

REQUEST FOR BOARD ACTION
HENDERSON COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: February 2, 2009

SUBJECT: Animal Ordinance: Dangerous Dog Provisions

ATTACHMENT(S): Recommendation of the Animal Services Committee
Staff presented option and related language
Current Dangerous Dog Language

SUMMARY OF REQUEST:

At your regularly scheduled January 5th, this Board directed staff to work with the Animal Services Advisory Committee to propose ways to strengthen the County's dangerous dog provisions within the Animal Ordinance. To this end, attached are two options for the Board of Commissioners' review.

1. Animal Services Advisory Committee Recommendation: The Committee's recommendation is two-fold. First, the Committee recommends strengthening the public nuisance law so that animals that run astray 2 times within 6-month period can no longer be tethered in a yard. These animals must be kept in a house, in a fenced yard, or on a leash held by a competent person and may not be tethered, chained, or tied outdoors. The second recommendation by the Committee is to restructure the Dangerous Dog ordinance so that the content is the same but the organization is easier for the public to understand.
2. Staff Option: The staff option proposes including Aggressive Animal provisions coupled with the public nuisance language recommended by the Committee. Staff believes that this option incorporates the Committee's recommendation, while providing an additional tool for law enforcement in protecting the public from aggressive animals. Several jurisdictions have similar provisions.

The underlined and highlighted sections of the ordinance are new additions and are not current law. The strikeouts are deletions that are current law. County staff will present further information on this matter.

BOARD ACTION REQUESTED:

Staff recommends that the Board of Commissioners review and discuss both options regarding strengthening the County's approach to dangerous animals. Upon review, staff recommends approval of the staff option (#2).

SUGGESTED MOTION:

I move the Board approve option #2 and direct staff to revise the Animal Ordinance to include the appropriate language as presented.

ANIMAL SERVICES COMMITTEE RECOMMENDATION

§ 66A-1. Definitions.

PUBLIC NUISANCE — ~~An animal is a public nuisance if it that~~ habitually does any of the following, but not exclusively limited to: chases bicycles or motor vehicles or pedestrians, damages private or public property, turns over garbage cans or deposits feces on another's private property or on public property. An animal's behavior or owner's maintenance of an animal that adversely impacts the health, safety, or welfare of the animal, the owner, or the public. Any animal determined to be a nuisance under this Ordinance must be micro chipped within 10 days of the nuisance determination.

§ 66A-8. Public nuisances prohibited.

- A. Animal care constituting a nuisance. It shall be unlawful for any person to own, keep, or maintain a companion animal in such a manner as to constitute a public nuisance as defined herein.
1. Maintaining animals in an unsanitary environmental which results in odors considered excessive to a reasonable person or is dangerous to the animal or to the public health, safety, welfare, or a failure to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease.
 2. Maintaining the owner's property in a manner that is offensive, annoying or dangerous to the public health, safety, welfare of community because of number, type, variety, density, or location of animals on the property. This includes the keeping, possessing, or harboring of wild or feral animals which threaten the public health, safety, and welfare.
 3. Maintaining an animal that is diseased and dangerous to the public health.
 4. Harboring, keeping, owning, or possessing an animal which is at large or is repeatedly at large.
- B. Animal behavior constituting a nuisance. It shall be unlawful for an owner to permit an animal to habitually do the following, but not limited to: chases bicycles or motor vehicles or pedestrians, damages private or public property, turns over garbage cans or deposits feces on another's private property or on public property.

In addition to any other enforcement remedies available under this chapter, if an

- C. Animal Enforcement Officer determines an ~~companion~~ animal to be a nuisance under this section, then such officer is authorized to order the owner to confine such animal in accordance with the Animal Enforcement Officer's instructions. It shall be unlawful for the owner to fail to comply with such an order or with the instructions in the order. In addition, any animal determined to be a nuisance under this section must be micro chipped within 10 days of the nuisance determination.
- D. Animal Owners, ~~of domestic animals~~ where there is determined to be nuisances, shall be notified and ordered to abate said nuisance within 10 days by whatever means necessary. Failure to comply within this time frame shall constitute a separate offense for each day thereafter the violation continues. No civil penalty shall accrue during the 10 day warning period.
1. Animals determined to be nuisances must be microchipped within 10 days of notification.
 2. Animals creating a nuisance by running astray more than 2 times in a 6

month period may not be tethered, chained, or tied up. These animals must only be restrained by a leash held by a competent person or in building or fenced-in yard.

