14-36. Control of dangerous dogs or potentially dangerous dogs.

A. An owner of a dangerous or potentially dangerous dog shall take precautions against attacks by such dogs resulting in serious bodily injury to a person. Determination of a dangerous or potentially dangerous dog shall be in accordance with G.S. 67-4.1 and provisions under City of Brevard ordinance 14-36. The City of Brevard Chief of Police, or their 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 that led to the determination and shall be delivered or mailed by registered or certified mail to the owner/keeper of the dog.

B. "Dangerous Dog" means without limitation any dog defined as such pursuant to G.S. 67-4.1 including:

1. Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.
2. Any dog that, without provocation, has killed or inflicted severe injury on a person.
3. Any dog determined by the Chief of Police or their designee to be a "Potentially Dangerous Dog".

C. "Potentially Dangerous Dog" means without limitation any dog defined as such pursuant to G.S. 67-4.1 including any dog that the Chief of Police or their designee determines to have:

1. Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization, or
2. Killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or
3. Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack. In addition, thereto, any dog whose behavior constitutes a risk of severely injuring or killing a human or domestic animal or which, by demonstrated behavior, is commonly accepted as dangerous shall be deemed "potentially dangerous." A dog declared by the Chief of Police, or their designee, is also a "Dangerous Dog" by definition.

D. An appellate board will be designated by the city council to hear any appeals. The dangerous dog appellate board shall be composed of a ~~practicing~~ veterinarian and two public citizens as appointed by the city council. The veterinarian shall be vested with a personal or professional stake in Transylvania County, and the two citizen members shall be residents of the City of

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Brevard. The owner/keeper of a dog that has been declared dangerous/potentially dangerous may appeal the declaration in writing to the dangerous dog appellate board within five business days of the receipt of notice of the original declaration. While any appeal is pending, the owner/keeper of the dog shall comply with the dangerous/potentially dangerous dog confinement measures set forth in City Code section 14-36 and G.S. 67-4.2. If the declaration made by the Chief of Police, or their designee, is upheld by the appellate board, the owner of the dog may appeal the decision to superior court by filing notice of appeal and a petition for review within ten days of the decision made by the appellate board. Appeals from the final decisions of the appellate board shall be heard in the superior court of the county.

E. The owner/keeper of a dog that has been declared "dangerous" or "potentially dangerous" has the right to properly appeal the initial declaration to the City of Brevard Dangerous Dog Appellate Board.

F. To be properly appealed, any request for an appeal must be made in writing and must be delivered to the appellate board c/o the City Manager, or otherwise mailed thereto bearing a postmark, within 5 days of receipt by the owner of the written declaration from which the appeal is sought.

G. While the appeal to the appellate board is pending, the owner/keeper of the dog must comply with all provisions of this ordinance pertaining to "dangerous" or "potentially dangerous" dogs except with respect to any tattooing or micro chipping requirements.

H. The appellate board shall schedule a quasi-judicial hearing within 30 days of receiving the written request for an appeal to determine whether to affirm, remand for further consideration, or overturn the Chief of Police or their designee's declaration. The appellate board's decision shall be issued in writing within 10 days of its decision.

I. Any appeal from the final decision of the appellate board shall be taken to the Transylvania County Superior Court by filing notice of appeal and a petition for review therewith within 10 days of the final decision of the appellate board.

J. While any appeal to the Transylvania County Superior Court is pending, the owner or keeper of the dog must comply with all provisions of this ordinance pertaining to "dangerous" or "potentially dangerous" dogs except with respect to any tattooing or micro chipping requirements.

K. Failure to file any appeal within the applicable deadline shall result in the owner or keeper being deemed to have waived its right to file an appeal, and the owner or keeper shall thereafter immediately comply with all provisions of this ordinance.

