shall have the following meanings assigned to them:

(A) **Animal Control Authority.** "Animal Control Authority" shall mean Wright County or any Law Enforcement agent or other public official acting under its 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 Wright County Board of Commissioners, or any city or town located within Wright County which has declared itself to be the Animal Control Authority within its jurisdiction.

(B) **Board**. "Board" shall mean the Wright County Board of Commissioners.

(C) **County**. "County" shall mean the County of Wright, a political subdivision of the State of Minnesota.

(D) **Dangerous Dog.** "Dangerous Dog" shall mean any dog that has:

(1) When Unprovoked, inflicted death, Great Bodily Harm, Substantial Bodily Harm, or permanent disfigurement to any person on public or private property; or

(2) When Unprovoked, engaged in any attack on any person under circumstances which indicated danger to personal safety; or

(3) Killed a domestic animal while off the Owner's property; or

(4) When Unprovoked, has bitten one (1) or more persons on two (2) or more separate occasions; or

(5) Been found to be Potentially Dangerous, and after the Owner received notice or personal knowledge that the dog is Potentially Dangerous, the dog aggressively bites, attacks, or endangers the safety of a human being or domestic animal; or

(6) Been or will be used, trained, or encouraged to fight with another animal; or whose Owner has in custody or possession any training apparatus, paraphernalia or drugs used to prepare such dog for fighting with another animal.

(E) **Great bodily harm**. "Great bodily harm" shall have the meaning given it under Minnesota Statutes Section 609.02, Subdivision 8.

(F) **Hearing**. "Hearing" shall mean a proceeding conducted by a Hearing Officer in accordance with the requirements of this Ordinance.

(G) **Hearing Officer**. "Hearing Officer" shall mean a licensed doctor of veterinary medicine, an Animal Control Authority official, or any otherwise qualified impartial hearing officer, appointed by the Board.

(H) **Killed.** A dog "Killed" or "Kills" a human being or domestic animal if there was a direct causal connection between the act of the attacking dog and the death of the person or other animal. For domestic animals which were euthanized following such an attack, "Killed" or "Kills" shall mean the death was the direct and inescapable consequence of the attack, extensive veterinarian assistance would be futile, and that euthanasia merely hastened the inevitable death of the victim animal.

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

(J) **Potentially dangerous dog.** "Potentially dangerous dog" shall mean any dog that has:

(1) When Unprovoked, bitten a human or domestic animal on public or private property; or

(2) When Unprovoked, chased or approached a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than upon the dog Owner's property, in an apparent attitude of attack; or

(3) A known history or propensity, tendency, or disposition to attack while Unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

(K) **Proper Enclosure.** "Proper Enclosure" shall mean securely confined indoors, or in a securely enclosed and locked pen or structure outdoors, suitable to prevent the animal from escaping and providing the dog protection from the elements. 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. Such enclosure shall not allow the egress of the animal in any manner without human assistance.

A pen or kennel, in order to qualify as a Proper Enclosure, shall meet the following minimum specifications:

(1) The overall floor size shall have a minimum area of thirty-two square feet (32 sq. ft.);

(2) Sidewalls shall have a minimum height of five feet (5 ft.) and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches (2 in.), support posts shall be one and one-quarter-inch (1¼ in.) or larger steel pipe buried in the ground eighteen inches (18 in.) or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of eighteen inches (18 in.) into the ground;

(3) A cover over the entire pen or kennel shall be provided, constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches (2 in.); and

(4) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two (2) inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

(L) Substantial Bodily Harm. "Substantial bodily harm" shall have the meaning given to it under Minnesota Statutes Section 609.02, Subdivision 7a.

(M) Unprovoked. "Unprovoked" shall mean the condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

SECTION 7 – DANGEROUS DOGS, DESIGNATION.

Subsection 1: Designation

The Animal Control Authority or Hearing Officer shall designate any dog as a Dangerous Dog upon receiving evidence that the dog meets any of the criteria of applicable state law or Section 6(D) of this Ordinance.

