

Chair Larry Murphy
Connie Steiner
Mike Netland
Brian Madsen

City of Menahga
Planning and Zoning Commission Meeting
7:00 pm Thursday, January 4, 2024

City Council Chambers
115 2nd Street NE
www.cityofmenahga.com

Agenda

A. Call to Order

B. Roll Call

C. Pledge of Allegiance

D. Approve the Agenda

E. Approval of Minutes

1. Minutes of December 7, 2023

F. Public Hearing –

1. Schaeffer Rezoning

G. New Business

1. Action/Discussion Schaeffer Rezoning Request
2. YTD Permit Review
3. Ordinance Change review.

H. Old Business

I. Adjournment

**City of Menahga
Planning & Zoning Minutes
Thursday, December 7, 2023**

A. Call to Order

The Menahga Planning and Zoning Commission held their Regular Monthly Meeting on Thursday, December 7, 2023.

Chairman Quade Mayer called the meeting to order at 7:00 pm

B. Roll Call

Comprising a quorum of the commission, the following members were present:

Quade Mayer, Connie Steiner, Mike Netland, Larry Murphy (7:02) and Brian Madsen

Also, present were Interim City Clerk/Treasurer Jensine Kurtti and Jake Huebsch from Sourcewell.

C. Pledge of Allegiance

D. Approval of the Agenda – No additions

E. Approval of Minutes

The minutes from November 2, 2023 were presented.

Main Motion: To approve the minutes from November 2, 2023 as presented.

Moved by:	Netland
Seconded by:	Madsen
Action:	Motion carried by a 5-0 vote
In favor:	Mayer, Netland, Madsen, Steiner, Murphy
Opposed:	None.

Greenwood Connections (GWC) Administrator Laura Ahlf had asked prior to the meeting started if she could comment on the November 2, 2023 Minutes. During the approval process Ahlf asked to speak, and Chair Quade Mayer stated he would allow her to speak after the Public Hearing.

F. Public Hearing – Minnesota Ordinance Chapter 70 – Traffic Rules

Chair Mayer opened the Public Hearing.

City resident Tim Ellingson signed up to speak. Ellingson handed the commission a list of items that he felt should be addressed at some point by the commission;

- Traffic Regulations: Motorized vehicles of ALL types need to have enacted rules for operation (scooters, in-line skates, Hover Shoes, unicycles, bicycles, et. al).
- Residents selling (seasonal) items on their property (with no permit/license).
- Residents giving away items in their rights of way.
- All buildings in the city should have address numbers.
- Horse riders must remove manure dropped within the City limits.
- Placing SHIPPING CONTAINERS just off the right of way. (?2nd St. NW)

Chair Mayer asked if there were any other public comment, hearing none he closed the Public Hearing. The commission members then discussed the ordinance and felt that there were no changes needed. They complimented Chief Amy Lane for her work on establishing this ordinance, as the City currently does not allow for ATV's, Golf Carts, etc.

G. New Business

1. Chapter 70 – Traffic Rules Ordinance Commission Discussion/Action

Main Motion: To approve the Chapter 70 – Traffic Rules Ordinance as written and recommend it's approval from the Menahga City Council.

Moved by:	Steiner
Seconded by:	Netland
Action:	Motion carried by a 5-0 vote
In favor:	Mayer, Netland, Madsen, Steiner, Murphy
Opposed:	None.

Chair Mayer then allowed Ahlf to speak. Ahlf said that it was too late as the minutes were already approved, but wanted to comment on how the minutes were written. She felt that important details like the statement about the GWC Board and City Council should work together on the ordinance that governs GWC. She also felt it was unprofessional for Kurtti to have mentioned details of a private conversation that she had with her. She questioned if the commission should have the final say whether an ordinance moves forward or not, among other concerns. Kurtti then mentioned that the statement about the GWC Board and City Council was mentioned in the minutes on page 4. Ahlf then apologized for that statement. Kurtti asked Chair Mayer what was to be done about the minutes, Mayer said nothing as they had already been approved.

There was no other comment from the commission members. Ahlf then spoke and Commission Member Netland stated that it was not the time to debate the issue.

2. Issued Land Use Permits – None

3. Zoning Issues Update

Huebsch informed the commission that the shipping containers at Bolton's Bees had been removed, he stated that he and Chief Lane had worked together to let them know that they could not remain in a residential district and felt they had been given ample notice to remove them. The commission briefly discussed the items brought forward by Tim Ellingson stating that they will be addressed as they work through the ordinance updates.

4. Upcoming Rezone Public Hearing

Huebsch wanted to give the commission a heads-up that he had an application for a rezoning that he would bring forward at the January P&Z Meeting. Huebsch also mentioned that there was a Boundary Split item that he is currently working on to correct the legal descriptions on several parcels on 2nd St. NE. This will be corrected administratively by Huebsch and then approved by the City Council. It was discovered during the sale of one of the parcels.