- E. Reporting. Upon receipt of a detailed complaint to the Sheriff's Office or Animal Services, ~~Animal Enforcement Officers shall notify the owner or keeper of the offending animal that a complaint has been received and that an investigation is being conducted. Upon completion of an investigation shall be conducted, a written report must be submitted to Animal Enforcement who shall make the final determination of whether there is a nuisance and. After making that determination,~~ the owner shall be notified by certified or registered mail or by hand delivery.

Appeal. The owner shall have 10 days to appeal the nuisance determination to the

- F. Animal Services Appellate Board.

Nothing in this provision is intended to conflict with the Henderson County Nuisance

- G. Ordinance, Noise Ordinance or other applicable section of the Henderson County Code.

DANGEROUS DOG CHANGES

RECOMMENDED BY ANIMAL SERVICES COMMITTEE

§ 66A-10. Dangerous/potentially dangerous dogs restricted.

- A. General provisions. It shall be unlawful for any person to own or in any way maintain or harbor a dog that is dangerous/potentially dangerous, except as provided in this chapter. Notwithstanding any exemption listed below, any dog which has killed a person shall be immediately euthanized by the Animal Service Center.
- (1) Reporting requirement. Any (A) attack or biting by a dog upon a person or domestic animal; (B) transfer, gift, sale or other conveyance of ownership or possession of a dangerous or potentially dangerous dog; (C) confinement to a Veterinary facility; (D) removal from territorial jurisdiction of the county; (E) animal's death must be reported by any of the following individuals:
- (a) owner, keeper, harbinger of a dog deemed dangerous/potentially dangerous or of a dog who has attacked or bitten a person or domestic animal;
 - (b) victim of or person witnessing such of an attack or biting;
 - (c) veterinarian treating a domestic animal for such an attack or biting;
 - (d) Health care professional treating a person for such an attack or biting.
- (2) The report must be made to the Sheriff's Office within 24 hours of the event.
- (3) Failure to report an incident within 24 hours may result in criminal and civil penalties under this Ordinance and personal liability in subsequent incidents.
- B. Exemptions. The provisions of this chapter do not apply to dogs causing injuries when:
- (1) Used by law enforcement agencies to carry out official law enforcement duties;
 - (2) Functioning lawfully as hunting or herding dogs, or in controlling predators on the property of, or under control of, the owner when performing duties appropriate to said functions;
 - (3) Protecting the owner or owner's premises from trespassers and other criminal perpetrators while on its owner's premises;
 - (4) Protecting itself or its young from assault, torment, or abuse.
- C. Declaration of dangerous/potentially dangerous dog. The Sheriff or his/her designee shall have the authority to declare a dog to be a dangerous/potentially dangerous dog. Any determination that a dog is dangerous/potentially dangerous shall be made in writing summarizing the available evidence and which shall be delivered or mailed by certified or registered mail to the owner. The written determinations shall order compliance with the appropriate provisions of this ordinance and the Director or his/her designee may impose reasonable conditions to maintain the public health and safety.
- D. Appeal. Any person who owns a dog that has been declared dangerous/potentially dangerous shall have the right to appeal this decision to the Animal Services Appellate Board.
- (1) Manner of appeal. The owner of a dog declared dangerous/potentially

dangerous wishing to appeal such declaration must request an appeal of the determination in writing a hearing contesting such determination. The written appeal must be submitted to the Animal Service Director, and must be received by the Animal Service Director or postmarked within 3 working 5 calendar days of the receipt by the owner of notice of the declaration that the animal is dangerous/potentially dangerous.