Subsection 2: Notice

(1) Upon a designation that a dog is Dangerous, the Animal Control Authority shall provide a written Notice of Dangerous Dog to the Owner of record or, if none, to any Owner of such dog by personally serving the Owner or a person of suitable age and discretion at the residence of such Owner. Service upon any Owner shall be effective as to all Owners. The notice shall state the dates, times, places and facts of the incidents which form the basis for the determination, and include the following:

(i) A description of the dog deemed to be Dangerous;

(ii) The factual basis for that determination; and

(iii) The identity of the official who made the determination.

(2) The Notice shall also set forth the registration requirements and other restrictions imposed upon a Dangerous Dog under this Ordinance or Minnesota Statutes Chapter 347.

(3) The Notice shall also advise the Owner(s) that they have ten (10) days to appeal the determination by requesting a Hearing before the Hearing Officer, and shall include a pre-printed form which the Owner can use to request a hearing. The request for a Hearing shall be made directly to the Animal Control Authority, and must be submitted in writing.

(4) If the Owner does not request a Hearing within the allotted ten (10) days, the designation of Dangerous Dog as issued in the written Notice of Dangerous Dog will stand, and the Owner will be subject to all restrictions and requirements as set forth in the Notice by the Animal Control Authority.

Subsection 3: Hearing

(1) If an Owner, within ten (10) days of the date of the Notice, requests a Hearing for determination as to the Dangerous nature of the dog, the Hearing shall be held before a Hearing Officer within ten (10) days after the Animal Control Authority is notified of the Owner's request for a Hearing. The Hearing Officer may allow the Hearing date to be extended beyond the ten (10) day period for good cause. Any dog Owner who requests such a Hearing is liable to the County for all costs and expenses related to the Hearing.

(2) Pending the a Hearing, the dog may be seized and kept at animal control unless the Owner shows proof that the dog is properly licensed, if required; has met the requirement for rabies vaccinations; keeps the dog only in a Proper Enclosure unless restrained on a leash with a muzzle; and otherwise demonstrates to the Animal Control Authority that the dog, under its present circumstances, does not present an unreasonable risk of harm to persons or other domestic animals.

(3) The records of the Animal Control Authority, any police reports relating to an attack or bite, medical records, and all reliable hearsay shall be admissible for consideration by the Hearing Officer without further foundation.

(4) The Animal Control Authority shall be represented by the Wright County Attorney's Office. The Owner may be represented by private legal counsel of the Owner's choosing, although the Owner does not have the right to an attorney at public expense.

(5) At the Hearing, both the Owner and the Animal Control Authority may present the testimony of live witnesses, cross-examine witnesses, and present documentary evidence. The Animal Control Authority, and the dog's Owner, may apply to the District Court for subpoenas for Hearings.

(6) The burden of proof shall be upon the Animal Control Authority. The standard of proof shall be clear and convincing evidence if the Authority seeks to destroy the dog; in all other cases it shall be by a preponderance of the evidence.

(7) After considering all evidence pertaining to the dog, the Hearing Officer shall make such order as he/she deems proper, including ordering the Animal Control Authority to take the dog into custody, if the dog is not currently in custody.

(8) Any person who fails or refuses to release a dog to the Animal Control Authority or law enforcement agent upon demand, or after it has been found by a Hearing Officer to be Dangerous and ordered into custody, shall be guilty of a misdemeanor.

(9) *Authority to order destruction.* The Hearing Officer, upon finding that a dog is Dangerous hereunder, is authorized to order, as part of the disposition of the case, that the dog be destroyed based on a written order containing findings of fact establishing that each of the following criteria are present:

(i) The dog is Dangerous, as demonstrated by a vicious attack, an unprovoked attack, an attack without warning, or multiple attacks; and

(ii) 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; and

(iii) The Owner cannot, will not, does not, or otherwise refuses to provide proof of the liability insurance for the dog as required by Section 8, Subsection 3(3) of this Ordinance.

(10) The decision of the Hearing Officer is a quasi-judicial determination that is subject to review by writ of certiorari to the Minnesota Court of Appeals.

(11) The Owner or person claiming an interest in the dog is liable for all actual costs of care, keeping, and disposal 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. The costs must be paid in full, or a mutually satisfactory arrangement for payment must be made between the County and the person claiming an interest in the dog, before the dog is returned to the person.