L. The owner/keeper of a declared "dangerous" or "potentially dangerous" dog may

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keep the dog only if all the following conditions are satisfied on an ongoing and continuous basis:

1. The owner must ensure that the dog remains either confined or controlled and muzzled as described below at all times. Failure to comply shall subject the owner to prosecution and/or penalties under this ordinance or state law.

    a. Confined: The dog may be confined inside the owner's or keeper's residence. Alternatively, the dog may be confined inside a securely enclosed, locked pen with a concrete bottom and secure top. The lock must require a combination or key to open. The pen and the lock shall be subject to inspection and approval by the City of Brevard Animal Services Officer.

    b. Restrained and muzzled: If the dog is not confined as described above, it must be muzzled, restrained on a leash or chain, and controlled by a competent person at all times.

2. The owner must immediately post one or more warning signs indicating that a declared “dangerous” or “potentially dangerous” dog is on the property. The signs must include both a written statement as well as a graphic representation of a dangerous dog. The sign must be approved by the Chief of Police, or their designee, and must be at least 120 square inches in size. At least one sign must be posted in a clearly visible manner at each entrance to any residence or enclosure in which the declared dog will be kept or confined at any time.

3. Within 10 days of exhausting all available appeals or otherwise within 10 days of the expiration of any applicable appeal deadline, the owner must ensure that the dog is either tattooed on the inside of the right hind leg with an identification number or microchipped. The owner must provide the Chief of Police with a signed written statement containing the identification number or microchip identifier used within 72 hours.

4. City of Brevard Animal Control Officers and other law enforcement officials may conduct periodic inspections of the owner's property to evaluate compliance with this ordinance. If the owner refuses to permit such inspections, the Animal Control Officers and law enforcement officials may seek an administrative inspection warrant to conduct a periodic inspection.

5. If the owner transfers ownership or possession of a declared dog to someone else, the restrictions on the dog shall transfer to the new owner or keeper. Prior to transferring ownership thereof, the owner must obtain a "Transfer of

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Ownership" form from the Animal Services Officer explaining the dog has been declared “dangerous’ or “potentially dangerous” and outlining the restrictions placed thereupon. The person assuming ownership must sign the form and the signature must be notarized. The signed and notarized form must be returned to the Chief of Police or their designee before the animal is transferred to the new owner.

M. Violations

1. If an owner or keeper of a declared dog fails to comply with any requirement in this section:

    a. They may be charged criminally pursuant to this ordinance with a Class 3 Misdemeanor in which event the dog may be immediately impounded; and/or

    b. They may be issued a civil citation and assessed for civil penalties pursuant to this ordinance as set by the City of Brevard fee schedule.

2. If the owner of a declared dog impounded under this section is found to not violate this section either criminally or civilly, the dog shall be released from impoundment, and all impoundment costs shall be paid by the owner/keeper at the daily rate established by the Transylvania County Animal Shelter.

3. Any declared dog shall not be offered for adoption through any animal shelter.

4. Any dog that kills a person shall be impounded and euthanized upon order of the court.

N. Reporting Requirements for declared “dangerous” or “potentially dangerous” dogs are as follows:

1. A report to the City of Brevard Animal Services Officer shall be made by contacting the Transylvania County 911 Center within 24-hours of any of the following events by persons specified herein:

    a. If any declared “dangerous” or “potentially dangerous” dog attacks or bites a person or domestic animal it shall be reported by the owner/keeper.

    b. If there is a change in address, ownership or possession of a declared “dangerous” or “potentially dangerous” dog, the same shall be reported by the owner or keeper thereof; or

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c. If a declared "dangerous" or "potentially dangerous" is removed from the City of Brevard and Transylvania County, or expires, the same shall be reported by the owner or any keeper thereof.

2. Failure to comply with this section may result in criminal prosecution and/or civil remedies including the assessment of penalties as otherwise provided under Section L.1.(a)&(b) of this ordinance.

O. The owner/keeper of any declared "dangerous" or "potentially dangerous" dog shall have strict liability in civil damages for any injuries or property damage the dog inflicts upon any person, their property, or another animal as per G.S. 67-4.4.

(Code 1980, § 4-26; Ord. No. 2017-07, § 1, 3-20-17; Ord. No. 2018-15, § 1, 6-18-18)
State law reference(s)—Authority to regulate, restrict, and prohibit the possession or harboring of dangerous animals, G.S. 160A-187.

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