

1 (1) Has aggressively bitten, attacked, endangered, or has inflicted severe
2 injury on a human being on public or private property;

3 (2) Has more than once severely injured or killed a domestic animal while off
4 the owner's property;

5 (3) Has been used primarily or in part for the purpose of dog fighting or is a
6 dog trained for dog fighting; or

7 (4) Has, when unprovoked, chased, or approached a person upon the streets,
8 sidewalks, or any public grounds in a menacing fashion or apparent
9 attitude of attack, provided that such actions are attested to in a sworn
10 statement by one or more persons and dutifully investigated by the
11 appropriate authority.

12 Notwithstanding anything else contained in this Chapter, a dog shall not be
13 classified by the Division or a Hearing Officer as dangerous if the threat, injury, or
14 damage sustained by a person was sustained at a time when the person was unlawfully
15 on the property of the dog's owner, or while a person was lawfully on the property of the
16 dog's owner but was tormenting, abusing, or assaulting the dog, its owner, or a family
17 member or guest of the owner; or if the dog was protecting or defending a human being
18 within the immediate vicinity of the dog from an unjustified attack or assault.

19 ...

20 (aa) *Aggressive Dog* means any dog that, according to the records of the
21 Division, has killed a domestic animal while unprovoked and off the owner's property.

22 (bb) *Division* shall mean the Broward County Permitting, Licensing, and
23 Consumer Protection Division, Animal Care and Regulation Section.

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1 (cc) *Proper enclosure of a dangerous dog* means while on the owner's
2 property, a dangerous dog is securely confined indoors or in a securely enclosed and
3 locked pen or structure, suitable to prevent the entry of young children and designed to
4 prevent the animal from escaping. Such pen or structure shall have secure sides and a
5 secure top to prevent the dog from escaping over, under, or through the structure and
6 shall also provide protection from the elements.

7 ...

8 **Sec. 4-11.5. Aggressive dog classification procedures, requirements, owner**
9 **responsibilities, and penalties.**

10 (a) *Procedures to classify a dog aggressive.* The investigation, initial
11 determination, and hearing-related provisions contained in Section 4-12(a)(1)-(6) and
12 Section 4-12.5, and the inspection rights contained in Section 4-12(d), shall be
13 applicable to classifications of animals as aggressive dogs.

14 (b) Within fourteen (14) calendar days after a dog has been classified as
15 aggressive or, if any appeal is filed, within fourteen (14) calendar days after such
16 classification has been upheld in the appeal (dismissal of the appeal shall be deemed to
17 uphold the classification), the owner of the aggressive dog shall comply with the
18 following requirements and responsibilities:

19 (1) The owner shall provide the Division with two (2) color photographs of the
20 dog, (front view and side view) that clearly identify the dog. Each
21 photograph shall be at least three (3) inches by three (3) inches.

22 (2) The dog shall be spayed/neutered unless a licensed veterinarian has
23 examined the dog and certifies, in writing (with a copy provided to the
24 Division within such fourteen (14) day period), that at such time

1 spaying/neutering the dog would endanger its health. Under that
2 circumstance, the dog shall be spayed/neutered as soon as its health
3 permits.

4 (3) Dogs classified as aggressive shall not be brought to a dog park or public
5 park or public beach even if dogs are otherwise allowed.

6 (4) Dogs classified as aggressive shall not be brought to any commercial
7 establishment other than a veterinary office or other facility where the dog
8 is being treated.

9 (5) The owner shall register the dog as aggressive with the Division, and
10 obtain an aggressive dog license which must be renewed annually. The
11 fees for registration and licenses (including renewals) shall be as
12 established by resolution.

13 (6) The owner must ensure that the dog, while on the owner's property, is
14 securely confined indoors or in a securely-fenced or enclosed area from
15 which the dog may not escape (over, under, or through). The dog must be
16 muzzled, leashed, and under the control of a person capable of controlling
17 the dog whenever the dog is not within such securely-fenced or enclosed
18 area or within the passenger portion of a vehicle.

