

Aitkin County Board of Commissioners  
Request for County Board Action/Agenda Item Cover Sheet



To: Chairperson, Aitkin County Board of Commissioners Date: 06/22/12

Via:

From: Undersheriff John Drahota

Title of Item: Potentially Dangerous Dog hearing

Requested Meeting Date: 07/10/12 Est. Presentation Time: 9:30

Presenter: Undersheriff John Drahota

**Type of Action Requested** (check all that apply)

- For info only, no action requested
- For discussion only with possible future action
- Let/Award Bid or Quote (attach copy of basic bid/quote specs or summary of complex specs, each bid/quote received & bid/quote comparison)
- Approve/adopt proposal by motion
- Authorize filling vacant staff position
- Request to schedule public hearing or sale
- Request by member of the public to be heard
- Item should be addressed in closed session under MN Statute \_\_\_\_\_
- Approve under Routine Business
- Adopt Ordinance Revision
- Approve/adopt proposal by resolution (attach draft resolution)
- Other (please list) **Approve or Rescind Potentially Dangerous Dog Notice**

**Fiscal Impact** (check all that apply)

- Is this item in the current approved budget?  Yes  No (attach explanation)
- What type of expenditure is this?  Operating  Other (attach explanation)
- Revenue line account # that funds this item is: \_\_\_\_\_
- Expenditure line account # for this item is: \_\_\_\_\_

**Staffing Impact** (Any yes answer requires a review by Human Resources Manager before going to the board)

- Duties of a department employee(s) may be materially affected.  Yes  No
- Applicable job description(s) may require revision.  Yes  No
- Item may impact a bargaining unit agreement or county work policy.  Yes  No
- Item may change the department's authorized staffing level.  Yes  No

_____ HR Review
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**Supporting Attachment(s)**

- Memorandum Summary of Item
- Copy of applicable county policy and/or ordinance (excerpts acceptable)
- Copy of applicable state/federal statute/regulation (excerpts acceptable)
- Copy of applicable contract and/or agreement
- Original bid spec or quote request (excluding complex construction projects)
- Bids/quotes received (excluding complex construction projects, provide comparison worksheet)
- Bid/quote comparison worksheet
- Draft County Board resolution
- Plat approval check-list and supporting documents
- Copy of previous minutes related to this issue
- Other supporting document(s) (please list) Police Report, Statement, Misc. forms, photos

Provide eleven (11) copies of supporting documentation **NO LATER THAN Wednesday at 8:00am** to make the Board's agenda for the following Tuesday. Items **WILL NOT** be placed on the Board agenda unless complete documentation is provided for mailing in the Board packets. (see reverse side for details)

# AITKIN COUNTY ADMINISTRATION

**Aitkin County Courthouse**  
217 Second Street N.W. Room 130  
Aitkin, MN 56431  
218-927-7276  
Fax: 218-927-7374

**TO: Aitkin County Board of Commissioners**

**FROM: Patrick Wussow, Aitkin County Administrator**

**RE: Request for Hearing to Remove Potentially Dangerous Dog  
Designation- Dog Named Tank**

**DATE: July 5, 2012**

Attached you will find a request from Terrance Banker, 220 Warren St., P.O. Box 12, Tamarack, MN to contest the designation of Potentially Dangerous Dog for his dog named Tank. Staff will mail the agenda and related packet information to Mr. Banker.

Undersheriff Drahota and members of the Aitkin County Sheriff's Department will be at the hearing to present and answer any questions relating to their information contained as part of this packet.

The County Board will need to determine if the dog named Tank is potentially dangerous as defined by Mn. Statute.

Please note that the complainant has been notified of the hearing and been invited to speak.

**SCOTT A. TURNER**  
**SHERIFF OF AITKIN COUNTY**

217 Second Street NW, Room 185  
Aitkin, MN 56431

218-927-7435 Emergency 911  
Sheriff Fax 218-927-7359 / Dispatch Fax 218-927-6887  
TOLL FREE 1-888-900-2138

**MEMO**

TO: County Board Members

DATE: 6/22/2012

FROM: Undersheriff John Drahota

RE: Potentially Dangerous Dog Notice

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Please note that since the victim is a juvenile, his identification information has been redacted to comply with data privacy.

COPY

ICR# 12-1986

AITKIN COUNTY SHERIFF'S OFFICE  
ANIMAL CARE AND CONTROL PROGRAM

NOTICE OF DETERMINATION

OF

POTENTIALLY DANGEROUS DOG

TO: Name: Terrance Edward Banker  
Address: 220 Warren St/POBx Tamarack, MN  
Phone#: 608-475-1528 55787

Your dog, a Lab/Chessie Cross, has been determined to be  
(description)  
a potentially dangerous dog within the meaning of Minnesota Statutes 347.50 Subd 3.

The owner of a dangerous or potentially dangerous dog must have a microchip implanted in the dog for identification pursuant to Minnesota Statute 347.515. The name of the microchip manufacturer and the identification number of the microchip must be provided to the animal control authority within 30 days of this notice.

Failure to comply with the microchip requirement is a misdemeanor and may be punished by up to 90 days in jail and/or a fine of \$1000.00.

6/5/12  
Date

[Signature]  
Deputy

I have read and understand the contents of this notice and acknowledge receipt of a copy thereof.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner or Caretaker

Not Home - Left in door.