- (2) Pending the appeal, the owner of a dog declared dangerous/potentially dangerous shall comply with the provisions of § 66A-10E.
- (3) Hearing procedures. Once properly appealed, the Animal Service Appellate Board shall conduct a public quasi-judicial hearing to determine whether the declaration of the animal as dangerous/potentially dangerous is correct. In conducting this hearing the Animal Service Appellate Board shall operate in compliance with the North Carolina Open Meetings Law, and shall conduct this hearing in accordance with procedures for a quasi-judicial hearing.
- (4) Outcome. If the dog is affirmed by the Animal Service Appellate Board as being dangerous/potentially dangerous, then the owner shall comply with the terms of this chapter 66A-10E, F, G. Any person who owns a dog affirmed dangerous/potentially dangerous by the Animal Service Appellate Board or its designee has the right to appeal this determination to the Superior Court.

E. Enclosures and control measures for dangerous/potentially dangerous dogs. If a dog has been determined to be dangerous/potentially dangerous, as specified in this section, the dog may be retained upon the owner satisfying the following conditions:

- (1) The owner must insure that the dog at all times on and off the owner's property remains enclosed or controlled and muzzled as described below. Failure to do so shall subject the owner to penalty under this chapter:
 - (a) Confine the dog within the owner's residence (except when muzzled and controlled as required below); or
 - (b) Erect and confine the dog (except when muzzled and controlled as required below) in a securely enclosed and padlocked pen with a concrete bottom and secure top within 30 days. The structure must be secured by a child-resistant lock. Pending construction of such pen, the dog must be confined within the owner's residence (except when muzzled and controlled as required below) or
 - (c) The animal must be muzzled and under restraint by a competent person who, by means of a leash or chain, has such animal firmly under physical restraint at all times when not in a secure building or enclosure.
- (2) The owner must post a warning sign, of at least 120 square inches, which is to be visible to any adjoining property from each exposure of the residence or the structure in which the dangerous/potentially dangerous dog is confined. Each sign must have an approved graphic representation of an appropriate animal such that the dangerousness of the animal is communicated to those who cannot read, including young children.
- (3) The owner of the dog shall insure that the dog at all times remains enclosed or controlled and muzzled as to meet the requirements of this chapter. Failure to

~~do so shall subject the owner to penalty under this chapter.~~

- (4) ~~Confinement, muzzling and control of dangerous/potentially dangerous dogs. It shall be unlawful for any owner or person to keep any dangerous/potentially dangerous dog within the County unless it is either confined within a secure building or enclosure as set forth above, or~~
- (5) Tattooing/Microchip. Within 10 days of the determination or appeal determination set forth in this section, the owner of a dangerous/ potentially dangerous dog must demonstrate to the Animal Services Director that such dog has been tattooed on the inside of the right hind leg with an identification number or had a microchip implanted ~~as directed by the Animal Service Director.~~
- (6) Inspection. Animal Enforcement shall cause periodic inspections to be made of the premises where the dangerous/potentially dangerous dog is kept to assure compliance with the provisions of this Ordinance. The owner must permit these inspections at any reasonable time without notice to the owner from the Animal Enforcement Officers.
- (7) Impoundment. If the dangerous/potentially dog is at large during the 30 day period while enclosure is being constructed, Animal Enforcement Officers must seize and impound the dog until the enclosure is completed to the satisfaction of Animal Services as per this Ordinance. The cost of impoundment shall be paid by the owner prior to the animal's release.
- (8) All control measures required by this section must be met immediately upon a determination that the animal is dangerous/potentially dangerous, except for the enclosure discussed in 1(b) of this section which the owner has 30 days to complete. Failure to do so shall result in the immediate impoundment and possible criminal or civil penalties.

F. Notification. Within 24 hours:

- (1) Of change of address or ownership of a dangerous/potentially dangerous dog, the owner shall provide written notification of the change of address or ownership to the Sheriff, stating the full name if there's a new owner, address, and location of the new owner of the dog.
- (2) Of death of a dangerous/potentially dangerous dog, the owner shall provide written notification of the dog's death to the Sheriff.