19 (c) Each failure to comply with a requirement or responsibility contained in
20 paragraph (b) immediately above shall constitute a noncriminal infraction punishable by
21 a fine of \$250 payable to the Division. The owner may contest the fine and citation as
22 provided in Section 4-28.

23 Section 2. Section 4-12 of the Broward County Code of Ordinances is deleted
24 in its entirety and replaced as follows:

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1 [UNDERLINING OMITTED]

2 **Sec. 4-12. Dangerous dog classification procedures, requirements, owner**
3 **responsibilities, and penalties.**

4 (a) *Procedures to classify a dog dangerous.*

5 (1) *Investigation.* The Division shall investigate reported incidents involving
6 any dog whose actions may result in the dog being classified as
7 dangerous. As part of the investigation, the Division shall, if possible,
8 interview the dog's owner and require a sworn affidavit from any person,
9 including any animal care officer or enforcement officer, who may have
10 information relating to whether the dog might be dangerous.

11 (2) *Initial Determination.* Upon completing its investigation, the Division shall
12 make an initial determination as to whether there is sufficient cause to
13 classify the dog as dangerous. If the Division determines that there is
14 sufficient cause, the Division shall provide written notification of its initial
15 determination to the owner by registered mail, certified hand delivery
16 (signed receipt), or service in conformance with the provisions of
17 Chapter 48, Florida Statutes, as amended, relating to service of process.

18 (3) *Availability of Hearing to Challenge the Initial Determination.* The written
19 notification referenced in paragraph (2) shall inform the owner that,
20 notwithstanding any other provisions of this Chapter, if the owner wishes
21 to challenge the initial determination, the owner must file a request for a
22 hearing with the Division within seven (7) calendar days after the owner
23 receives notice of the Division's initial determination.

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1 (4) *Effect of Not Timely Requesting Hearing.* If the owner fails to timely
2 request a hearing pursuant to paragraph (3) above, the dog shall be
3 classified as dangerous. The Division shall provide written notice of this
4 classification to the owner by registered mail, certified hand delivery
5 (signed receipt), or service in conformance with the provisions of
6 Chapter 48, Florida Statutes, as amended, relating to service of process.
7 The notice shall inform the owner that he or she may, within ten (10)
8 business days after receipt of the notice, file a written request for a
9 hearing in the County Court for the Seventeenth Judicial Circuit in and for
10 Broward County to appeal the classification.

11 (5) *Effect of Timely Requesting Hearing.* If the owner timely requests a
12 hearing pursuant to paragraph (3) above, the hearing shall be held no
13 sooner than five (5) calendar days after filing of the request and no later
14 than twenty-one (21) calendar days after the filing. The hearing shall be
15 conducted in accordance with Section 4-12.5 below. If the Hearing Officer
16 determines that the dog should be classified as dangerous, the Division
17 shall provide written notice of such classification (along with a copy of the
18 Hearing Officer's decision) to the owner by registered mail, certified hand
19 delivery (signed receipt), or service in conformance with the provisions of
20 Chapter 48, Florida Statutes, as amended, relating to service of process.
21 The notice shall inform the owner that he or she may, within ten (10)
22 business days after receipt of the notice, file a written request for a
23 hearing in the County Court for the Seventeenth Judicial Circuit in and for
24 Broward County to appeal the classification.

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1 (6) *Confinement of Dog Pending Investigation, Hearing and Appeal.* During
2 any investigation as to whether a dog is dangerous, and until the
3 resolution of any subsequent hearing or appeal (as applicable), the owner
4 of the dog, if allowed to maintain possession of the dog, must keep the
5 dog in a securely fenced or enclosed area from which the dog may not
6 escape (over, under, or through). The dog must be muzzled, leashed, and
7 under the control of a person capable of controlling the dog whenever the
8 dog is not within such securely fenced or enclosed area to prevent it from
9 coming into contact with any person or domestic animal other than a
10 person or domestic animal in the immediate household of the owner. The
11 owner shall provide to the Division the address where the dog is kept. No
12 dog that is the subject of a dangerous dog investigation may be relocated,
13 nor may ownership of the dog be transferred, pending the outcome of an
14 investigation or any hearing or appeal related to the determination of a
15 dangerous dog classification.