Check if owner refused to sign

Dog's Name "Tank"

White Copy: Deputy

Yellow Copy: Owner

JUN 18 2012

Aitkin County Sheriff's Office  
Animal Care and Control Program

Date: 06/15/12

ICR # 12-1986

**DECLARATION OF OWNERSHIP AND REQUEST FOR HEARING**

I Certify that I am the owner or person claiming an interest in the animal(s) described on the Notice, and

- 1)  I request a hearing to contest the determination of a Potentially Dangerous or a Dangerous Dog.
- 2)  My animal has been impounded and I request a hearing for the determination of whether reasonable grounds for the impoundment exist.
- 3)  My animal has been impounded and I relinquish ownership of the impounded animal described on the Impoundment Notice to the Aitkin County Sheriff's Office for appropriate disposition by Animal Control. I hereby release the Aitkin County Sheriff's Office, its employees, agents and Animal Control employees and agents from any and all liability arising from the acceptance and disposition of the animal(s).

To the best of my knowledge the animal(s) has ~~not~~, has not (check one) bitten any persons or animals in the past fourteen (14) days.

SIGNATURE: Terrance E. Banker Date: 06/15/12

PRINTED NAME: Terrance E. Banker

ADDRESS: 220 Warren St. PO Box 12  
Tamarack MN 55787

PHONE: HOME: 608-415-1528 WORK: 218-330-5377

DRIVER'S LICENSE #: ~~DE~~ D704040527611

**THIS NOTICE MUST BE RETURNED BY PERSONAL DELIVERY OR MAIL AND RECEIVED BY THE AITKIN COUNTY ADMINISTRATOR'S OFFICE WITHIN FOURTEEN (14) DAYS FROM THE DATE LISTED ABOVE TO RECEIVE A HEARING BEFORE THE ANIMAL CONTROL AUTHORITY.**

Aitkin County Administrator's Office  
217 2<sup>nd</sup> Street NW, RM# 130  
Aitkin, MN 56431  
Phone: 218-927-7276

I did not receive notice until <sup>06/07</sup>06/07/12 [Signature]

# AITKIN COUNTY ADMINISTRATION

**Patrick Wussow, County Administrator**

Aitkin County Courthouse

217 Second Street N.W.

Aitkin, MN 56431

218-927-7276

Fax: 218-927-7374

June 22, 2012

Terrance Banker  
220 Warren Street  
P.O. Box 12  
Tamarack, MN 55787

Dear Mr. Banker:

Your request for a hearing to contest the determination of potentially dangerous or dangerous dog has been received.

A hearing will be held on Tuesday, July 10, 2012 at 9:30 a.m. in the Aitkin County Boardroom. At that time the Aitkin County Board, as the Animal Control Authority, will hear your arguments. The complainant will also be invited to attend the hearing.

If you have any questions, please feel free to call me.

Sincerely,

Patrick Wussow  
County Administrator

cc: Sheriff



**Aitkin County Sheriff's Office**

217 Second Street NW, Room 185  
Aitkin, MN 56431  
(218) 927-7435

**Incident Detail Report**

**Printed On: Fri, Jun 22, 2012**

<b>Case Number:</b> J2012001986	<b>NCIC:</b> MN0010000	<b>Status:</b> CAD Import	<b>Status By:</b>
<b>Juvenile:</b> Yes	<b>Protected:</b> No	<b>Case Hold:</b> No	<b>Additional Reports:</b> Yes
			<b>Status Date Time:</b> 06/04/2012 14:03

**Call For Service**

**Date Reported:** 6/4/2012 **Monday** **12:22** **Date Committed Start:** 6/4/2012 **12:22** **Date Committed End:**

**Received By:** 339 **How Received:** CAD

**Description:** Animal Complaint **CAD Seq Nbr:** ACSO:2012:2589

**Event Type:** **CAD Agency:** Aitkin County

**Case Status:** **Case Disposition:**

**Scene**

**Location:**

**Business Name:**

**Low House Nbr:** 251 **High House Nbr:** **Community Code:**

**Street:** NELSON AVE E

**Unit Nbr/Type:** **Intersection Street:**

**City/State/Zip:** Tamarack, MN 55787 **Address:**

**LGN:** 0700 **GEO Code:** **Weather Conditions:**

**Place Committed:** 251 NELSON AVE E (TINGDALE ST N/WARREN ST NNear:Tamarack)

**Officer Information**

<u>Officer</u>	<u>Dt/Tm Dispatched</u>	<u>Dt/Tm Assigned</u>	<u>Dt/Tm Arrived</u>	<u>Dt/Tm Cleared</u>	<u>Role</u>
207	6/4/2012 12:55		6/4/2012 13:13	6/4/2012 13:58	Primary
204	6/4/2012 12:24	6/4/2012 12:31			