G. Notification prior to transfer. Prior to any transfer to a new owner (with or without consideration) of a dangerous/potentially dangerous dog, the owner must provide to the Sheriff a written statement, signed before a notary by the transferee (on a form obtained from the Animal Service Center), indicating the transferee's understanding of the transferee's obligations hereunder as an owner of a dangerous/potentially dangerous dog.

If the dangerous or potentially dangerous dog is being transferred out of Henderson County or out of North Carolina,

- a. The ~~new~~ owner of the animal must notify the Sheriff and the new jurisdiction to which the animal is being moved that this dog has been deemed a dangerous/potentially dangerous dog;
- b. The Sheriff also shall notify the new jurisdiction that the animal has been deemed dangerous and the circumstances surrounding the case.
- c. The ~~new~~ owner must comply with any local regulations regarding dangerous dogs in the new location.

H. Immediate impoundment. Any dangerous/potentially dangerous dog kept in violation of this section may be immediately impounded upon issuance of any warrant for the same, pending the outcome of the criminal action. If the owner is convicted of a criminal offense of keeping a dangerous/potentially dangerous dog in violation of this section, in addition to any criminal penalties imposed, the Animal Services Director or his/her designee shall euthanize the dog. Nothing herein shall be construed to in any way limit the use of civil penalties for a violation of this section.

1. Cost of impoundment. Costs of impoundment at the Animal Services Center shall be paid by the owner or the person liable for the animal at a daily rate as determined by the Board of Commissioners County. In instances where the Animal Services Center must impound the animal(s) at a private facility or kennel, the person liable for the animal will pay the rate established by those facilities.

2. Release from impoundment.

(a) No dog deemed dangerous or potentially dangerous who has been impounded by the Animal Services Center shall be released to the owner from impoundment except upon proof submitted by the owner or person liable for the animal that all the elements of this Ordinance have been met.

(b) If criminal charges have been brought against the owner for failure to comply with this Ordinance or for interference with the operations of the Animal Services Center, no dog deemed dangerous shall be released from Animal Services until determined by a court of competent jurisdiction. During this time while the dog is impounded, it cannot be euthanized and the cost of impoundment shall be charged to the owner.

(c) No dog deemed dangerous or potentially dangerous may be adopted by another person until that person can prove to the Animal Services Center that the proper provisions for care and maintenance as outlined in this Ordinance have been made for the animal.

STAFF OPTION: AGGRESSIVE DOG SUMMARY

[Definition] **Aggressive Dog:** Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; (2) Any dog which, because of its vicious propensity, is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner

Category	Aggressive Dog	Dangerous/Potentially Dangerous Dog
Action	Require no actual harm or attempted attack	Requires bite/attack on animal or person or apparent attitude of attack
Determination Process	Sheriff's Office make Determination, owner can appeal to Animal Services Committee	Same
Restraint	No tying, only leashed with person holding it, secured fenced yard	Muzzle, secure enclosure with top and bottom
Penalty for noncompliance	Fine, impoundment	Fine, impoundment, if owner found guilty of related criminal violation then dog euthanized
Similar requirements	signage, microchip, transfer, impoundment, inspection powers as Dangerous Dog	Same
Exceptions	Basically the same as dangerous dog except for an exception for animals involved in a hunt	1) assault on owner or trespass on property; 2) provocation, abuse, torment 3) protecting its young
Fines	Animal Loose: \$250 No microchip: \$100 Fail to notify: \$100	Animal Loose: \$500 No microchip: \$500 Fail to notify: \$500 No Proof of Transfer: \$1000
Other Differences	Only apply in Henderson County	Dangerous Dog determination is statewide

CORRESPONDING LANGUAGE FOR AGGRESSIVE DOG/ VICIOUS DOG OPTIONS

Definition (add to §66A-1)

AGGRESSIVE ANIMAL: Any animal with a demonstrated propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or (2) Any animal which, because of its aggressive propensity, is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner.