Subsection 4: Exemption

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; or

(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 against the Owner or the Owner's property.

Subsection 5: Review of designation

Beginning one year after a dog is declared a Dangerous Dog; an Owner may request annually in writing that the Animal Control Authority or the Hearing Officer review the designation. The Owner must provide evidence that the dog's behavior has changed due to the dog's age,

sterilization, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the Animal Control Authority or Hearing Officer finds sufficient evidence that the dog's behavior has changed, the Authority may rescind the dangerous dog designation. If a review of designation is conducted by the Hearing Officer, the burden of proof shall be upon the dog's Owner and the standard of proof is clear and convincing evidence.

SECTION 8 – DANGEROUS DOGS; REGISTRATION.

Subsection 1: Requirements

For any dog determined or declared to be Dangerous by operation of this Ordinance, state statute, court order, ordinance or regulation from another jurisdiction, or valid declaration from an Animal Control Authority, the dog shall, at all times during the dog's life, be registered as a Dangerous Dog pursuant to this Ordinance or state law.

Subsection 2: Registration

No person may own or possess a Dangerous Dog in this County unless the dog is registered as provided in this Ordinance or applicable state law. All dogs deemed Dangerous by the Animal Control Authority or Hearing Officer, as applicable, shall be registered as a Dangerous Dog with the Animal Control Authority within thirty (30) days after the date the dog was so deemed.

Subsection 3: Registration requirements

The Animal Control Authority shall issue a Certificate of Registration to the Owner of a Dangerous Dog only if the Owner presents sufficient evidence that all of the following are met:

(1) The Owner provides and maintains a Proper Enclosure for the Dangerous Dog, as defined in Section 6(K) of this Ordinance; and

(2) The Owner posts clearly visible warning signs, understandable to children, that there is a Dangerous Dog on the property. These warning signs must be posted on the front and the rear of all buildings on the property and upon the Proper Enclosure for the dog. The warning signs must meet the requirements set forth in Minnesota Statute Section 347.51, and Section 9 of this Ordinance; and

(3) The Owner provides, and annually shows proof of, public liability insurance pre-paid in full in the minimum amount of five-hundred thousand dollars ($500,000.00) per person and one-million dollars ($1,000,000.00) per incident, payable to any person or persons 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 five-hundred thousand dollars ($500,000.00) per person and one-million dollars ($1,000,000.00) per incident insuring the Owner for any personal injuries inflicted by the Dangerous Dog; and

(4) The Owner pays the annual registration fee set by Board pursuant to Subsection 5 of this Section; and

(5) An identification microchip was implanted in the dog as required under Minnesota Statutes Section 347.515 and Section 12 of this Ordinance; and

(6) The dog must have a lifetime license, if required, and must be up to date on all vaccinations including rabies.

(7) The dog must be sterilized. If not done within 30 days, Animal Control Authority shall seize the dog and have it sterilized at the owner's expense.

Subsection 4: Release

If a Dangerous Dog was impounded by the Animal Control Authority, or upon order of a Hearing Officer, the dog shall not be released until the Owner demonstrates to the Animal Control Authority that all applicable requirements of this Ordinance, including all registration requirements imposed by this Section or applicable state law, have been complied with. The Owner shall have a maximum of thirty (30) days to comply with all requirements. The Owner must pay the County for all costs incurred in the seizure and boarding of the dog prior to its return.

Subsection 5: Fee

The County will charge the Owner of a Dangerous Dog an annual fee, in addition to any regular dog licensing fees, to obtain a Certificate of Registration for a Dangerous Dog under this Section. This annual fee will be set by the Board following a public hearing, in an amount not to exceed five-hundred dollars ($500.00).

Subsection 6: Revocation

(1) Any Certificate of Registration for a Dangerous Dog may be revoked, following Hearing, if the Owner fails to maintain compliance with any registration requirement, or fails to keep or maintain the Dangerous Dog as required by any provision of this Ordinance or applicable state law. The provisions of Sections 13 and 14 of this Ordinance, applicable to the seizure and disposition of dogs, shall apply.