**Offense Detail**

**ISN:** 01 **Offense Code:** 7818 **Literal:** potentially dang dog/dang dog

**Statute:** **Status:** Exceptionally cleared **Status Date:** 06/04/2012 **Criminal Activity:**

**Counts:** **Larceny Type:** **Campus Code:** **Offense Level:**

**CAD Offense Code:** **CAD Literal:** Animal Complaint

**CAD Disposition:** Cleared

**Remark:**

**Disposition:**

**Aitkin County Sheriff's Office**  
**Case Number 2012001986 (MN0010000)**

**Incident Detail Report**

**Printed On: Fri, Jun 22, 2012**

**Associations**

<b>Name:</b> Banker, Terrance Edward	<b>Driver License:</b> D704040527611		
<b>Role:</b> Owner		<b>Resident:</b>	
<b>Phone:</b>	<b>DOB:</b> 10/24/1953	<b>Age (Range):</b> 58	<b>Organization Type:</b>
<b>Address:</b> 220 Warren St, Tamarack, MN 55787			<b>LGN:</b>
<b>Sex:</b> Male	<b>Race:</b>		<b>Disability:</b>
<b>Eye Color:</b> Blue	<b>Hair Color:</b>	<b>Height:</b> 6'00"	<b>Weight:</b> 180 lbs.
<b>Name:</b> Demenge, Thomas Winfield Eugene	<b>Driver License:</b>		
<b>Role:</b> Mentioned In Report		<b>Resident:</b> Yes	
<b>Phone:</b> (218)768-2642	<b>DOB:</b> 9/6/1978	<b>Age (Range):</b> 33	<b>Organization Type:</b>
<b>Address:</b> 210 Nelson Ave E, Tamarack, MN 55787			<b>LGN:</b>
<b>Sex:</b> Male	<b>Race:</b> White		<b>Disability:</b>
<b>Eye Color:</b> Hazel	<b>Hair Color:</b> Brown	<b>Height:</b> 5'08"	<b>Weight:</b> 170 lbs.
<b>Name:</b> Lawrey, Trisha Lynn	<b>Driver License:</b> H608092920514		
<b>Role:</b> Mentioned In Report		<b>Resident:</b>	
<b>Phone:</b> (218)729-9896	<b>DOB:</b> 10/22/1973	<b>Age (Range):</b> 38	<b>Organization Type:</b>
<b>Address:</b> 210 NELSON AVE E, Tamarack, MN 55787			<b>LGN:</b>
<b>Sex:</b> Female	<b>Race:</b> White		<b>Disability:</b>
<b>Eye Color:</b> Green	<b>Hair Color:</b> Unknown	<b>Height:</b> 5'05"	<b>Weight:</b> 143 lbs.
<b>Name:</b> Wyttenback, Randy Allen	<b>Driver License:</b> W35173051116		
<b>Role:</b> Mentioned In Report		<b>Resident:</b>	
<b>Phone:</b> (218)851-3618	<b>DOB:</b> 2/13/1977	<b>Age (Range):</b> 35	<b>Organization Type:</b>
<b>Address:</b> 251 Nelson Ave, Tamarack, Mn 55787			<b>LGN:</b>
<b>Sex:</b> Male	<b>Race:</b> White		<b>Disability:</b>
<b>Eye Color:</b> Blue	<b>Hair Color:</b> Brown	<b>Height:</b> 5'10"	<b>Weight:</b> 190 lbs.
<b>Name:</b> (Juvenile)	<b>Driver License:</b>		
<b>Role:</b> Other		<b>Resident:</b>	
<b>Phone:</b>	<b>DOB:</b>	<b>Age (Range):</b> 12	<b>Organization Type:</b>
<b>Address:</b>			<b>LGN:</b>
<b>Sex:</b> Male	<b>Race:</b>		<b>Disability:</b>
<b>Eye Color:</b>	<b>Hair Color:</b>	<b>Height:</b>	<b>Weight:</b>

**Media**

<u>Date</u>	<u>Identification</u>	<u>Narrative</u>
6/6/2012	12-1986	Notice of Determination of Potentially Dangerous Dog



**Incident Detail Report**

Narrative

R: LGN 0700 Dog bite to juveniles leg breaking the skin

R: Dog's name is "Tank" Chocolate lab / Chesapeake Bay Retriever cross

AITKIN COUNTY SHERIFF'S DEPARTMENT  
INVESTIGATIVE REPORT

INV. REPORT BY: Niemeyer, #207

CASE: 12-1986

OTHER OFFICERS: NA

NATURE OF CASE: Dog Bite

LOCATION: Tamarack

SUMMARY: Party reported son was bitten by a dog.

PERSONS MENTIONED:

COMPLAINANT: Name/DOB: Randy Allen Wytenback.dob/021377  
Address: 251 Nelson Ave Tamarack, MN 55787  
Local:  
Telephone: (H/W): 218-851-3258

VICTIM: Name/DOB: [REDACTED]  
Address: [REDACTED]  
Local:  
Telephone: (H/W):

SUSPECT: Name/DOB: Terrance Edward Banker.dob/102453  
Address: 220 Warren Street Tamarack, MN 55787  
Local:  
Telephone: (H/W): 608-475-1528

MENTIONED: Name/DOB: Thomas Winfield Eugene Demenge.dob/090678  
Address: 210 Nelson Ave Tamarack, MN 55787  
Local:  
Telephone: (H/W): 218-768-2642

MENTIONED: Name/DOB: Trisha Lynn Lawrey.dob/102273  
Address: 210 Nelson Ave Tamarack, MN 55787  
Local:  
Telephone: (H/W): 218-768-2642

PROPERTY STOLEN: NA

TYPE OF EVIDENCE AND LOCATION: Photos and statements

DATE AND TIME OCCURRED: 06-04-12 at approximately 1230 hours

TIME ARRIVED: 1313

TIME CLEARED:

DETAIL:

On 06-04-12, at 1315 hours, I responded to a dog bite complaint in Tamarack. The complainant, Randy Wytttenback, had reported that his 12 year old son [REDACTED], had been bitten by the neighbor's dog.