§66A -27 Aggressive Dog Controls

- A. General Provisions. It shall be unlawful for any person to own or in any way maintain or harbor an animal that is an Aggressive Animal except as provided in this section.
- B. Conflict of Laws. This section is not intended to conflict with any other provisions of State or local law including but not limited to Dangerous/Potentially Dangerous Dog provisions.
- C. Determination. Animal Enforcement Officers or the Animal Services Director or his/her designee may determine that an animal is aggressive.
 - 1. The determination must be made in writing and provided to the owner or keeper of the animal.
 - 2. Appeal. Any appeals under this provision must be made in writing to the Animal Services Director or postmarked within 5 calendar days from the time of the determination.
 - a. Upon receipt of the appeal, the Animal Services Appellate Board shall hear the appeal at its next regularly scheduled meeting.
 - b. From the time of the determination to the final decision of the appeal, the animal must be kept in the manner determined for aggressive animals.
- D. Control Measures.
 - 1. Restraint. An animal deemed aggressive must be under restraint by a competent person who by means of a leash, chain, or rope has the animal under control at all times. Voice command is not an adequate restraint.
 - 2. Secure enclosure. When not under the restraint of a competent individual as described above, the animal must be in a secure enclosure. A secure enclosure for the purpose of this section is either a building or a permanent fence in the yard. Animal Enforcement officers shall determine whether the fence is adequate. Chaining, tethering, or tying up is not a secure enclosure unless accompanied with a fence.
 - 3. Microchipping and Tattoo. Any animal deemed aggressive must be microchipped or tattooed within 5 days of the determination.
 - 4. Signage. The owner of an aggressive animal must post a warning sign, of at least 120 square inches, which is to be visible to any adjoining property from each exposure of the residence or the structure in which the aggressive animal is confined. Each sign must have an approved graphic representation of an appropriate animal such that the dangerousness of the animal is communicated to those who cannot read, including young children.
 - 5. Transfer. Prior to any transfer to a new owner or to a new property (with or without consideration) of a deemed aggressive animal, the owner must provide to the Animal Services Department a written statement stating where the animal is going and who, if any, the new owner of the animal is. The transferring owner must make sure the new owner is aware and understands the precautions the owner must take as owner of an aggressive animal.

6. Inspection. Animal Enforcement shall cause periodic inspections to be made of the premises where the animal is kept to assure compliance with the provisions of this Ordinance. The owner must permit these inspections at any reasonable time without notice to the owner from the Animal Enforcement Officers.
- E. Penalties and Consequences of Noncompliance.
1. Penalty. Penalties for violations of aggressive animals can be found in §66A-19.
 2. Impoundment. Animals who have been deemed aggressive and found running astray or being kept in a manner in violation of the ordinance shall be impounded at the Animal Services Center. The animal shall not be returned to the owner until all fines, fees, and related costs have been paid.
 3. Authority to immobilize or kill an aggressive dog. If any animal deemed aggressive, dangerous, or potentially dangerous is running at large in public places or on private property without the permission of the owner or occupant of the property and such animal cannot be safely taken up and impounded, such animal may be slain by any law enforcement official or animal enforcement officer.
- F. Exceptions. No animal shall be deemed aggressive in instances where:
1. the person is unlawfully present on the premise occupied by the owner or keeper;
 2. The behavior is committed against a person who is or has teased, abused, tormented, or assaulted the animal;
 3. Where the person is committing or attempting to commit a crime;
 4. The animal is involved in a hunt with its owner;
 5. Animal is protecting the owner or the animal's young.

Penalties Chart (add to §66A-19)

66A-10 Keeping an aggressive animal:

Unattended/loose/unrestrained (per day)	\$250
Without tattoo/microchip (per day)	\$100
Failing to notify of change of address or death (per day)	\$100

CURRENT DANGEROUS DOG LANGUAGE

§ 66A-10. Dangerous/potentially dangerous dogs restricted.