(2) The Animal Control Authority shall serve upon the Owner a written Notice setting forth the alleged reasons why the dog is not being kept in conformance with this Ordinance, and shall also notify the Owner of the date, time, and location of the Hearing. Any Hearing to revoke a Certificate of Registration shall be held before a Hearing Officer within twenty (20) days of the date of the Notice, and shall comply with all the requirements as set forth in Section 7, Subsection 3. The Hearing Officer may allow the Hearing date to be extended beyond the twenty (20) day period for good cause.

(3) If a Dangerous Dog Certificate of Registration is revoked following Hearing, the Hearing Officer shall order the dog disposed of immediately or, in the alternative, permit the Owner a reasonable time period, not to exceed thirty (30) days, to obtain the dog if the Owner is in compliance with all registration requirements.

Subsection 7: Registration renewal

An Owner of a Dangerous Dog shall renew the registration of the dog annually until the dog is deceased.

Subsection 8: Death or relocation of Dangerous Dog

An Owner of a Dangerous Dog shall notify the Animal Control Authority, in writing, of the death of the dog, or if the dog relocates or transfers out of the County to a new location or new jurisdiction, within thirty (30) days of the death or relocation. An Owner shall, if requested by the Animal Control Authority, execute an affidavit, under oath and penalty of perjury, 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 was transferred.

Subsection 9: Sale or transfer of Dangerous Dogs

A person who sells or otherwise transfers ownership or control of a Dangerous Dog must notify any potential purchaser or transferee, prior to the consummation of the transaction, that the dog was previously designated as Dangerous. The seller must also notify the Animal Control Authority, in writing, of the sale and provide the Animal Control Authority with the new Owner's name, address, and telephone number.

SECTION 9 – DANGEROUS DOGS; REQUIREMENTS.

Subsection 1: Requirements

For any dog declared Dangerous by operation of this Ordinance, state statute, court order, an ordinance or regulation from another jurisdiction, or by operation of a declaration by an Animal Control Authority, the Owner, in addition to complying with all the registration requirements set forth under Section 8 of this Ordinance, shall keep and maintain the dog pursuant to all requirements of this Section, all other provisions of this Ordinance, and all requirements of any applicable state statute.

Subsection 2: Restraint

An Owner of a Dangerous Dog shall keep the dog, while on the Owner's property, in a Proper Enclosure as defined by Section 6(K) of this Ordinance. The dog shall, at all times, be kept in such Proper Enclosure unless the dog is, at any and all times the dog is outside a Proper Enclosure, muzzled and restrained by a substantial chain or leash not to exceed six feet (6 ft.) in length and under the physical restraint of a responsible person eighteen (18) years of age or older. The muzzle, chain, and leash must all be of such a design, manufacture, and maintained in a condition 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.

Subsection 3: Leased premises

A person who owns a Dangerous or Potentially Dangerous Dog and who rents property from

another where the dog will reside shall disclose to the property owner prior to when the dog begins to reside on the property, or prior to entering the lease agreement, and at the time of any lease renewal, that the person owns a Dangerous or Potentially Dangerous Dog that will reside at the property.

Subsection 4: Warning symbol

If the County issues a Certificate of Registration to the Owner of a Dangerous Dog pursuant to this Ordinance, the County must provide, for posting on the Owner's property, an adequate number of a warning symbol to inform all persons, including children, that there is a Dangerous Dog on the property. The design of the warning symbol must be uniform with any specifications for such a sign as issued by the Minnesota Commissioner of Public Safety, if any, and shall otherwise be obtained by the County from the Commissioner of Public Safety. The County will charge the Owner a reasonable fee to cover its administrative costs and the cost of the warning symbol.

Subsection 5: Tag

A Dangerous Dog registered under this section shall have a standardized, easily identifiable tag identifying the dog as Dangerous and containing the uniform Dangerous Dog symbol, as developed by the Commissioner of Public Safety or the Animal Control Authority, affixed to the dog's collar at all times.