5. Zoning Map Update

Huebsch had two examples of Zoning Maps that are used in other cities. Sourcewell contracts with Widseth to provide that service to them. He has sent Menahga's Zoning Map to them, and they will work on creating one for the city. There is no charge to the city for this service.

6. Nuisance Ordinance Amendment

Chief Amy Lane brought forward an issue with the newly passed Nuisance Ordinance. She stated the entire section relating to dogs and cats (91.01-91.99 of the old ordinance) was not included in the new ordinance. The new ordinance mentions dogs and cats, but not to the detail of the old ordinance. Lane would like to have it brought back in its entirety, so that the animal issues will be adequately covered. Lane and Huebsch will work on having the 91.01-91.99 section added back in the Menahga Municipal Code.

7. P&Z Commission Member Quade Mayer Term Ending 12-31-23

Commission member Quade Mayer's term will end on December 31, 2023. Quade presented a Letter of Resignation to the commission, stating that he wants to spend more time attending his children's events. The commission thanked him for his years of service and expressed regret that he was leaving.

Main Motion: To regretfully accept the Letter of Resignation from Quade Mayer as of 12/7/23.

Moved by:	Netland
Seconded by:	Murphy
Action:	Motion carried by a 4-0 vote
In favor:	Netland, Madsen, Steiner, Murphy
Opposed:	None.

Due to the resignation of Quade Mayer, the commission will be without a Chairperson. Larry Murphy is currently Vice-Chair and Mike Netland felt he should take over that position, all members agreed.

Main Motion: To nominate Larry Murphy as the Chair of the Planning & Zoning for 2024.

Moved by:	Netland
Seconded by:	Steiner
Action:	Motion carried by a 4-0 vote
In favor:	Mayer, Netland, Madsen, Steiner
Opposed:	None.

H. Old Business - None

Prior to adjournment, Mike Netland asked Jake Huebsch how the Land Use Ordinance was coming, Huebsch said that he had a rough draft and was working on it. Huebsch felt that it would be ready by Spring.

I. Adjournment

Main Motion: To adjourn the meeting at 7:50 pm.

Moved by:	Netland
Seconded by:	Steiner
Action:	Motion carried by a 5-0 vote
In favor:	Netland, Madsen, Murphy, Steiner, Murphy
Opposed:	None.

Interim City Clerk/Treasurer Jensine Kurtti

Chairman, Quade Mayer

**LAND USE STAFF REPORT
REZONE**

Applicant: Gary Schaefer
Property Owner: Gary Schaefer

Items:

1. Rezone parcel 175800060 (1024 Elm Ave SE Menahga, MN 56464)

Application Date: 11/24/23

60 Day Action: 1/24/24

60 Day Extension: 3/24/24

Action:

1. Hold a public hearing to consider rezoning the property.
2. Recommend to the City Council for approval/denial of the rezoning.

Application/Petition:

1. Request related to rezoning parcel 175800060 (1024 Elm Ave SE Menahga, MN 56464) from the Industrial zoning district to the R-1 Residential zoning district. The applicant is Gary Schaefer.

Notices:

Sent legal notice in official newspaper

Dec 11, 2023

Mailing to property owners within 350 feet of subject properties

Dec 11, 2023

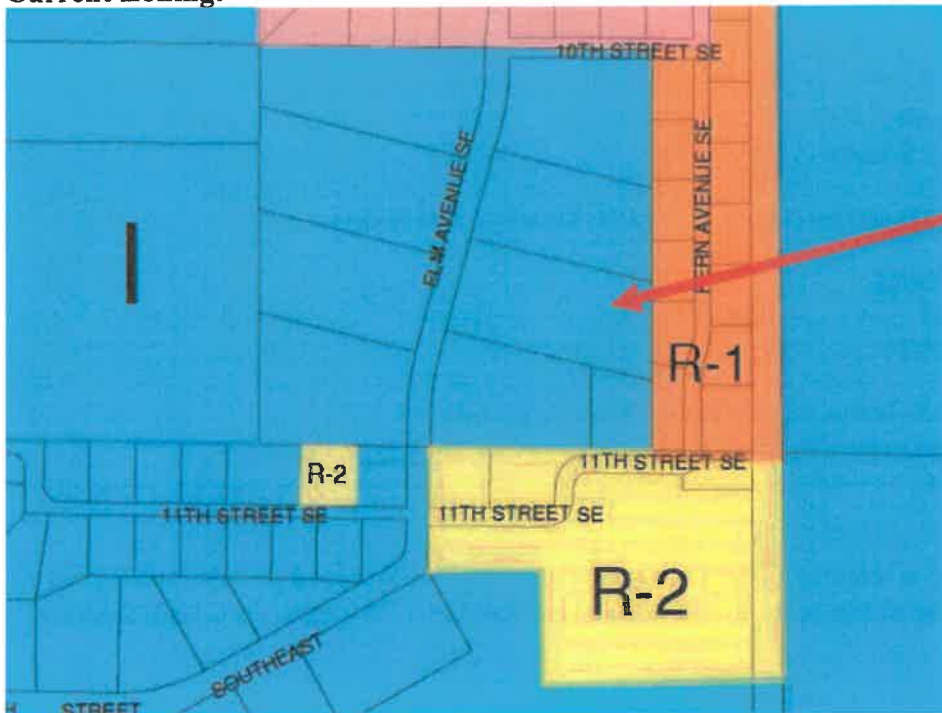
Notification to DNR

N/A

Subject Property:



Current Zoning:



What Is Zoning? (City function)

Zoning refers to municipal or local laws or regulations that govern how real property can and cannot be used in certain geographic areas (zoning districts).

What is a Property Tax Classification? (County function)

The property tax classification usually refers to the use of the property as of the assessment date. The county is responsible for putting property tax classifications on all types of real estate.

Property Tax Implications: The municipal rezoning of property alone will not impact property taxes. Property classification is based on the current use of the property. When there is no apparent use (e.g. vacant land), the property is classified as the highest and best use for the property.

Staff comments/findings to rezone:

1. Reasonable efforts were made to notify the public and surrounding properties regarding the proposed rezoning.
2. Surrounding property includes R1 and Industrial
3. The property is adjacent to other R1; therefore, it wouldn't be considered spot zoning.
4. The proposed rezone does meet the lot size requirements for that zoning district.
5. Future industrial development around could impact residential use.

Staff Recommendation: Reviewing the rezoning request, the property would be adjacent to other R1-zoned properties.

Planning Commission Direction: The Planning Commission can recommend approval of the rezone petition, deny the rezone petition, or table the request if additional information is needed. If the motion is for approval, findings of fact can be cited to support the decision. The request and supporting facts should be identified if the motion is to be denied.

115 2nd Street NE
Menahga, MN 56464
Ph: 1-218-564-4557

APP #	2025-19
Date	11/24/23
Fee	300
Check#	12798

CITY OF MENAHGA
REZONING APPLICATION

APPLICATION:

- A. Applicant shall complete Application and submit to the City.
- B. All applications must be submitted **30 days** prior to the date in which applicant wishes to be heard.
- C. The fee shall be paid by the applicant at the time of application, rezone fee \$300.

REVIEW:

- A. Staff shall review the application for completeness and assign a reference number to application, plans, and any other attachments. Applicant will be notified where additional information is needed.
- B. After receipt of a completed Application and supporting documents, staff shall schedule a public hearing, if required, date on the City Council's agenda for the earliest possible opening. Applicant will be notified by mail or email of the date and time of the public hearing.
- C. Staff will prepare a staff report on the application.
- D. The Fee Schedule is based on average processing and review costs for all applications. When costs exceed the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the city may need to obtain in reviewing permits.

ACTION:

- A. The City shall hold a public hearing on the application.
- B. The City shall consider the request.

**CITY OF MENAHGA
REZONING APPLICATION**

Name of Applicant Gary Schaefer Phone 218-564-4887

Property Address (E911#) 1024 Elm Ave. SE

Mailing Address Po Box 366 E-mail Schaeferc@stainc@gmail.com

City, State, Zip Menahga MN 56464 (if different than above)

Applicant is:
Legal Owner
Contract Buyer
Option Holder
Agent
Other _____

Title Holder of Property (if other than applicant)

(Name)

(Address)

(City, State, Zip)

Location of property involved in this request:
1024 Elm Ave. SE Menahga, MN 56464

Property ID # 17-580-0060 Zoning District _____
(# on tax statement)

Nature of request (select only one):

Rezoning Proposed New Zoning District _____

Additional Information you wish to provide:
Putting a 28x56 house on property 20x24 Garage
on property

Signature of Owner & Date, authorizing application (required): Gary Schaefer
By signing the owner is certifying that they have read and understood the instructions accompanying this application.)

Signature of Applicant & Date, (if different than owner): Gary Schaefer
(By signing the applicant is certifying that they have read and understood the instructions accompanying this application.)