- A. General provisions. It shall be unlawful for any person to own or in any way maintain or harbor a dog that is dangerous/potentially dangerous, except as provided in this chapter. Notwithstanding any exemption listed below, any dog which has killed a person shall be immediately euthanized by the Animal Service Center.
- (1) Reporting requirement. Any (A) attack or biting by a dog upon a person or domestic animal; (B) transfer, gift, sale or other conveyance of ownership or possession of a dangerous or potentially dangerous dog; (C) confinement to a Veterinary facility; (D) removal from territorial jurisdiction of the county; (E) animal's death must be reported by any of the following individuals:
- (a) owner, keeper, harbinger of a dog deemed dangerous/potentially dangerous or of a dog who has attacked or bitten a person or domestic animal;
 - (b) victim of or person witnessing such of an attack or biting;
 - (c) veterinarian treating a domestic animal for such an attack or biting;
 - (d) Health care professional treating a person for such an attack or biting.
- (2) The report must be made to the Sheriff's Office within 24 hours of the event.
- (3) Failure to report an incident within 24 hours may result in criminal and civil penalties under this Ordinance and personal liability in subsequent incidents.
- B. Exemptions. The provisions of this chapter do not apply to dogs causing injuries when:
- (1) Used by law enforcement agencies to carry out official law enforcement duties;
 - (2) Functioning lawfully as hunting or herding dogs, or in controlling predators on the property of, or under control of, the owner when performing duties appropriate to said functions;
 - (3) Protecting the owner's premises from trespassers and other criminal perpetrators while on its owner's premises;
 - (4) Protecting itself or its young from assault, torment, or abuse.
- C. Declaration of dangerous/potentially dangerous dog. The Sheriff or his/her designee shall have the authority to declare a dog to be a dangerous/potentially dangerous dog. Any determination that a dog is dangerous/potentially dangerous shall be made in writing summarizing the available evidence and which shall be delivered or mailed by certified or registered mail to the owner. The written determinations shall order compliance with the appropriate provisions of this ordinance and the Director or his/her designee may impose reasonable conditions to maintain the public health and safety.
- D. Appeal. Any person who owns a dog that has been declared dangerous/potentially dangerous shall have the right to appeal this decision to the Animal Services Appellate Board.
- (1) Manner of appeal. The owner of a dog declared dangerous/potentially dangerous wishing to appeal such declaration must request in writing a hearing contesting such determination. The written appeal must be submitted to the

Animal Service Director, and must be received by the Animal Service Director within 3 working days of the receipt by the owner of notice of the declaration that the animal is dangerous/potentially dangerous.

- (2) Pending the appeal, the owner of a dog declared dangerous/potentially dangerous shall comply with the provisions of § 66A-10E.
 - (3) Hearing procedures. Once properly appealed, the Animal Service Appellate Board shall conduct a hearing to determine whether the declaration of the animal as dangerous/potentially dangerous is correct. In conducting this hearing the Animal Service Appellate Board shall operate in compliance with the North Carolina Open Meetings Law, and shall conduct this hearing in accordance with procedures for a quasi-judicial hearing.
 - (4) Outcome. If the dog is affirmed by the Animal Service Appellate Board as being dangerous/potentially dangerous, then the owner shall comply with the terms of this chapter. Any person who owns a dog affirmed dangerous/potentially dangerous by the Animal Service Appellate Board or its designee has the right to appeal this determination to the Superior Court.
- E. Enclosures and control measures for dangerous/potentially dangerous dogs. If a dog has been determined to be dangerous/potentially dangerous, as specified in this section, the dog may be retained upon the owner satisfying the following conditions:
- (1) The owner must:
 - (a) Confine the dog within the owner's residence (except when muzzled and controlled as required below); or
 - (b) Erect and confine the dog (except when muzzled and controlled as required below) in a securely enclosed and padlocked pen with a concrete bottom and secure top within 30 days. The structure must be secured by a child-resistant lock. Pending construction of such pen, the dog must be confined within the owner's residence (except when muzzled and controlled as required below).
 - (2) The owner must post a warning sign, of at least 120 square inches, which is to be visible to any adjoining property from each exposure of the residence or the structure in which the dangerous/potentially dangerous dog is confined. Each sign must have an approved graphic representation of an appropriate animal such that the dangerousness of the animal is communicated to those who cannot read, including young children.
 - (3) The owner of the dog shall insure that the dog at all times remains enclosed or controlled and muzzled as to meet the requirements of this chapter. Failure to do so shall subject the owner to penalty under this chapter.
 - (4) Confinement, muzzling and control of dangerous/potentially dangerous dogs. It shall be unlawful for any owner or person to keep any dangerous/potentially dangerous dog within the County unless it is either confined within a secure building or enclosure as set forth above, or muzzled and under restraint by a competent person who, by means of a leash or chain, has such animal firmly under physical restraint at all times.