Subsection 6: Property inspection

The Owner of a Dangerous Dog shall permit the Animal Control Authority and/or Law Enforcement to enter the property where a Dangerous Dog is kept or located, at all hours reasonable under the circumstances, without a warrant or other advance judicial process, to inspect the premises so as to ensure compliance with the provisions of this Ordinance, applicable state statutes, order from a hearing officer, or directive from the Animal Control Authority. The failure of an Owner to permit such inspection is, by itself, a ground to immediately seize the dog pursuant to Section 13 of this Ordinance and revoke the Dangerous Dog registration pursuant to Section 8, Subsection 6 of this Ordinance.

Subsection 7: Review

If, in reviewing the conditions for keeping a Dangerous Dog there have been no ordinance violations for a period of two (2) years, the Animal Control Authority or Hearing Officer may use discretion in determining whether the conditions set forth above are still required.

SECTION 10 – POTENTIALLY DANGEROUS DOGS; DESIGNATION.

Subsection 1: Designation

The Animal Control Authority or Hearing Officer shall designate any dog as a Potentially Dangerous Dog upon receiving evidence that the animal meets any of the criteria in Section 6(J) of this Ordinance.

Subsection 2: Notice

(1) Upon determination that a dog is Potentially Dangerous, the Animal Control Authority shall provide a written Notice of Potentially Dangerous Dog to the Owner of record, or if none, any Owner of such dog by personally serving the Owner or a person of suitable age and discretion at the residence of such Owner. Service upon any Owner shall be effective as to all Owners. The notice shall state the dates, times, places and facts of the incidents which form the basis for the determination, and shall include the following:

(i) A description of the dog deemed to be Potentially Dangerous;

(ii) The factual basis for that determination; and

(iii) The identity of the official who made the determination.

(2) The Notice shall also set forth the restrictions imposed upon a Potentially Dangerous Dog under this Ordinance.

(3) The Notice shall also advise the Owner(s) that they have ten (10) days to appeal the determination by requesting a Hearing before a Hearing Officer, and shall include a pre-printed form the Owner may use to request the Hearing. The request for a Hearing shall be made directly to the Animal Control Authority, and must be submitted in writing.

(4) If the Owner does not request a Hearing within the allotted ten (10) days, the designation of Potentially Dangerous Dog as issued in the written Notice of Potentially Dangerous Dog will stand, and the Owner will be subject to all restrictions and requirements as set forth in the Notice by the Animal Control Authority.

Subsection 3: Hearing

(1) If an Owner requests a Hearing within ten (10) days of the date of the Notice for determination as to the Potentially Dangerous nature of the dog, the Hearing shall be held before a Hearing Officer within ten (10) days after the Animal Control Authority is notified of the Owner's request for a Hearing. The Hearing Officer may allow the Hearing date to be extended beyond the ten (10) day period for good cause. Any dog Owner who requests such a Hearing is liable to the County for all costs and expenses related to the Hearing.

(2) The Hearing shall be conducted pursuant to the requirements of Section 7, Subsection 3 of this Ordinance.

(3) After considering all evidence pertaining to the dog, the Hearing Officer shall issue a written order which rejects or upholds the determination. If the Hearing Officer upholds the determination as Potentially Dangerous, the order may affirm or modify the conditions recommended by the Animal Control Authority. If, as a result of testimony or other evidence at the hearing, there are grounds for declaring the dog to be a Dangerous Dog pursuant to Section 7 of this Ordinance, the Hearing Officer may change the designation and issue the appropriate orders.

(4) The decision of the Hearing Officer is a quasi-judicial determination that is subject to review by writ of certiorari to the Minnesota Court of Appeals.

Subsection 4: Exemption

A dog may not be declared Potentially 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; or

(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) Who was committing or attempting to commit a crime against the Owner or the Owner's property.

Subsection 5: Review of designation

The Animal Control Authority, or Hearing Officer, may, upon the written request of the Owner, review the status of a dog which has been determined to be Potentially Dangerous if a period of two (2) years has passed without any further incidents or violations of this Ordinance, and may use discretion in determining whether any conditions which have been ordered are still required. If the review is conducted by the Hearing Officer, the burden of proof shall be upon the dog's Owner and the standard of proof shall be by clear and convincing evidence.

SECTION 11 – POTENTIALLY DANGEROUS DOGS; REQUIREMENTS.