Upon my arrival, I spoke with Randy, Stacy and [REDACTED] Wytttenback. [REDACTED] stated that he had been over to the church next door for lunch. He went outside the church and saw "Tank", a "big brown dog". Tank belongs to the Pastor of the church, Terrance Banker. [REDACTED] said he has pet Tank on numerous occasions and the dog has never bit him. He said he walked to the dog and reached out to pet him. The dog came up to him and bit him on his upper right thigh. I took a photo of the bite mark. The marks were pretty faint at that time. I asked [REDACTED] to take me to the church and show me exactly what happened.

The church sits on the northeast corner of Warren Street and Nelson Avenue. Just to the north and slightly to the west of the church sits a garage. The Banker trailer house is north of the garage. [REDACTED] said he was standing between the church and the garage when he saw Tank. The dog was closer to the trailer. The bite incident took place approximately where [REDACTED] had been standing, which was closer to the church. He said after the dog bit him, it ran back to the trailer and ran around a while before it stopped and just watched him. Then [REDACTED] went home. When his dad found out about the bite, he drove his vehicle over to the Banker's (they weren't home), chased the dog own and tried to put it in its kennel. He said he had to hit the dog with his cane because it came after him. He was able to lock it in its kennel.

While [REDACTED] was showing me the area where the incident took place, I saw the dog in the kennel. I walked up to it to take a photo and he began growling and snarling at me. I could not get a decent photo with the dog in the kennel. I could see that it was a male and it was brown. Banker later told me that the dog was a Lab and Chesapeake Bay Retriever cross.

I spoke with two parties who live on Nelson, across the street from the church, Tom Demenge and Trisha Lawrey. They did not witness the bite, but they did witness Randy Wytttenback driving to the Banker's and hitting the dog. They both stated that they knew [REDACTED] to be a nice boy and did not believe he would have done anything to provoke the dog.

I spoke with Randy Wytttenback about his driving conduct and behavior with the dog. I advised him that even though I understood his anger, he needed to manage that anger a little better and use caution.

Banker was not home, but I was able to make contact with him via cell. He was very angry about Randy Wyttenback hitting his dog. He was also adamant that [REDACTED] must have provoked the dog into biting and said he has an electric fence to keep the dog on the property. I asked him if it could have malfunctioned. He said he just put new batteries in it. During subsequent conversations with Banker, he said he did not believe his dog bit [REDACTED] and that no one else in town believed it either.

I took an additional photo of [REDACTED] bite mark on 6-5-12. It was much more prominent. I also saw that the skin had been broken. I took a taped statement about the incident from [REDACTED], with his father present. I also took photos at the scene.

I left a Notice of Determination of Potentially Dangerous Dog, along with the statute and Declaration of Ownership in Banker's door, as he was not home.

Disposition pending.

End of report.

Deputy Niemeyer, #207

AITKIN COUNTY SHERIFF'S OFFICE  
VOLUNTARY STATEMENT

THIS STATEMENT IS GIVEN VOLUNTARILY BY:  
STATEMENT IS IN REFERENCE TO ICR #:  
DEPUTY TAKING STATEMENT:  
DATE OF STATEMENT:

12-1986

DEPUTY TERRI NIEMEYER

JUNE 5, 2012

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Q ICR NUMBER 12-1986. BE SPEAKING WITH RANDY WYTENBACK AND HIS 12 YEAR OLD SON [REDACTED] THE DATE IS JUNE 5<sup>TH</sup>, 2012. ALL RIGHT [REDACTED] TELL ME AGAIN WHAT HAPPENED WITH THE DOG. START FROM THE BEGINNING, TAKE YOUR TIME.

A O.K. UM, I WENT TO CHURCH FOR THE (INAUDIBLE) PROGRAM AND THEN I I WENT INSIDE AND HE TO COOL OFF 'CAUSE THE DOOR WAS OPEN. AND I WALKED BACK OUT. I SAW TANK HE'S A, HE'S A BIG BROWN DOG. HE'S NORMALLY FRIENDLY. I WENT OVER TO PET HIM. HE CAME OVER AND BIT ME. MY BACK OF MY RIGHT LEG AND SORT OF HIGH.

Q O.K. WHEN YOU WENT OVER TO PET HIM WHAT EXACTLY DID YOU DO? DID YOU JUST...

A I REACHED MY HAND OUT. I WAS LIKE HEY TANK HI.

Q O.K. AND THEN HE BIT YA.

A THEN HE CAME UP AND BIT ME YES.

Q WHAT HAPPENED AFTER THAT?

A HE WENT BACK TOWARDS THE HOUSE AND KINDA LIKE CIRCLED AROUND AND WATCHED ME.

Q WHAT'D YOU DO?

A I PRETTY MUCH WENT HOME.

Q O.K. WHERE WERE, WERE YOU BEHIND THE GARAGE OR CLOSER TO THE CHURCH OR CLOSER TO THE TRAILER HOUSE WHEN HE BIT YOU?

A I WAS CLOSER TO THE CHURCH.

Q O.K. ALL RIGHT. GOOD ENOUGH, THAT'S ALL I NEEDED.