16 Except for the prohibition on transferring ownership, the requirements in
17 paragraph (6) are inapplicable while a dog is impounded by the Division.

18 (7) *Timing for Compliance with Dangerous Dog Requirements.* Within
19 fourteen (14) calendar days after a dog has been classified as dangerous
20 under paragraphs (4) or (5) above, or within fourteen (14) calendar days
21 after such classification has been upheld in any appeal (dismissal of the
22 appeal shall be deemed to uphold the classification), the owner of the dog
23 must comply with all of the Dangerous Dog Requirements referenced in
24 subpart (b) below. If the owner has not demonstrated full compliance with

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1 those requirements within such fourteen (14) day period, the Division may
2 confiscate and impound the dog and subsequently dispose of the dog in a
3 humane manner at the owner's expense.

4 (b) *Dangerous Dog Requirements.*

5 (1) *Registration and Licensure.* Any person who owns (or keeps, if a person
6 other than the owner) a dangerous dog within Broward County must
7 register the dog as dangerous with the Division and obtain a dangerous
8 dog license. Any person who brings a dog into Broward County that has
9 been declared dangerous by another jurisdiction, and who intends to
10 reside in Broward County with such dog, shall register the dangerous dog
11 and obtain a dangerous dog license within fourteen (14) calendar days of
12 establishing residency in the county. The fees for registration and
13 licenses shall be as established by resolution. Financial penalties as set
14 by resolution shall be imposed if a dangerous dog is not timely registered
15 and licensed. The Division may issue dangerous dog registrations,
16 licenses, and license renewals only to owners at least eighteen (18) years
17 of age.

18 (2) *Conditions Precedent to Registration.* No dangerous dog may be
19 registered with the Division unless and until all of the following
20 requirements have been met:

21 a. The owner shall, at the owner's expense, have the dangerous dog
22 implanted with a Division-approved electronic animal identification
23 device (microchip), and shall provide the Division with the microchip
24 manufacturer and number. The owner may obtain microchips from

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1 the Division, if available, at the fee set by resolution. The microchip
2 number will become the dangerous dog registration number.

3 b. The owner shall display a sign on his or her property warning that
4 there is a dangerous dog on the premises. Said sign shall be
5 clearly visible from all entry points and inform both children and
6 adults of the presence of a dangerous dog on the property. The
7 sign shall read "Dangerous Dog" or "Beware of Dog."

8 c. The owner of a dangerous dog must have in place, on the property
9 where the dangerous dog will be kept, the proper enclosure of a
10 dangerous dog as defined above in this Chapter.

11 d. The owner shall provide evidence of a current certificate of rabies
12 vaccination for the dog.

13 e. The owner shall execute a document consenting to the Division
14 entering the exterior of the owner's property, with or without prior
15 notice, for the sole purpose of conducting inspections to ensure that
16 the dog's owner is meeting his or her responsibilities, as applicable,
17 under section (c) below.

18 f. The owner shall, at the owner's expense, have the dog evaluated
19 by a credentialed animal behavior specialist, provide a copy of the
20 written evaluation to the Division, and agree in writing to comply in
21 full with all recommendations made by the specialist.

22 g. The owner shall be required to sign an agreement provided by the
23 Division to pay the victim's documented, reasonable veterinary
24 expenses and disposal costs, if applicable. The owner of the

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1 dangerous dog shall deliver a check, payable to the victim, to the
2 Division within fifteen (15) days after being provided with the
3 documented, reasonable veterinary expenses and disposal costs.

4 (c) *Responsibilities of Dangerous Dog Owners.* The owner (or keeper, if
5 other than the owner) of a dangerous dog shall:

6 (1) Renew the dangerous dog license annually. Failure to renew the
7 dangerous dog license within thirty (30) calendar days after the expiration
8 of the previous license shall result in the assessment of a late renewal
9 penalty as set by resolution, and will subject the owner to citation for non-
10 compliance with this Chapter. In the event a current dangerous dog
11 license is lost, destroyed, misplaced, or otherwise missing, the owner
12 must obtain a replacement dangerous dog license at the fee set by
13 resolution.

