

## **Chapter 10 - ANIMALS<sup>1</sup>**

### ***Article/Division/Section:***

ARTICLE I	<a href="#"><u>IN GENERAL</u></a>
10-1	<a href="#"><u>Definitions</u></a>
10-2	<a href="#"><u>Enforcement</u></a>
10-3	<a href="#"><u>Impoundment</u></a>
10-4	<a href="#"><u>Prohibition of kennels</u></a>
10-5 – 10-9	<i>Reserved</i>
ARTICLE II	<a href="#"><u>DOGS AND CATS</u></a>
10-20	<a href="#"><u>Responsibility of owner</u></a>
10-21	<a href="#"><u>Dogs that are public nuisances</u></a>
10-22	<a href="#"><u>Cats that are public nuisances</u></a>
10-23	<a href="#"><u>Vaccination, tags required</u></a>
10-24 – 10-29	<i>Reserved</i>
ARTICLE III	<a href="#"><u>DANGEROUS AND POTENTIALLY DANGEROUS DOGS</u></a>
10-30	<a href="#"><u>Regulations regarding potentially dangerous dogs</u></a>
10-31	<a href="#"><u>Regulations regarding dangerous dogs</u></a>
10-32	<a href="#"><u>Law enforcement</u></a>
10-33	<i>Reserved</i>
ARTICLE IV	<a href="#"><u>CHICKENS</u></a>
10-34	<a href="#"><u>Keeping of chickens</u></a>
10-35	<a href="#"><u>Permit regulations</u></a>
ARTICLE V	<a href="#"><u>BEEKEEPING</u></a>
10-37	<a href="#"><u>Beekeeping</u></a>

## **ARTICLE I - IN GENERAL**

### ***Sec. 10-1 - Definitions***

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Animal control authority.* The City of Falcon Heights.

*At large* means off the premises of the owner and not under the control of the owner, a member of his or her immediate family, or a person designated by the owner, in the case of a dog, by a leash, cord, or chain not more than six feet in length.

*Great bodily harm.* Bodily injury which creates a high probability of death, or which causes permanent disfigurement, or which causes a permanent or protracted loss or

impairment of the function of any bodily member or organ or other serious bodily harm.

*Owner* means any person owning a dog, cat, or other animal.

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

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

*Substantial bodily harm.* Bodily injury which involves a temporary disfigurement, or which causes a temporary loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

(Code 1993, § 5-3.01(A); Ord. No. 10-08, § 1, 9-22-2011)

### ***Sec. 10-2 - Enforcement***

- (a) *Complaints.* Any person aggrieved by an animal nuisance may make a written complaint to the city stating the acts complained of, the name and address of the owner of the animal, and the name and address of the complainant. The police department shall then promptly notify the person owning or keeping the animal and shall order the nuisance abated within five days. If the animal nuisance is not abated within that time, a charge may be made against the owner or keeper of the animal, and any person found to have violated the provisions of this section shall be guilty of a misdemeanor.
- (b) *Officer enforcement.* If a police officer or community service officer deems it necessary, the officer may impound the animal immediately to stop the nuisance.
- (c) *Human being bitten by animal.* Whenever any person owning, possessing or harboring any animal within the corporate limits of the city learns the animal has bitten any human being, such person shall immediately impound the animal in any place of confinement where it cannot escape or have access to any human being or other animal and shall also immediately notify the city. Whenever the city learns that any human being has been bitten by any animal within the city, the city shall ascertain the identity of such animal and the person owning, possessing or harboring it and shall immediately direct such persons to impound the animal as required until the animal control officer and poundkeeper can be notified and the animal impounded at the pound. Any animal impounded shall be kept continuously confined for a period of at least ten days from the day the animal bit a human being.
- (d) *Impoundment of animal that has bitten a human being.* Upon learning that an animal has bitten a human being, the city shall immediately notify the designated animal control officer and the poundkeeper and inform them of the place where the animal is temporarily impounded. The animal shall be impounded at the city's

designated animal pound. The animal may be impounded at the home of its owner provided that:

- (1) Proof of a current rabies vaccination can be shown by the owner;
  - (2) The owner executes a form acknowledging the responsibility and complying with its terms; and
  - (3) The bite occurred on the owner's property.
- (e) *Period of confinement.* It shall be the duty of the poundkeeper to inspect the animal as necessary during its period of ten-day confinement and to determine whether such animal is infected with rabies. For this purpose he or she shall have access to the premises where such animal is kept at all reasonable hours and may take possession of the animal and confine it in a place at the expense of the owner. The owner or suitable person in possession of harboring the animal shall immediately notify the poundkeeper of any evidence of sickness or disease in the animal during its period of confinement and shall promptly deliver its carcass to said poundkeeper in case of its death during said period.

