

# COUNTY OF MONTGOMERY

102 East Spring St. P.O. Box 425 Troy, North Carolina 27371-0425  
Telephone: (910) 576-4221 Fax: (910) 576-4566

[www.montgomerycountync.com](http://www.montgomerycountync.com)



BOARD OF COMMISSIONERS  
Jim Matheny, Chairman  
Tripp Myrick, Vice Chairman  
Anthony Copeland, Commissioner  
Mike Criscoe, Commissioner  
Jackie Morris, Commissioner

OFFICERS  
Matthew Woodard County Manager  
C.D. Crepps Finance Director  
Kaye G. Norris Register of Deeds  
Russell J. Hollers County Attorney  
Chris Watkins Sheriff  
Doshia F. Haywood Clerk to the Board

## AN ORDINANCE PROVIDING PROTECTION AND SAFETY TO MONTGOMERY COUNTY RESIDENTS AS IT RELATES TO DANGEROUS AND POTENTIALLY DANGEROUS DOGS

BE IT ORDAINED by the Board of County Commissioners of Montgomery County, North Carolina:

### Section 1. Enabling Legislation

NC General Statute § 67-4.1.

- (1) "Dangerous dog" means
  - a. A dog that:
    1. Without provocation has killed or inflicted severe injury on a person; or
    2. Is determined by the person or Board designated by the county or municipal authority responsible for animal control to be potentially dangerous because the dog has engaged in one or more of the behaviors listed in subdivision (2) of this subsection.
  - b. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.
- (2) "Potentially dangerous dog" means a dog that the person or Board designated by the county or municipal authority responsible for animal control determines to have:
  - a. Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization; or
  - b. Killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or
  - c. Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.
- (3) "Owner" means any person or legal entity that has a possessory property right in a dog.
- (4) "Owner's real property" means any real property owned or leased by the owner of the dog, but does not include any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.
- (5) "Severe injury" means any physical injury that results in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization.

The provisions of this Article do not apply to:

- (1) A dog being used by a law enforcement officer to carry out the law enforcement officer's official duties;
- (2) A dog being used in a lawful hunt;
- (3) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or

- (4) *A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort, was tormenting, abusing, or assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.*

*The county or municipal authority responsible for animal control shall designate a person or a Board to be responsible for determining when a dog is a "potentially dangerous dog" and shall designate a separate Board to hear any appeal. The person or Board making the determination that a dog is a "potentially dangerous dog" must notify the owner in writing, giving the reasons for the determination, before the dog may be considered potentially dangerous under this Article. The owner may appeal the determination by filing written objections with the appellate Board within three days. The appellate Board shall schedule a hearing within 10 days of the filing of the objections. Any appeal from the final decision of such appellate Board shall be taken to the superior court by filing notice of appeal and a petition for review within 10 days of the final decision of the appellate Board. Appeals from rulings of the appellate Board shall be heard in the superior court division. The appeal shall be heard de novo before a superior court judge sitting in the county in which the appellate Board whose ruling is being appealed is located. (1989 (Reg. Sess., 1990), c. 1023, s. 1.)*

**§ 67-4.2. Precautions against attacks by dangerous dogs.**

- (a) *It is unlawful for an owner to:*
- (1) *Leave a dangerous dog unattended on the owner's real property unless the dog is confined indoors, in a securely enclosed and locked pen, or in another structure designed to restrain the dog;*
  - (2) *Permit a dangerous dog to go beyond the owner's real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled.*
- (b) *If the owner of a dangerous dog transfers ownership or possession of the dog to another person (as defined in G.S. 12-3(6)), the owner shall provide written notice to:*
- (1) *The authority that made the determination under this Article, stating the name and address of the new owner or possessor of the dog; and*
  - (2) *The person taking ownership or possession of the dog, specifying the dog's dangerous behavior and the authority's determination.*
- (c) *Violation of this section is a Class 3 misdemeanor. (1989 (Reg. Sess., 1990), c. 1023; 1993, c. 539, s. 532; 1994, Ex. Sess., c. 24, s. 14(c).)*