14 (2) Ensure that the dog, while on the owner's property, is securely confined
15 indoors, or securely confined in a proper enclosure of a dangerous dog as
16 defined above. At any time that a dangerous dog is not so confined, the
17 dog shall be muzzled and restrained in such a manner as to prevent it
18 from biting or injuring any person or animal, and kept on a substantial
19 chain or leash by a person able to exercise control over the dog. The
20 muzzle must be made in a manner that will not cause injury to the dog or
21 interfere with its vision or respiration but will prevent it from biting any
22 person or animal. However, the foregoing requirements of this paragraph
23 do not apply:
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- 1 a. When the dog is in attendance at and participating in any dog
2 show, contest, or exhibition not prohibited under Section 828.122,
3 Florida Statutes, as amended, and sponsored by a dog club,
4 association, society, or similar organization.
- 5 b. While the dog is being transported within the cab or passenger
6 portion of any motor vehicle, provided the vehicle has a roof, and
7 the dog cannot escape through an open window.
- 8 c. When the owner is exercising the dog in a securely fenced or
9 enclosed area that does not have a top, provided that the dog
10 remains within the owner's sight and only members of the
11 immediate household or persons eighteen (18) years of age or
12 older are allowed in the enclosed or fenced area when the dog is
13 present.

14 (3) Notify the Division immediately if the dangerous dog becomes loose,
15 unconfined, attacks, or bites a human being or another animal, dies, is
16 sold, or is given away. In the event of the dog's death, the owner shall
17 provide to the Division satisfactory evidence (as determined by the
18 Division) of the dog's death. If the dangerous dog is sold or given away,
19 the owner shall provide to the Division the name, address, and telephone
20 number of the new owner of the dangerous dog. The new owner shall,
21 within fourteen (14) calendar days after receiving the dog, execute a new
22 document to be supplied by the Division, acknowledging that he or she is
23 aware of the dangerous dog classification, and agreeing that the new
24 owner shall comply with all of the requirements of this Chapter.

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1 (4) Notify the Division immediately if the owner believes that the dangerous
2 dog has been stolen. The owner must, concurrently with that notification,
3 report the theft to the appropriate local law enforcement authority and
4 provide the official police report to the Division.

5 (5) Notify the Division immediately if the owner moves to another address with
6 the dangerous dog, which notification shall identify such address.

7 (6) Have the dangerous dog destroyed in a humane manner at his or her sole
8 expense by the Division or a licensed veterinarian if the owner is unable or
9 unwilling to comply with all applicable requirements and mandates
10 contained in this Chapter.

11 (7) Be and remain in full compliance with all recommendations made by the
12 animal behavior specialist referenced above in Subsection 4-12(b)(2)e.

13 (8) Meet the obligation under any agreement executed as referenced in
14 Subsection 4-12(b)(2)e.

15 (d) The Division shall have the authority to make whatever inspections are
16 deemed necessary to ensure that the provisions of this Chapter are complied with. The
17 Division may impound a dangerous dog if the owner fails to comply in full with the
18 dangerous dog mandates and responsibilities cited herein. A dangerous dog
19 impounded on that basis may be redeemed by the owner upon the owner's full
20 compliance therewith and payment of any boarding fees, impound fees, and other
21 applicable fees established by resolution. If the owner does not comply with the
22 dangerous dog mandates and responsibilities and redeem the dangerous dog within
23 fourteen (14) days of the date the dog was impounded pursuant to the terms of this
24 paragraph, the dog shall be destroyed in an expeditious and humane manner or the

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1 Division, at its sole discretion, may release the dog to an animal rescue or animal
2 welfare agency.

3 (e) The owner of a dangerous dog may surrender the dangerous dog to the
4 Division if the owner is unable or unwilling to comply with the requirements of this
5 Chapter.

6 (f) This Chapter shall not apply to dogs owned and used by a law
7 enforcement agency.

8 (g) *Violations of Dangerous Dog Requirements or Responsibilities of*
9 *Dangerous Dog Owners.* Each failure to comply with a dangerous dog requirement or
10 responsibility of a dangerous dog owner contained in this Chapter shall constitute a
11 noncriminal infraction, punishable by a fine of \$500 payable to the Division. The owner
12 may contest the fine and citation as provided in Section 4-28.