AITKIN COUNTY SHERIFF'S OFFICE  
VOLUNTARY STATEMENT

THIS STATEMENT IS GIVEN VOLUNTARILY BY:  
STATEMENT IS IN REFERENCE TO ICR #:  
DEPUTY TAKING STATEMENT:  
DATE OF STATEMENT:

12-1986  
DEPUTY TERRI NIEMEYER  
JUNE 5, 2012

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WITNESS	PERSON MAKING THIS STATEMENT	DATE
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WITNESS	I HAVE RECEIVED COPY	DATE
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I HEREBY CERTIFY THIS IS AN ACCURATE REPRODUCTION OF ALL QUESTIONS ASKED AND ANSWERED AS BEST I COULD TRANSCRIBE FROM THE TAPED STATEMENT TAKEN ON JUNE 5, 2012, BY DEPUTY TERRI NIEMEYER OF:

**SCOTT A. TURNER**  
**SHERIFF OF AITKIN COUNTY**

217 Second Street NW, Room 185  
Aitkin, MN 56431

Telephone: 218-927-2138  
Toll Free: 1-888-900-2138  
Fax: 218-927-7359

June 22, 2012

Randy Wyttenback  
251 Nelson Ave.  
Tamarack MN 55787

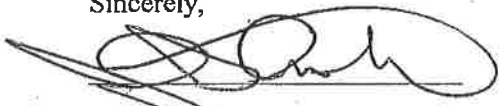
RE: Potentially Dangerous Dog hearing, ICR 12-1986.

Dear Mr. Wyttenback,

On 06/04, 2012, you contacted our office regarding a dog that had bitten your 12 year old son. Based on the information provided to Deputy Terri Niemeyer regarding the incident, the owner of the dog, Terrance Banker, was served a notice designating his dog, "Tank" as a Potentially Dangerous Dog. Tank is described as a Lab/Chesapeake Bay Retriever cross.

As part of due process, the owner has requested a hearing on this matter to challenge the Potentially Dangerous Dog determination. This letter is to inform you that a hearing date and time has been set before the Aitkin County Board, who is the hearing authority. The hearing date is Tuesday, July 10, 2012 at 9:30 a.m. in the Board Room of the Aitkin County Courthouse. Your presence is not required but I encourage you to attend and provide personal input to the County Board in order to aid them in making their decision on this matter. Without personal input from the victim(s), the Board must rely upon testimony presented by the dog owner and the police report(s) and statement(s). I would ask that you contact me prior to the hearing date to let me know whether you plan on attending. I can be reached direct by calling 218-927-7423.