- (5) Tattooing/Microchip. Within 10 days of the determination set forth in this section, the owner of a dangerous/potentially dangerous dog must demonstrate that such dog has been tattooed on the inside of the right hind leg with an identification number or had a microchip implanted as directed by the Animal Service Director.
- (6) Inspection. Animal Enforcement shall cause periodic inspections to be made of the premises where the dangerous/potentially dangerous dog is kept to assure compliance with the provisions of this Ordinance. The owner must permit these inspections at any reasonable time without notice to the owner from the Animal Enforcement Officers.
- (7) Impoundment. If the dangerous/potentially dog is at large during the 30 day period while enclosure is being constructed, Animal Enforcement Officers must seize and impound the dog until the enclosure is completed to the satisfaction of Animal Services as per this Ordinance. The cost of impoundment shall be paid by the owner prior to the animal's release.
- (8) All control measures required by this section must be met immediately upon a determination that the animal is dangerous/potentially dangerous, except for the enclosure discussed in 1(b) of this section which the owner has 30 days to complete.

F. Notification. Within 24 hours:

- (1) Of change of address or ownership of a dangerous/potentially dangerous dog, the owner shall provide written notification of the change of address or ownership to the Sheriff, stating the full name, address, and location of the new owner of the dog.
- (2) Of death of a dangerous/potentially dangerous dog, the owner shall provide written notification of the dog's death to the Sheriff.

G. Notification prior to transfer. Prior to any transfer (with or without consideration) of a dangerous/potentially dangerous dog, the owner must provide to the Sheriff a written statement, signed before a notary by the transferee (on a form obtained from the Animal Service Center), indicating the transferee's understanding of the transferee's obligations hereunder as an owner of a dangerous/potentially dangerous dog.

If the dangerous or potentially dangerous dog is being transferred out of Henderson County or out of North Carolina,

- d. The new owner of the animal must notify the Sheriff and the new jurisdiction to which the animal is being moved that this dog has been deemed a dangerous/potentially dangerous dog;
- e. The Sheriff also shall notify the new jurisdiction that the animal has been deemed dangerous and the circumstances surrounding the case.
- f. The new owner must comply with any local regulations regarding

dangerous dogs in the new location.

H. Immediate impoundment. Any dangerous/potentially dangerous dog kept in violation of this section may be immediately impounded upon issuance of any warrant for the same, pending the outcome of the criminal action. If the owner is convicted of a criminal offense of keeping a dangerous/potentially dangerous dog in violation of this section, in addition to any criminal penalties imposed, the Animal Services Director or his/her designee shall euthanize the dog. Nothing herein shall be construed to in any way limit the use of civil penalties for a violation of this section.

1. Cost of impoundment. Costs of impoundment at the Animal Services Center shall be paid by the person liable at a daily rate as determined by the Board of Commissioners. In instances where the Animal Services Center must impound the animal(s) at a private facility or kennel, the person liable for the animal will pay the rate established by those facilities.

2. Release from impoundment.

- (a) No dog deemed dangerous or potentially dangerous who has been impounded by the Animal Services Center shall be released to the owner from impoundment except upon proof submitted by the owner or person liable for the animal that all the elements of this Ordinance have been met.

- (b) If criminal charges have been brought against the owner for failure to comply with this Ordinance or for interference with the operations of the Animal Services Center, no dog deemed dangerous shall be released from Animal Services until determined by a court of competent jurisdiction. During this time while the dog is impounded, it cannot be euthanized and the cost of impoundment shall be charged to the owner.

- (c) No dog deemed dangerous or potentially dangerous may be adopted by another person until that person can prove to the Animal Services Center that the proper provisions for care and maintenance as outlined in this Ordinance have been made for the animal.