CHECKLIST

- _____ Completed application, signed by property owner
- _____ Fee
- _____ All current City charges paid
- _____ Site plan with the minimum information outlined in the Ordinance (unless waived by zoning Administrator):

CONTACT INFORMATION

City of Menahga
115 2nd Street NE
Menahga, MN 56464
Ph: 1-218-564-4557

CITY OF MENAHGA

115 2nd St. NE
PO Box C
Menahga MN 56464

Receipt # 5.599
24-Nov-23 10:10am

ZONING PERMITS

\$300.00

GARY SCHAEFER
REZONING APP

Subtotal
Check

\$300.00
\$300.00

CK# 12798 GA

**CITY OF MENAHGA
NOTICE OF PUBLIC HEARING**

TO WHOM IT MAY CONCERN:

A parcel under your ownership has been identified within the notification area for a rezoning request.

Notice is hereby given that the City of Menahga Planning Commission will convene for their regular meeting on Thursday, January 4, 2024, at 7:00 PM in the council chambers at City Hall at 115 2nd Street NE. The commission will conduct the following public hearing and make a recommendation to the City Council:

1. Request related to rezoning parcel 175800060 (1024 Elm Ave SE Menahga, MN 56464) from Industrial zoning district to R-1 Residential zoning district. The applicant is Gary Schaefer.

All interested persons are invited to attend these hearings and be heard or send written comments to City Hall at PO BOX C Menahga, MN 56464: Attn. City Administrative Clerk Diane Vry or to adminclerk@cityofmenahga.com. All written comments must be submitted by 1:00 pm on the day of the hearing. Application information and a staff report are available for viewing at City Hall (staff report typically 5-7 days before the hearing date). If you need a reasonable accommodation to participate in the hearing, please call (218) 564-4557 or contact City Hall by noon the day before the scheduled public hearing date.

Menahga Planning Commission

Dated: December 12, 2023

This letter is being sent to all parties owning property within 350 ft, according to Minnesota State Statute 462.357 Sub. 3.

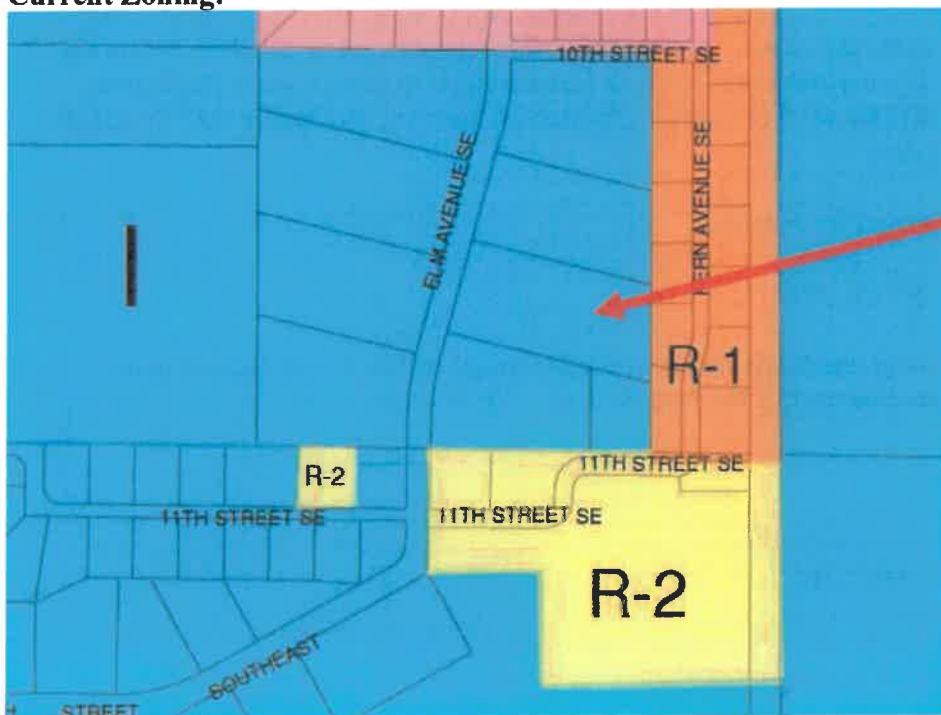
Diane Vry
City Administrative Clerk
City of Menahga

Subject Property (additional information on the reverse side of the notice):

Subject Property:



Current Zoning:



What Is Zoning? (City function)

Zoning refers to municipal or local laws or regulations that govern how real property can and cannot be used in some geographic regions (zoning districts).