Sincerely,

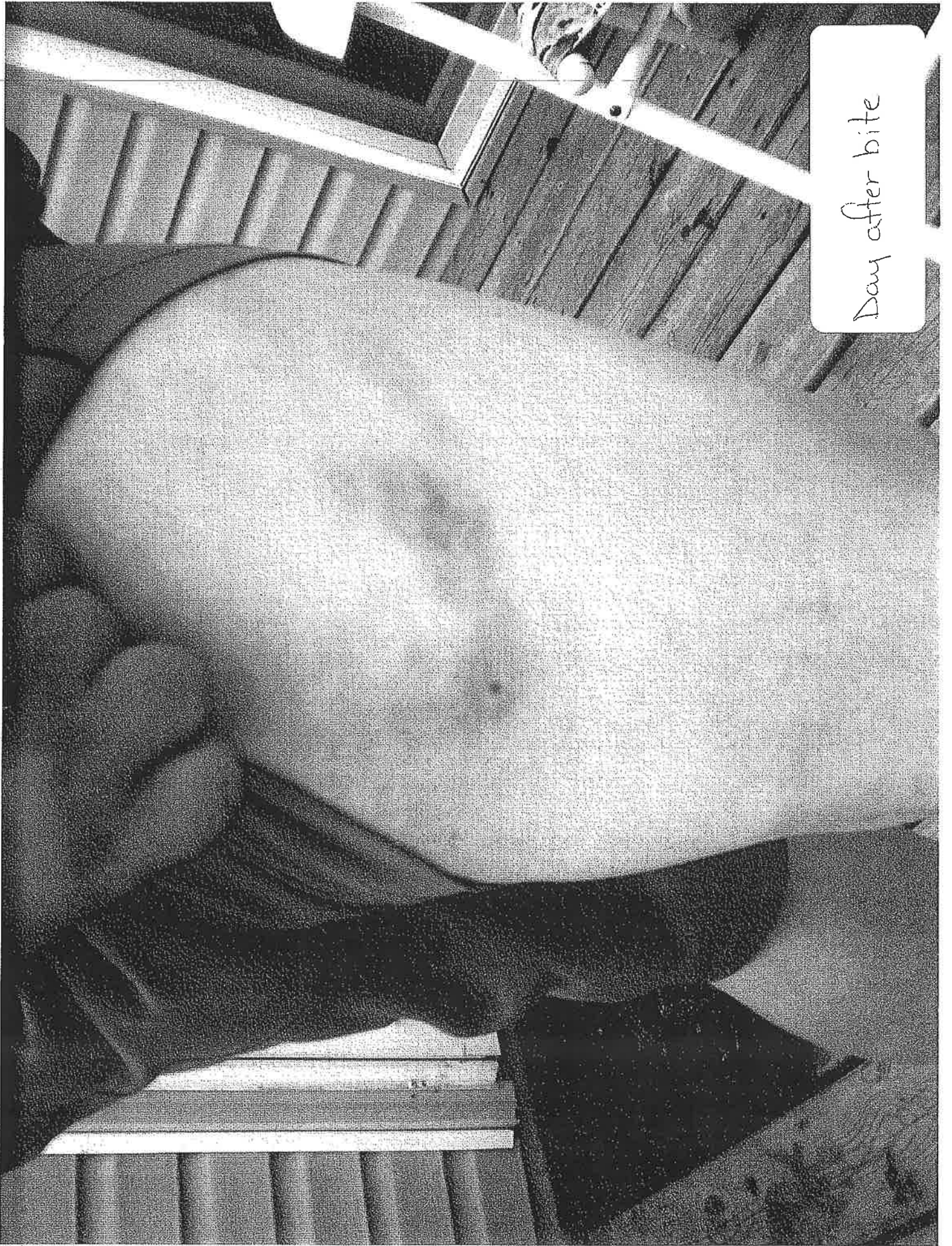


John Drahot  
Undersheriff  
ACSO



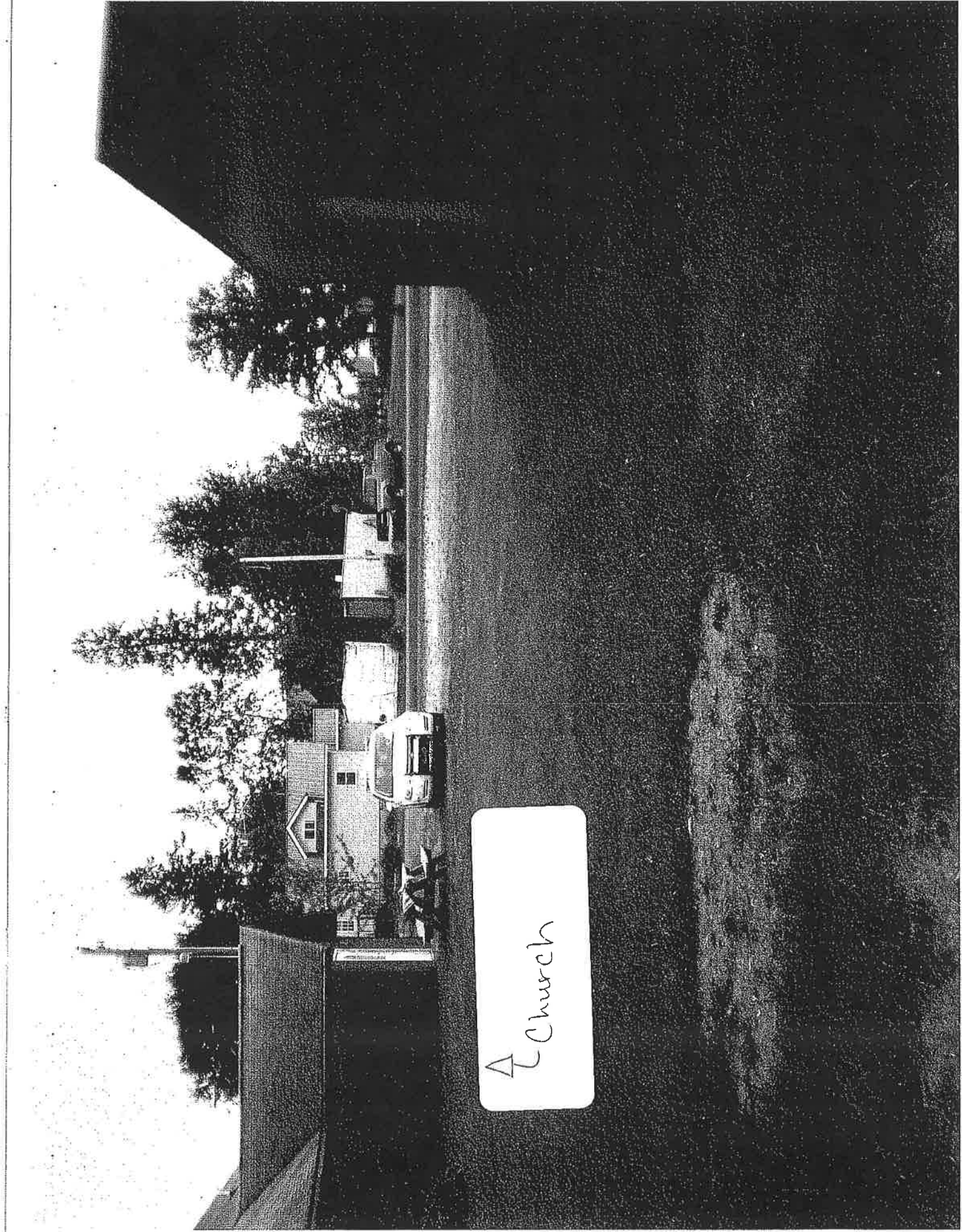
Day of bite.





Day after bite

↖ Church





Garage



→ Dog owner's house.

→ location when bit.

# 2011 Minnesota Statutes

## Regulation of Dangerous Dogs

### **347.50 DEFINITIONS.**

#### **Subdivision 1. Terms.**

For the purpose of sections 347.50 to 347.56, the terms defined in this section have the meanings given them.

#### **Subd. 2. Dangerous dog.**

"Dangerous dog" means any dog that has:

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

#### **Subd. 3. Potentially dangerous dog.**

"Potentially dangerous dog" means any dog that:

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

#### **Subd. 4. Proper enclosure.**

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

### **Subd. 5.Owner.**

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

### **Subd. 6.Substantial bodily harm.**

"Substantial bodily harm" has the meaning given it under section 609.02, subdivision 7a.

### **Subd. 6a.Great bodily harm.**

"Great bodily harm" has the meaning given it under section 609.02, subdivision 8.