**§ 67-4.3. Penalty for attacks by dangerous dogs.**

*The owner of a dangerous dog that attacks a person and causes physical injuries requiring medical treatment in excess of one hundred dollars (\$100.00) shall be guilty of a Class 1 misdemeanor. (1989 (Reg. Sess., 1990), c. 1023; 1993, c. 539, s. 533; 1994, Ex. Sess., c. 24, s. 14(c).)*

**§ 67-4.4. Strict liability.**

*The owner of a dangerous dog shall be strictly liable in civil damages for any injuries or property damage the dog inflicts upon a person, his property, or another animal. (1989 (Reg. Sess., 1990), c. 1023, s. 1.)*

**§ 67-4.5. Local ordinances.**

*Nothing in this Article shall be construed to prevent a city or county from adopting or enforcing its own program for control of dangerous dogs. (1989 (Reg. Sess., 1990), c. 1023, s. 1.)*

## **Section 2. Determination of a Dangerous Dog**

In accordance with NCGS 67-4.1, Montgomery County designates the County Animal Control Supervisor as the individual responsible for making the determination that a dog is dangerous.

The Animal Control Supervisor will deem a dog to be dangerous when (1) it kills or inflicts serious injury on a person or when (2) it is being harbored for the purpose of dog fighting.

The following evidence is required to make the determination that a dog is dangerous:

1. An animal control officer, or a sworn law enforcement officer, witnesses the dog attack, and the attack results in a person being killed, severely injured, or disfigured; or the officer witnesses the dog participating in an arranged dog fight or is being harbored in a manner consistent with the purpose of dog fighting. OR
2. A sworn statement from the victim or an eyewitness over the age of twelve years, and collaborating evidence from a licensed medical professional confirming serious injuries or death occurred as the result of a dog attack.

### **Section 3. Determination of a Potentially Dangerous Dog**

In accordance with NCGS 67-4.1, Montgomery County designates the County Animal Control Supervisor as the individual responsible for making the determination that a dog is potentially dangerous.

The Animal Control Supervisor will deem a dog to be potentially dangerous if it (1) kills a domestic animal while not on the owner's property, (2) bites a person resulting in non-serious injury while not on the owner's property, or (3) approaches in a vicious or terrorizing manner while not on the owner's property.

The following evidence is required to make the determination that a dog is a potentially dangerous when it either (1) kills a domestic animal while not on the owner's property or (2) bites a person resulting in a non-serious injury while not on the owner's property:

1. An animal control officer, or a sworn law enforcement officer, witnesses the behavior. OR
2. A sworn statement from the victim, or an eyewitness over the age of twelve years to the attack, and a statement from a licensed medical provider or veterinarian confirming the injuries to the person, or the injuries resulting in the death of the domestic animal, were attributable to a dog attack.

The following evidence is required to make the determination that a dog is potentially dangerous dog when it (3) approaches in a vicious or terrorizing manner while not on the owner's property:

1. An animal control officer, or a sworn law enforcement officer, witnesses the behavior. OR
2. Sworn statements from at least two non-related adults over the age of eighteen years, residing in different residences (adjacent to or in close proximity to the owner of the dog's property) giving testimony that the dog consistently leaves its property in a vicious or terrorizing manner consistent with NCGS 67.4.2(c) and that the persons giving statements fear for their safety AND collaborating photographic evidence of the dog being off the owner's property and on the property of the persons giving the statements.

#### **Section 4. Containment of a Dangerous Dog**

In accordance with NCGS 67-4.1 and 67-4.2 a dog deemed dangerous by the County Animal Control Supervisor must be confined as follows:

1. The dog must be housed indoors, with at least two locking doors between the animal and the outside of the house.
2. The animal may only be allowed outside while muzzled and on a leash or harness.
3. The animal may be housed outside if separately contained in an pen constructed as follows:
  - a. A poured concrete floor at least eight by eight in dimension and four inches thick
  - b. The walls must be chain link at least eight feet in height and secured at least every six inches to the concrete floor
  - c. The roof must be structurally engineered and built of wood or metal
  - d. The door must be secured with a pad lock.
  - e. A warning sign of at least twelve inches by twelve inches square must be placed on all sides fronting a public street and visible from said street. The sign must include lettering of at least three inches high per letter reading "DANGEROUS DOG".
4. All other provisions of the NC General Statute must be followed.