**CITY OF MENAHGA
NOTICE OF PUBLIC HEARING**

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Menahga Planning Commission

Diane Vry
City Administrative Clerk
City of Menahga

BECK/GREGORY
TAMMY BALLANTINE
1036 FERN AVE SE
MENAHA, MN 56464

MINN POWER & LIGHT CO
30 SUPERIOR ST W
DULUTH, MN 55802

CHASE/GREGORY A & LAURA M
1029 FERN AVE SE
MENAHA, MN 56464

MURPHY/THOMAS K & GLADYS M
TRUSTEES OF MURPHY TRUST
PO BOX 294
MENAHA, MN 56464

CITY OF MENAHA
P O BOX C
MENAHA, MN 56464

NICKERSON/WARREN & CAROLYN
1021 FERN AVE SE
MENAHA, MN 56464

ECKHOFF/KEVIN J
1013 FERN AVE SE
MENAHA, MN 56464

NISSILA/ERNEST R & ELSIE I
1047 FERN AVE SE
MENAHA, MN 56464

FOLKEN/LISA & ZACHARY
1044 FERN AVE SE
MENAHA, MN 56464

SCHAEFER/GARY D
KELLY L BURRIDGE
PO BOX 366
MENAHA, MN 56470

HILLUKKA/BURTON J
PO BOX 104
MENAHA, MN 56464

SCHAEFER/GARY DEAN
PO BOX 366
MENAHA, MN 56464

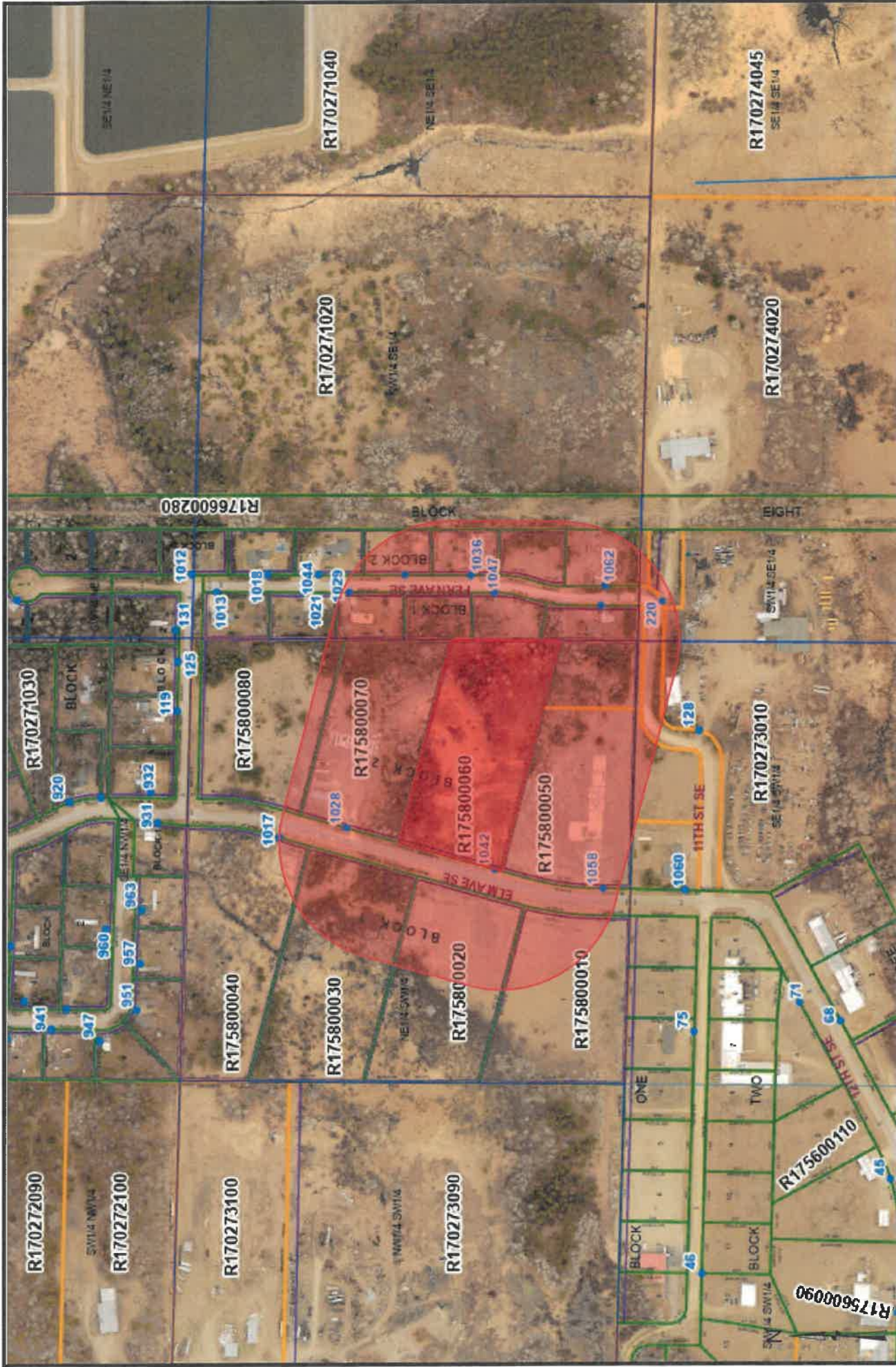
HILLUKKA/KERRY & DEANNA M
1062 FERN AVE SE
MENAHA, MN 56464