### **Subd. 7.Animal control authority.**

"Animal control authority" means an agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.

### **Subd. 8. Provocation.**

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

### **History:**

1988 c 711 s 1; 1989 c 37 s 3-5; 1994 c 550 s 1; 1Sp2001 c 8 art 8 s 14,15; 2008 c 325 s 2

## **347.51 DANGEROUS DOGS; REGISTRATION.**

### **Subdivision 1.Requirement.**

No person may own a dangerous dog in this state unless the dog is registered as provided in this section.

### **Subd. 2. Registration.**

An animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner presents sufficient evidence that:

- (1) a proper enclosure exists for the dangerous dog and a posting on the premises with a clearly visible warning sign that there is a dangerous dog on the property, including a warning symbol to inform children;
- (2) 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, payable to any person 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, insuring the owner for any personal injuries inflicted by the dangerous dog;

(3) the owner has paid an annual fee of not more than \$500, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section; and

(4) the owner has had microchip identification implanted in the dangerous dog as required under section 347.515.

### **Subd. 2a. Warning symbol.**

If an animal control authority issues a certificate of registration to the owner of a dangerous dog pursuant to subdivision 2, the animal control authority must provide, for posting on the owner's property, a copy of a warning symbol to inform children that there is a dangerous dog on the property. The warning symbol must be the uniform symbol provided by the commissioner of public safety. The commissioner shall provide the number of copies of the warning symbol requested by the animal control authority and shall charge the animal control authority the actual cost of the warning symbols received. The animal control authority may charge the registrant a reasonable fee to cover its administrative costs and the cost of the warning symbol.

### **Subd. 3. Fee.**

The animal control authority may charge the owner an annual fee, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section.

### **Subd. 3a. Dangerous dog designation review.**

Beginning six months after a dog is declared a dangerous dog, an owner may request annually 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 the animal control authority finds sufficient evidence that the dog's behavior has changed, the authority may rescind the dangerous dog designation.

### **Subd. 4. Law enforcement; exemption.**

The provisions of this section do not apply to dangerous dogs used by law enforcement officials for police work.

### **Subd. 5. Exemption.**

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

- (1) who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
- (2) who was provoking, tormenting, abusing, or assaulting the dog 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.

### **Subd. 6.**

[Repealed, 1Sp2001 c 8 art 8 s 30]

### **Subd. 7. Tag.**

A dangerous dog registered under this section must have a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol, affixed to the dog's collar at all times.

### **Subd. 8. Local ordinances.**

A statutory or home rule charter city, or a county, may not adopt an ordinance regulating dangerous or potentially dangerous dogs based solely on the specific breed of the dog. Ordinances inconsistent with this subdivision are void.

### **Subd. 9. Contracted services.**

An animal control authority may contract with another political subdivision or other person to provide the services required under sections 347.50 to 347.565. Notwithstanding any contract entered into under this subdivision, all fees collected under sections 347.50 to 347.54 shall be paid to the animal control authority and all certificates of registration must be issued in the name of the animal control authority.

### **History:**

1988 c 711 s 2; 1989 c 37 s 6-10; 1991 c 195 s 1; 1994 c 550 s 2; 1997 c 187 art 3 s 32; 1Sp2001 c 8 art 8 s 16-18; 2008 c 325 s 3-7

## **347.515 MICROCHIP IDENTIFICATION.**

The owner of a dangerous or potentially dangerous dog must have a microchip implanted in the dog for identification, and 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 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.



## **347.52 DANGEROUS DOGS; REQUIREMENTS.**

(a) An owner of a dangerous dog shall keep the dog, while on the owner's property, in a proper enclosure. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.

(b) An owner of a dangerous dog must renew the registration of the dog annually until the dog is deceased. If the dog is removed from the jurisdiction, it must be registered as a dangerous dog in its new jurisdiction.

(c) An owner of a dangerous dog must notify the animal control authority in writing of the death of the dog or its transfer to a new location where the dog will reside within 30 days of the death or transfer, and must, if requested by the animal control authority, execute an affidavit under oath setting forth either the circumstances of the dog's death and disposition or the complete name, address, and telephone number of the person to whom the dog has been transferred or the address where the dog has been relocated.

(d) An animal control authority shall require a dangerous dog to be sterilized at the owner's expense. If the owner does not have the animal sterilized within 30 days, the animal control authority shall seize the dog and have it sterilized at the owner's expense.

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

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

### **History:**

1988 c 711 s 3; 1Sp2001 c 8 art 8 s 20; 2008 c 325 s 8

## **347.53 POTENTIALLY DANGEROUS AND DANGEROUS DOGS.**

Any statutory or home rule charter city, or any county, may regulate potentially dangerous and dangerous dogs. Except as provided in section 347.51, subdivision 8, nothing in sections 347.50 to 347.565 limits any restrictions that the local jurisdictions may place on owners of potentially dangerous or dangerous dogs.

### **History:**

1988 c 711 s 4; 1989 c 37 s 11; 2008 c 325 s 9

## **347.54 CONFISCATION.**

### **Subdivision 1. Seizure.**

(a) The animal control authority having jurisdiction shall immediately seize any dangerous dog if:

(1) after 14 days after the owner has notice that the dog is dangerous, the dog is not validly registered under section 347.51;

(2) after 14 days after the owner has notice that the dog is dangerous, the owner does not secure the proper liability insurance or surety coverage as required under section 347.51, subdivision 2;

(3) the dog is not maintained in the proper enclosure;

(4) the dog is outside the proper enclosure and not under physical restraint of a responsible person as required under section 347.52; or

(5) the dog is not sterilized within 30 days, pursuant to section 347.52, paragraph (d).