13 (h) *Impoundment, Confiscation, and Destruction of Dangerous Dogs.*

14 (1) In the event that any officer of the Division has sufficient cause to believe
15 that a dog is dangerous and that the owner is unable or unwilling to
16 securely confine the animal, the Division officer may, if deemed by such
17 officer to be necessary to protect the public, impound the dog pending
18 completion of any investigation, hearing, or appeal. An owner's refusal to
19 surrender a dog for such impoundment shall constitute a violation of this
20 Chapter.

21 (2) If a dog that has previously been classified as dangerous attacks or bites
22 a person or a domestic animal without provocation, the Division shall
23 immediately confiscate and impound the dog, and after written notice to
24 the owner and expiration of ten (10) business days from the date the

1 owner receives the notice, destroy such dangerous dog in an expeditious
2 and humane manner. This ten (10) day time period shall allow the owner
3 to request a hearing under Section 4-12.5.

4 (3) If a dog attacks and causes severe injury to or death of any human, the
5 dog shall be immediately confiscated by the Division, placed in quarantine,
6 if necessary, for the proper length of time, or otherwise impounded, and
7 held for ten (10) business days after the owner is given written notice, and
8 thereafter destroyed in an expeditious and humane manner. This ten (10)
9 day time period shall allow the owner to request a hearing under
10 Section 4-12.5.

11 (4) For any period of impoundment or quarantine referenced in paragraphs
12 (1), (2), or (3) above, or referenced elsewhere in this Chapter, the owner
13 shall be responsible for payment of all boarding costs and other fees
14 associated therewith.

15 (5) Notice under Section (h) shall be effected by registered mail, certified
16 hand delivery (signed receipt), or service in conformance with the
17 provisions of Chapter 48, Florida Statutes, as amended, relating to service
18 of process.

19 (6) If the owner requests a hearing or files an appeal under paragraph (2) or
20 (3) above, the dog must be held by the Division, at the owner's expense,
21 and may not be destroyed while the hearing or appeal is pending.

22 (i) If any owner or keeper of a dangerous dog is a minor, the parent or
23 guardian of such minor shall be responsible for complying with the provisions of this
24 Chapter.

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1 Section 3. Section 4-12.5 of the Broward County Code of Ordinances is
2 deleted in its entirety and replaced as follows:

3 [UNDERLINING OMITTED]

4 **Sec. 4-12.5. Hearings.**

5 (a) *Hearing Officer.* There is hereby created for the purposes of this Chapter
6 the position of Hearing Officer. For purposes of all proceedings related to dangerous
7 dogs, each Hearing Officer shall be a member in good standing of the Florida Bar.

8 (b) *Burden of Proof.* The Division shall bear the burden of establishing that a
9 dog is dangerous by a preponderance of evidence. The owner shall bear the burden of
10 establishing any factual or legal defense to the classification of dangerousness by a
11 preponderance of evidence.

12 (c) *Hearing Procedures.*

13 (1) These procedures govern hearings before Hearing Officers as provided in
14 this Chapter. Such hearings shall provide an opportunity for the owner to
15 be heard. All hearings shall be conducted in accordance with the Florida
16 Rules of Civil Procedure and the Florida Evidence Code, except as
17 otherwise stated herein. However, the hearing shall be conducted in an
18 informal manner to the extent practicable. Each party shall be afforded
19 the following rights:

- 20 a. To be accompanied, represented, and advised by counsel;
- 21 b. To offer the testimony of witnesses and examine opposing
22 witnesses on relevant matters; and
- 23 c. To present his or her case by oral or documentary evidence.

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1 (2) Any interested person or entity may make application to intervene and
2 appear at a hearing. Such application may be granted at the discretion of
3 the Hearing Officer based on good cause shown.

4 (d) *Subpoenas.*

5 (1) The Hearing Officer shall have the power to issue subpoenas to compel
6 the attendance of witnesses at a hearing upon the written request of any
7 party or upon the Hearing Officer's own initiative.

8 (2) A subpoena may be served by any person authorized by law to serve
9 process. Service shall be made as provided by law.