VILLAGE OF MENAHA
P O BOX C
MENAHA, MN 56464

HILLUKKA/KERRY L & DEANNA M
1062 FERN AVE SE
MENAHA, MN 56464

HOERNEMANN/FREDERICK L
TERRI K HOERNEMANN
1060 ELM AVE SE
MENAHA, MN 56464

KOONS/WADE R & TAMMY R
1061 FERN AVE SE
MENAHA, MN 56464



350' Buffer

These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

1-4,493

Date: 12/5/2023

This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.

Permit #	Name	Date	Description	Fee
23-01	Altenbrun	3/8/2023	Expansion of garage by adding a lean-to	\$50
23-02	Carlson	4/21/2023	Expansion of your structure 6.5' x 14' (91 SQFT)	\$50
23-03A	Hanna	5/4/2023	6-foot wood fence	\$50
23-03B	Garcia	5/4/2023	Expansion of deck to be 12' x 25' (300 sqft)	\$75
23-04	Torma	5/5/2023	Construct a 32' x 30' (960 sqft) Accessory Structure.	\$100
23-05	Jacobs	5/20/2023	Construct and install a 6' tall wood perimeter fence.	\$50
23-06	Frost	5/20/2023	Construct an approximately 2,168 sqft dwelling.	\$300
23-07	Coleman	5/21/2023	Expand sidewalk/walkway along the westside of house.	\$50
23-08	Natural Alternatives	6/6/2023	Construct a concrete slab approximately 71 x 34 (2,414 sqft)	\$100
23-09	Alto	6/26/2023	Construct an accessory structure (garage) 26 x 36 (936 sqft)	\$100
23-10	Hillukka	7/6/2023	Construct a dwelling 44 x 28 (1,232 sqft) with attached garage 28 x 28 (784 sqft) total 2,016 sqft)	\$300
23-11	madsen	7/14/2023	Variance Application	\$300
23-12	Kosola	7/25/2023	Fence	\$50
23-13	Mohawk	8/3/2023	Shed 72 x 48	\$500
23-14	Vanorsdel	8/4/2023	construct a concrete slab and area for hot tub. Approx 360 sqft	\$50
23-15	Bjornson	8/8/2023	accessory structure addition 16 x 32	\$75
23-16	Madsen	8/17/2023	30 x 36 accessory structure	\$100
23-17	Hansen	9/14/2023	6-foot fence	\$50
23-18	Roepke	9/20/2023	Structure 28'x50' (1,400sqft) garge 26'x26' (676 sqft)	\$300
23-19	Schaefer	11/24/2023	Rezone request	\$300
23-20	Kicker	12/5/2023	lot line adjustment	\$100
			Total	\$3,050

CHAPTER 91: ANIMALS

Section

- 91.01 Definitions
- 91.02 Dogs
- 91.03 Non-domestic animals
- 91.04 Farm animals
- 91.05 Impounding
- 91.06 Kennels
- 91.07 Nuisances
- 91.08 Seizure of animals
- 91.09 Animals presenting a danger to health and safety of city
- 91.10 Diseased animals
- 91.11 Dangerous animals
- 91.12 Dangerous animal requirements
- 91.13 Basic care
- 91.14 Breeding moratorium
- 91.15 Enforcing officer
- 91.16 Pound
- 91.17 Interference with officers

- 91.99 Penalty

§ 91.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL. Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:

(1) **DOMESTIC ANIMALS.** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

(2) **FARM ANIMALS.** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, farm animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stable.

(3) **NON-DOMESTIC ANIMALS.** Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:

(a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats;

(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs;

(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet;

(d) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets;

(e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators;

(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.

AT LARGE. Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

CAT. Both the male and female of the felidae species commonly accepted as domesticated household pets.

DOG. Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

OWNER. Any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

RELEASE PERMIT. A permit issued by the Animal Control Officer or other person in charge of the pound for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee to the City Clerk/Treasurer/Administrator in accordance with the regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established by resolution of the Council as it may be amended from time to time.

§ 91.02 DOGS.

(A) License required.

(1) All dogs over the age of six months kept, harbored, or maintained by their owners in the city, shall be licensed and registered with the city. Dog licenses shall be issued by the City Clerk/Treasurer/Administrator upon payment of the license fee as established by Council resolution as may be amended from time to time. The owner shall state, at the time application is made for the license and upon forms provided, his or her name and address and the name, breed, color, and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against distemper and rabies, as evidenced by a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated.