Subsection 1: Microchipping

Any dog that has been determined to be Potentially Dangerous shall be microchipped in accordance with Section 12 of this Ordinance.

Subsection 2: Other restrictions

Any dog determined to be Potentially Dangerous may be subject to any or all of the following restrictions, as determined by the Animal Control Authority or the Hearing Officer:

(1) The Owner of a dog may be required to complete an approved dog obedience class within a designated period of time, and provide proof of completion to the Animal Control Authority;

(2) The dog may be required to be kept in a Proper Enclosure, or restrained by chain or leash not to exceed six feet (6 ft.) in length, and/or muzzled, and under the control of a responsible person eighteen (18) years of age or older at all times it is outdoors and not inside a Proper Enclosure;

(3) The Owner may be required to post the property where the dog resides with warning signs, readable to children, containing a written notice and warning that a Potentially Dangerous Dog is present on the property. Such signs shall conform to the requirements set forth in Section 9, Subsection 4;

(4) The Owner may be required to show proof of up-to-date rabies vaccination and, if required, licensing;

(5) The dog may be required to wear, at all times, a tag or marker identifying it as a Potentially Dangerous Dog; and

(6) The dog may be required to be sterilized within 30 days of the owner receiving notice.

SECTION 12 – MICROCHIP IDENTIFICATION.

It shall be the responsibility of each Owner of any dog kept or harbored within the County and determined to be a Dangerous or Potentially Dangerous Dog under this Ordinance, court order, state statute, designation from the Animal Control Authority, or a substantially similar ordinance from another jurisdiction, to ensure that a microchip is implanted in the dog for identification. 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 must be implanted by a qualified veterinarian or clinic or shelter staff under the direction and control of the Animal Control Authority. In either case, all costs related to purchase and implantation of the microchip must be borne by the dog's Owner.

SECTION 13 – CONFISCATION.

Subsection 1: Seizure.

The Animal Control Authority shall immediately seize any Dangerous Dog or Potentially Dangerous Dog if:

(1) After thirty (30) days after the Owner has notice that the dog is Dangerous or Potentially Dangerous, the dog is not validly registered under this Ordinance or applicable state law;

(2) After thirty (30) 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 this Ordinance;

(3) The dog is not maintained in a Proper Enclosure, as defined in Section 6(K) of this Ordinance;

(4) The dog is outside the Proper Enclosure and not under the proper physical restraint of a responsible person as required under this Ordinance or any applicable state law; or

(5) The Owner is served with written notice, by certified mail to the Owner's last known address, that the Owner is in violation of any of the requirements of this Ordinance or any applicable state statute, or is in violation of any directive issued by the Animal Control Authority or order from a Hearing Officer; and, within thirty (30) days of service of such written notice, has refused or failed to achieve satisfactory compliance; or

(6) The Animal Control Authority has reason to believe the dog is a Dangerous or Potentially Dangerous Dog, and is kept or maintained under conditions or circumstances creating a unacceptable risk of harm to physical persons or other domesticated animals; or

(7) For any other reason authorized by law.

Subsection 2: Additional dogs subject to seizure

(1) Any dog found to be in circumstances which to a reasonable person indicate that the dog has been or will be used, trained or encouraged to fight with another animal, or any animal whose owner has in custody or possession any training apparatus, paraphernalia or drugs used to prepare such dog to be fought with another animal, is hereby declared to be a public nuisance and shall be immediately seized and taken to the designated animal control center.

(2) Any dog may be seized and held to determine if rabid.

(3) Any dog may be seized and held if suspected of being feral.

(4) Any dog which meets the definitions found in Sections 6(D) or 6(J) may be seized and held at animal control pending a determination whether the animal is Dangerous or Potentially Dangerous.

Subsection 3: Reclaiming dogs

A dog seized under this Ordinance may be released to the Owner of the dog upon payment of impounding and boarding fees, and presenting proof to the Animal Control Authority that all requirements of this Ordinance and state law have or will be met. A dog not reclaimed under this subdivision within thirty (30) days may be disposed of as provided under Minnesota Statutes Section 35.71, Subdivision 3, and the Owner is liable to the Animal Control Authority for costs incurred in confining and disposing of the dog.