10 (3) Any person subject to a subpoena may, before compliance with the
11 subpoena is required, petition the Hearing Officer to quash the subpoena.

12 (4) A party may seek enforcement of a subpoena issued by a Hearing Officer
13 under the authority of this Chapter by filing a petition for enforcement of
14 such subpoena in a court of competent jurisdiction.

15 (e) *Evidence.*

16 (1) In any hearing before a Hearing Officer, irrelevant, immaterial, or unduly
17 repetitious evidence shall be excluded. All other evidence of a type
18 commonly relied upon by reasonably prudent persons in the conduct of
19 their affairs shall be admissible, whether such evidence would be
20 admissible in a trial in the courts of Florida. Any part of the evidence may
21 be received in written form, and all testimony of parties and witnesses
22 shall be made under oath. Hearsay evidence may be used for the
23 purpose of supplementing or explaining other evidence, but it shall not be
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1 sufficient in itself to support a finding unless it would be admissible over
2 objection in civil actions.

3 (2) A party shall be permitted to conduct cross-examination when testimony is
4 taken or documents are made a part of the record.

5 (3) The rules of privilege shall be effective to the same extent that they are
6 recognized under Florida law.

7 (4) The Hearing Officer shall ensure that a full record of the hearing is
8 preserved, which record shall be public and open to inspection and
9 transcription by any person.

10 (f) *Written Determinations of the Hearing Officer.*

11 (1) After conducting a hearing, the Hearing Officer shall issue a determination
12 within twenty (20) calendar days of the hearing.

13 (2) All determinations of the Hearing Officer shall be in writing, signed, and
14 dated by the Hearing Officer, shall contain findings of fact and conclusions
15 of law, and shall be served upon the owner by registered mail, certified
16 hand delivery (signed receipt), or service in conformance with the
17 provisions of Chapter 48, Florida Statutes, as amended, relating to service
18 of process.

19 (g) *Obligation to Pay Hearing Officer's Fee; Deposit.* The non-prevailing party
20 shall be responsible for paying the Hearing Officer's fee in full. When filing a written
21 request for a hearing, the owner shall provide a deposit in the amount established by
22 resolution as security for payment of the Hearing Officer's fee. If the owner prevails in
23 the hearing, the deposit shall be returned in full. If the owner does not prevail, and the
24 Hearing Officer's fee exceeds the deposit, the owner shall pay the difference within ten

1 (10) days after written demand is made by the Division. If the owner does not prevail,
2 and the deposit exceeds the Hearing Officer's fee, the Division shall return the excess
3 deposit to the owner within ten (10) days after paying the Hearing Officer's fee.

4 (h) Once a hearing is scheduled, failure to appear before the Hearing Officer
5 may, at the discretion of the Hearing Officer, result in dismissal of the hearing with
6 prejudice, in which case the initial classification by the Division shall stand and the dog
7 shall be classified as dangerous.

8 Section 4. Section 4-14.5 of the Broward County Code of Ordinances is
9 hereby amended to delete paragraph (b) and re-letter existing paragraph (c) as the new
10 paragraph (b).

11 Section 5. SEVERABILITY.

12 If any portion of this Ordinance is determined by any Court to be invalid, the
13 invalid portion shall be stricken, and such striking shall not affect the validity of the
14 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion
15 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),
16 or circumstance(s), such determination shall not affect the applicability hereof to any
17 other individual, group, entity, property, or circumstance.

18 Section 6. INCLUSION IN CODE.

19 It is the intention of the Board of County Commissioners that the provisions of
20 this Ordinance shall become and be made a part of the Broward County Code; and that
21 the sections of this Ordinance may be renumbered or relettered and the word
22 "ordinance" may be changed to "section," "article," or such other appropriate word or
23 phrase in order to accomplish such intentions.

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Section 7. EFFECTIVE DATE.

This Ordinance shall become effective as provided by law.

ENACTED January 25, 2011

FILED WITH THE DEPARTMENT OF STATE February 10, 2011

EFFECTIVE February 10, 2011

BRS/mm
01/26/11
Dangerous Dog Ord.doc
#10-432

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