(2) It shall be the duty of each owner of a dog subject to this section to pay to the City Clerk/Treasurer/Administrator the license fee established by Council resolution as it may be amended from time to time.

(3) Upon payment of the license fee as established by Council resolution as may be amended from time to time, the Clerk/Treasurer/Administrator shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it the year for which it is issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate shall be issued by the City Clerk/Treasurer/Administrator. A charge shall be made for each duplicate tag in an amount established by Council resolution as it may be amended from time to time. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the city before the expiration of the license period.

(4) The licensing provisions of this division (A) shall not apply to dogs whose owners are non-residents temporarily within the city, nor to dogs brought into the city for the purpose of participating in any dog show, nor shall this provision apply to "seeing eye" dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place.

(5) The funds received by the City Clerk/Treasurer/Administrator from all dog licenses and metallic tags fees as established by Council resolution as may be amended from time to time, shall first

be used to defray any costs incidental to the enforcement of this chapter; including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs.

(B) Vaccination.

(1) All dogs kept harbored, maintained, or transported within the city shall be vaccinated at least once every three years by a licensed veterinarian for:

(a) Rabies — with a live modified vaccine; and

(b) Distemper.

(2) A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Clerk/Treasurer/Administrator, the Animal Control Officer or a police officer, the owner shall present for examination the required certificate of vaccination for the animal. In cases where certificates are not presented, the owner or keeper of the animal shall have seven days in which to present the certificate to the City Clerk/Treasurer/Administrator or officer. Failure to do so shall be deemed a violation of this section. Penalty, see § 91.99

§ 91.03 NON-DOMESTIC ANIMALS.

It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the city. Any owner of a non-domestic animal at the time of adoption of this code shall have 30 days in which to remove the animal from the city after which time the city may impound the animal as provided for in this section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

Penalty, see § 91.99

§ 91.04 FARM ANIMALS.

Farm animals shall only be kept in an agricultural district of the city, or on a residential lot of at least ten acres in size provided that no animal shelter shall be within 300 feet of an adjoining piece of property. An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

§ 91.05 IMPOUNDING.

(A) *Running at large.* Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs running at large.

(B) *Biting animals.* Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the city pound for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the county in which this city is located, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

(C) *Reclaiming.* All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined under § 91.11 in which case it shall be kept for seven regular business days or the times specified in § 91.11, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

(1) Payment of the release fee and receipt of a release permit as established by Council resolution as may be amended from time to time.

(2) Payment of maintenance costs, as provided by the pound, per day or any part of day while the animal is in the pound; and

(3) If a dog is unlicensed, payment of a regular license fee as established by Council resolution as may be amended from time to time, and valid certificate of vaccination for rabies and distemper shots is required.

(D) *Unclaimed animals.* At the expiration of the times established in division (C) of this section, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the animal by complying with all provisions

in this section, or the officer may sell the animal to the University of Minnesota, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Clerk/Treasurer/Administrator. Penalty, see § 91.99

§ 91.06 KENNELS.

(A) *Definition of kennel.* The keeping of three or more dogs or three or more cats on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a “kennel”; except that a fresh litter of pups may be kept for a period of three months before that keeping shall be deemed to be a “kennel.”

(B) *Kennel as a nuisance.* Because the keeping of three or more dogs or three or more cats on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of three or more dogs or three or more cats on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the city. Penalty, see § 91.99

§ 91.07 NUISANCES.

(A) *Habitual barking.* It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner’s or caretaker’s premises.

(B) *Damage to property.* It shall be unlawful for any person’s dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.

(C) *Cleaning up litter.* The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of the feces in a sanitary manner whether on their own property, on the property of others or on public property.

(D) *Other.* Any animals kept contrary to this section are subject to impoundment as provided in § 91.05. Penalty, see § 91.99

§ 91.08 SEIZURE OF ANIMALS.

Any police officer or Animal Control Officer may enter upon private property and seize any animal provided that the following exist:

(A) There is an identified complainant other than the police officer or Animal Control Officer making a contemporaneous complaint about the animal;

(B) The officer reasonably believes that the animal meets either the barking dog criteria set out in § 91.07(A); the criteria for cruelty set out in § 91.13; or the criteria for an at large animal set out in § 91.01;

(C) The officer can demonstrate that there has been at least one previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;

(D) The officer has made a reasonable attempt to contact the owner of the dog and the property to be entered and those attempts have either failed or have been ignored;

(E) The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other authorized person to have that key shall not be considered unauthorized entry; and

(F) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

§ 91.09 ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY.

If, in the reasonable belief of any person or the Animal Control Officer or police officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under § 91.05. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with § 91.05(C).