#### **Section 5: Failure to Contain a Dangerous Dog:**

A dangerous dog must be confined or restrained at all times under the conditions set forth. Any violation of this determination will result in the seizure of the dog by County Animal Control. The owner of the dog will be subject to criminal and civil charges in accordance with NCGS 67.4.2-67.4.4.

#### **Section 6. Containment of a Potentially Dangerous Dog**

In accordance with NCGS 67-4.1 a dog deemed Potentially Dangerous by the County Animal Control Supervisor must be contained as follows:

1. All reasonable steps must be taken to ensure the dog does not leave the owner's property. These steps may include, but not be limited to, a perimeter fence, radio fence, kennel, or other methods to properly and safely restrain the animal.
2. Reasonable steps must be taken to ensure the dog is maintained under the control of a competent adult over the age of eighteen years while the animal is off its property. These steps may include, but not limited to, a leash or harness.

## **Section 7: Failure to Contain a Potentially Dangerous Dog**

A potentially dangerous dog must be contained or controlled in order to ensure public safety. Owners who fail to do so will be subject to a two hundred and fifty dollar fine (**\$250.00**) and the animal will be confined by County Animal Control for up to ten (10) days. The owner will also be subject to pay all applicable animal control transport and boarding fees.

The following evidence is required to determine a potentially dangerous dog is not being contained as required in section six of this ordinance:

1. An animal control officer, or a sworn law enforcement officer, witnesses the dog off the owner's property while not under the control of a competent adult over the age of eighteen years. OR
2. Sworn statements from at least two non-related adults over the age of eighteen years, residing in different residences (adjacent to or in close proximity to the owner of the dog's property) giving testimony that the potentially dog has left the owner's property AND collaborating photographic evidence of the dog being off the owner's property and on the property of the persons giving the statements.

## **Section 8. Potentially Dangerous Dog Determination to Dangerous Determination**

Any dog deemed to be potentially dangerous by Montgomery County Animal Control may have the designation changed to Dangerous if the dog commits a second and separate violation under this ordinance.

## **Section 9. Notice of Determination**

A dangerous or potentially dangerous dog determination is considered to have been served when a written determination of the ruling signed by the Animal Control Supervisor and a copy of this ordinance is delivered in person by an animal control officer, or a sworn law enforcement officer, to any adult over the age of eighteen years residing at the residence where the dog is housed.

## **Section 10: Appeal Rights**

Any determination deeming a dog dangerous or potentially dangerous may be appealed. Appeals must be made by the owner of the dog and must be made in writing and received by the Clerk to the Board of County Commissioners within three (3) business days of the determination being served.

The Appeals Board will convene within ten (10) business days of receipt of a timely appeal. The Appeals Board will consist of two County Commissioners, the County Manager, the Health Director, and a representative from the Sheriff's Office. Sworn testimony will be heard from the

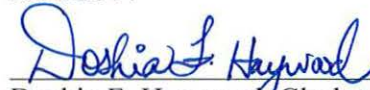
Animal Control Officer(s), witnesses to the event resulting in the issuance of the determination, and any medical professional or veterinarian involved with the determination.

This ordinance shall be in full force and effect from and after its adoption.

ADOPTED this 18<sup>th</sup> day of August, 2015

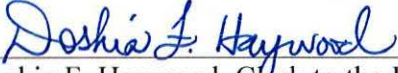
  
\_\_\_\_\_  
Jim Matheny, Chairman  
Montgomery County Board of Commissioners

ATTEST:

  
\_\_\_\_\_  
Doshia F. Haywood, Clerk to the Board  
Montgomery County Board of Commissioners

### **Certificate of Adoption**

I hereby certify that the foregoing is a true copy of the ordinance passed at the regular meeting of the Montgomery County Board of Commissioners, held on the 18th day of August, 2015.

  
\_\_\_\_\_  
Doshia F. Haywood, Clerk to the Board  
Montgomery County Board of Commissioners