Subsection 4: Subsequent offenses

If a person has been convicted of a misdemeanor for violating a provision of this Ordinance, and the person is charged with a subsequent violation relating to the same dog, the dog shall be seized by the Animal Control Authority. 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 person is not convicted of the crime for which the dog was seized, the Owner may reclaim the dog upon payment to the Animal Control Authority of a fee for the care and boarding of the dog. If the dog is not reclaimed by the Owner within thirty (30) days after the Owner has been notified that the dog may be reclaimed, the dog may be disposed of as provided under Minnesota Statutes Section

35.71, Subdivision 3. The Owner is liable to the Animal Control Authority for the costs incurred in confining, impounding, and disposing of the dog.

SECTION 14 –DESTRUCTION OF DOGS IN CERTAIN CIRCUMSTANCES.

Subsection 1: Upon infliction of death or bodily harm

A dog that, when Unprovoked, inflicted death or Substantial or Great Bodily Harm on a human being on public or private property, or, when Unprovoked, bit multiple human victims on public or private property in the same attack may be destroyed in a proper and humane manner by the Animal Control Authority. The Animal Control Authority may not destroy the dog until the dog Owner is provided the opportunity for a Hearing before a Hearing Officer, as set forth in this Ordinance.

Subsection 2: 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 beyond cure through reasonable care and treatment, upon a proper determination by a licensed doctor of veterinary medicine. The County shall recover from the dog's Owner all costs incurred under this section.

Subsection 3: Unclaimed dogs

At the expiration of the time a dog is impounded as provided for in this Ordinance, if the dog has not been reclaimed in accordance with the provisions hereof, it shall be the duty of the Animal Control Authority to cause such dog to be destroyed according to the most humane and approved methods, or otherwise disposed of.

SECTION 15 – PENALTY.

(1) Any person who violates any provision of this Ordinance is guilty of a misdemeanor.

(2) It is a misdemeanor to remove a microchip from a Dangerous or Potentially Dangerous Dog; to fail to renew the registration of a Dangerous Dog; to fail to account for a Dangerous Dog's death, transfer of ownership, or removal from the jurisdiction; to sign a false affidavit with respect to a Dangerous Dog's death, transfer of ownership, or removal from the jurisdiction; or to fail to disclose ownership of a Dangerous or Potentially Dangerous Dog to a property owner from whom the person rents property.

SECTION 16 – RESTRICTIONS

Subsection 1: Dog ownership prohibited.

Except as provided in subdivision 3, no person may own a dog if the person has:

(1) Been convicted of a third or subsequent violation of Section 8, Section 9, or Section 12;
(2) Been convicted of a violation under section 609.205, clause (4);
(3) Been convicted of a gross misdemeanor under section 609.226, subdivision 1;
(4) Been convicted of a violation under section 609.226, subdivision 2; or
(5) Has a dog ordered destroyed under Section 14 and been convicted of one or more violations of Section 8, 9, and 12, or 609.226, subdivision 2.

Subsection 2: Household members.

If any member of a household is prohibited from owning a dog in subdivision 1, unless specifically approved with or without restriction by an Animal Control Authority, no person in the household is permitted to own a dog.

Subsection 3: Dog ownership prohibition review.

Beginning three years after a conviction under subsection 1 that prohibits a person from owning a dog, and annually thereafter, the person may request that the Animal Control Authority review the prohibition. The Animal Control Authority may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the Animal Control Authority deem appropriate. The Animal Control Authority may rescind the prohibition entirely or rescind it with limitations. The Animal Control Authority also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the Animal Control Authority rescinds a person's prohibition and the person subsequently fails to comply with any limitation imposed by the Animal Control Authority or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the Animal Control Authority may permanently prohibit the person from owning a dog in this County.

SECTION 17 – DATE OF EFFECT

This Ordinance shall be in full force and effect from and after March 1, 2010.

Passed and approved this 19th day of January, 2010.

Dick Mattson

Chair, Wright County Board of Commissioners

Attest: Jill R Kelly

Special Projects Administrator