§ 91.10 DISEASED ANIMALS.

(A) *Running at large.* No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of the city, even though the animal be properly licensed under this section.

(B) *Confinement.* Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person, the

Animal Control Officer or a police officer. The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

(C) *Release.* If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.

Penalty, see § 91.99

§ 91.11 DANGEROUS ANIMALS.

(A) *Attack by an animal.* It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

(B) *Destruction of dangerous animal.* The Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

(C) *Definitions.* For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS ANIMAL. An animal which has:

- (a) Caused bodily injury or disfigurement to any person on public or private property;
- (b) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;
- (c) Exhibited unusually aggressive behavior, such as an attack on another animal;
- (d) Bitten one or more persons on two or more occasions; or
- (e) Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

POTENTIALLY DANGEROUS ANIMAL. An animal which has:

- (a) Bitten a human or a domestic animal on public or private property;
- (b) When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or

(c) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

PROPER ENCLOSURE. Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal 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 barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

(a) Have a minimum overall floor size of 32 square feet;

(b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 1 ¼ inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground;

(c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches;

(d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

UNPROVOKED. The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

(D) *Designation as potentially dangerous animal.* The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in division (C)(2). When an animal is declared potentially dangerous, the Animal Control Officer shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

(E) *Evidence justifying designation.* The Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

(1) That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1);

(2) That the animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(F) *Authority to order destruction.* The Animal Control Officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:

(1) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or

(2) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

(G) *Procedure.* The Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner: The Animal Control Officer shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing before the City Council for a review of this determination.

(1) If no appeal is filed, the orders issued will stand or the Animal Control Officer may order the animal destroyed.

(2) If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than three weeks after demand for the hearing. The records of the Animal Control or City Clerk/Treasurer/Administrator's office shall be admissible for consideration by the Animal Control Officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the Animal Control Officer take the animal into custody for destruction, if the animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Animal Control Officer.

(3) No person shall harbor an animal after it has been found to be dangerous and ordered into custody for destruction.

(H) *Stopping an attack.* If any police officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

(I) *Notification of new address.* The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Animal Control Officer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification shall be given in writing

at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any.
Penalty, see § 91.99

§ 91.12 DANGEROUS ANIMAL REQUIREMENTS.

(A) *Requirements.* If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:

(1) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in § 91.11(C)(3);

(2) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in M.S. § 347.51 as may be amended from time to time;

(3) Provide and show proof annually of public liability insurance in the minimum amount of \$300,000;

(4) If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;

(5) If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. § 347.51 as it may be amended from time to time;

(6) All animals deemed dangerous by the Animal Control Officer shall be registered with the county in which this city is located within 14 days after the date the animal was so deemed and provide satisfactory proof thereof to the Animal Control Officer;

(7) If the animal is a dog, the dog must be licensed and up to date on rabies vaccination. If the animal is a ferret, it must be up to date with rabies vaccination.

(B) *Seizure.* The Animal Control Officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

(C) *Reclaiming animals.* A dangerous animal seized under § 91.12(B), may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to animal

control that each of the requirements under § 91.12(B) is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under § 91.11(F), and the owner is liable to the city for costs incurred in confining and impounding the animal.

(D) *Subsequent offenses.* If an owner of an animal has subsequently violated the provisions under § 91.11 with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in § 91.11(G). If the owner is found to have violated the provisions for which the animal was seized, the Animal Control Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of § 91.12(C). If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under § 91.11(F) and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

§ 91.13 BASIC CARE.

All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in a humane manner will be subject to the penalties provided in this section.

§ 91.14 BREEDING MORATORIUM.

Every female dog in heat shall be confined in a building or other enclosure in a manner that it cannot come in contact with another dog except for planned breeding. Upon capture and failure to reclaim the animal, every dog shall be neutered or spayed prior to being transferred to a new owner.

§ 91.15 ENFORCING OFFICER.

The Council is hereby authorized to appoint an Animal Control Officer to enforce the provisions of this section. In the officer's duty of enforcing the provisions of this section, he or she may from time to time, with the consent of the City Council, designate assistants.

§ 91.16 POUND.

Every year the Council shall designate an official pound to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary, for destruction.

§ 91.17 INTERFERENCE WITH OFFICERS.

No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs or other animals and convey them to the pound while engaged in that operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this chapter, or in any other manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter. Penalty, see § 91.99

§ 91.99 PENALTY.

(A) *Separate offenses.* Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable under this section.

(B) *Misdemeanor.* Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable as provided in § 10.99.

(C) *Petty misdemeanor.* Violations of §§ 91.02, 91.07, 91.13 and 91.14 are petty misdemeanors punishable as provided in § 10.99.