(b) If an owner of a dog is convicted of a crime for which the dog was originally seized, the court may order that the dog be confiscated and destroyed in a proper and humane manner, and that the owner pay the costs incurred in confiscating, confining, and destroying the dog.

### **Subd. 2. Reclaimed.**

A dangerous dog seized under subdivision 1 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 sections 347.51 and 347.52 will be met. A dog not reclaimed under this subdivision within seven days may be disposed of as provided under 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.

### **Subd. 3. Subsequent offenses; seizure.**

If a person has been convicted of a misdemeanor for violating a provision of section 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 animal. If the owner is not convicted and the dog is not reclaimed by the owner within seven days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of as provided under section 35.71, subdivision 3.

### **History:**

1988 c 711 s 5; 1989 c 37 s 12; 2008 c 325 s 10,11

## **347.541 DISPOSITION OF SEIZED ANIMALS.**

### **Subdivision 1. Hearing.**

The owner of any dog declared dangerous has the right to a hearing by an impartial hearing officer.

### **Subd. 2. Security.**

A person claiming an interest in a seized dog may prevent disposition of the dog by posting security in an amount sufficient to provide for the dog's actual cost of care and keeping. The security must be posted within seven days of the seizure inclusive of the date of the seizure.

### **Subd. 3. Notice.**

The authority declaring the dog 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 the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The notice must include:

- (1) a description of the seized dog; the authority for and purpose of the dangerous dog declaration and seizure; the time, place, and circumstances under which the dog was declared dangerous; and the telephone number and contact person where the dog is kept;
- (2) a statement that the owner of the dog may request a hearing concerning the dangerous dog declaration and, if applicable, prior potentially dangerous dog declarations for the dog, and that failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing under this section;
- (3) a statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of section 347.52, paragraphs (a) and (c), and until such time as the hearing officer issues an opinion;
- (4) a statement that if the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all other requirements of sections 347.51, 347.515, and 347.52;
- (5) a form to request a hearing under this subdivision; and
- (6) a statement that all actual costs of the care, keeping, and disposition of the dog are the responsibility of the person claiming an interest in the dog, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

### **Subd. 4. Right to hearing.**

Any hearing must be held within 14 days of the request to determine the validity of the dangerous dog declaration. The hearing officer must be an impartial employee of the local government or an impartial person retained by the local government to conduct the

hearing. In the event that the dangerous dog declaration is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000 will be the responsibility of the dog's owner. The hearing officer shall issue a decision on the matter within ten days after the hearing. The decision must be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy must be provided to the animal control authority.

## **History:**

2008 c 325 s 12

## **347.542 RESTRICTIONS.**

### **Subdivision 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 347.51, 347.515, or 347.52;
- (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) had a dog ordered destroyed under section 347.56 and been convicted of one or more violations of section 347.51, 346.515, 347.52, or 609.226, subdivision 2.

### **Subd. 2. Household members.**

If any member of a household is prohibited from owning a dog in subdivision 1, unless specifically approved with or without restrictions by an animal control authority, no person in the household is permitted to own a dog.

### **Subd. 3. Dog ownership prohibition review.**

Beginning three years after a conviction under subdivision 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 deems 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 limitations 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 state.

## **History:**

2008 c 325 s 13

## **347.55 PENALTY.**

- (a) A person who violates a provision of section 347.51, 347.515, or 347.52 is guilty of a misdemeanor.
- (b) 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 or change of location where the dog will reside, to sign a false affidavit with respect to a dangerous dog's death or change of location where the dog will reside, or to fail to disclose ownership of a dangerous dog to a property owner from whom the person rents property.
- (c) A person who is convicted of a second or subsequent violation of paragraph (a) or (b) is guilty of a gross misdemeanor.
- (d) An owner who violates section 347.542, subdivision 1, is guilty of a gross misdemeanor.
- (e) Any household member who knowingly violates section 347.542, subdivision 2, is guilty of a gross misdemeanor.

## **History:**

1988 c 711 s 7; 1Sp2001 c 8 art 8 s 21; 2008 c 325 s 14

## **347.56 DESTRUCTION OF DOG IN CERTAIN CIRCUMSTANCES.**

### **Subdivision 1. Circumstances.**

Notwithstanding sections 347.51 to 347.55, a dog may be destroyed in a proper and humane manner by the animal control authority if the dog:

- (1) inflicted substantial or great bodily harm on a human on public or private property without provocation;
- (2) inflicted multiple bites on a human on public or private property without provocation;
- (3) bit multiple human victims on public or private property in the same attack without provocation; or
- (4) bit a human on public or private property without provocation in an attack where more than one dog participated in the attack.

## **Subd. 2. Hearing.**

The animal control authority may not destroy the dog until the dog owner has had the opportunity for a hearing before an impartial decision maker. The definitions in section 347.50 and the exemptions under section 347.51, subdivision 5, apply to this section.

### **History:**

1Sp2001 c 8 art 8 s 22; 2008 c 325 s 15

## **347.565 APPLICABILITY.**

Sections 347.50 to 347.56 must be enforced by animal control authorities or law enforcement agencies, whether or not these sections have been adopted into local ordinance.

### **History:**

2008 c 325 s 16