(Code 1993, § 5-3.01(G))

#### ***Sec. 10-3 - Impoundment***

- (a) *Impounding of animals.* The animal control officer shall take and impound any animals found in the city that are in violation of any of the other provisions of this chapter. The animal control officer is empowered and instructed to enter upon any private premises where he or she has reasonable cause to believe there is a violation.
- (b) *Redemption.* Any animal may be redeemed from the pound by the owner within five days after impounding by payment of an impounding fee plus such boarding and other fees as the council may determine to be necessary for purposes of fully compensating the animal control officer and poundkeeper for the duties they perform pursuant to this chapter.
- (c) *Disposition of unclaimed animals.* Any animal that is not claimed may be sold for at least the cost of all required vaccinations and registration to anyone desiring to purchase the animal, if not requested by a licensed educational or scientific institution under Minn. Stats.  
§ 35.71. All sums received by the city above the costs shall be placed in the general fund of the city. Any animal that is not claimed by the owner or by a licensed educational or scientific institution or sold, shall be painlessly put to death and the body properly disposed of by the poundkeeper.

(Code 1993, § 5-3.01(H))

#### ***Sec. 10-4 - Prohibition of kennels***

No person shall maintain a kennel within the city. For the purpose of this Code four or more of any type of domestic pet over four months old constitutes a kennel.

(Code 1993, § 5-3.01(F))

***Secs. 10-5 – 10-19 - Reserved***

## **ARTICLE II. - DOGS AND CATS<sup>2</sup>**

### ***Sec. 10-20 - Responsibility of owner***

Any person who owns or harbors a cat or dog declared to be a nuisance shall be deemed to be maintaining a nuisance.

(Code 1993, § 5-3.01(D))

### ***Sec. 10-21 - Dogs that are public nuisances***

Any dog that exhibits any of the following behaviors are hereby declared to be a public nuisance:

- (1) Causes noise, disturbance or annoyance to persons residing in the vicinity by loud and frequent barking, howling or yelping.
- (2) Runs at large.
- (3) Destroys property or habitually trespassing on any property of persons other than its owner.
- (4) Defecates on any public or private property unless the person in control of the dog cleans up the feces and disposes of such in a sanitary manner. The provisions of this subsection shall not apply to service dogs accompanying a totally or partially blind person or a physically handicapped person or to a person with dogs engaged in search or rescue activities.

(Code 1993, § 5-3.01(B))

### ***Sec. 10-22 - Cats that are public nuisances***

Any cat that exhibits any of the following behaviors is declared to be a public nuisance:

- (1) Damages property, plantings or a structure.
- (2) Deposits fecal matter on property other than the owner's.
- (3) Scratches or bites persons while at large.
- (4) Habitually mews

or cries. (Code 1993, § 5-

3.01(C))

***Sec. 10-23 - Vaccination, tags required***

- (a) It shall be unlawful for any dog or cat owner to keep or maintain any dog or cat older than six months of age unless it shall have been vaccinated with an anti-rabies vaccine by a licensed veterinarian.
- (b) Dog and cat owners shall affix a rabies vaccination tag by a metal fastening device to the collar of their dog or cat in such a manner that the tag may be easily observed.
- (c) No person shall counterfeit or attempt to counterfeit the dog or cat rabies vaccination tags.
- (d) No person shall transfer a dog or a cat rabies vaccination tag from one dog or cat to another.

(Code 1993, § 5-3.01(E))

**State Law reference** – County dog licenses, Minn. Stats. § 347.08 et seq.

***Secs. 10-24 – 10-29 - Reserved***

**ARTICLE III. - DANGEROUS AND POTENTIALLY DANGEROUS DOGS**

***Sec. 10-30 - Regulations regarding potentially dangerous dogs***

- (a) *Determination of potentially dangerous dog.* A city animal control officer or other law enforcement official shall determine that a dog is a potentially dangerous dog if the officer believes, based upon the officer's professional judgment, that a dog:
  - (1) When unprovoked, inflicts bites on a human or domestic animal on public or private property; or
  - (2) When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or
  - (3) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
- (b) *Notice of potentially dangerous dog.* Upon a determination by the animal control authority or law enforcement official that a dog is potentially dangerous, the city shall provide a notice of potentially dangerous dog to the owner of record, or if none, any owner of such dog by personally serving the owner or a person of suitable age at the residence of such owner. Service upon any owner shall be effective as to all owners. The notice shall include the following:
  - (1) A description of the dog deemed to be potentially dangerous;

- (2) The factual basis for that determination;
  - (3) The identity of officer who has made the determination;
  - (4) An order that the owner have a microchip implanted in the dog for identification and provide the city animal control authority with the name of the microchip manufacturer and the serial identification number of the microchip implanted within 30 days of the date of service;
  - (5) An order that the owner provide the city animal control authority with written notice of any relocation of the dog from its current residence, providing any new owner's full name, address, daytime and evening telephone numbers and the relocation address at least ten days prior to any such relocation or new ownership; and
  - (6) The criminal penalties for violation of the requirements pertaining to potentially dangerous dogs.
- (c) *Appeal of the potentially dangerous dog designation.* Within 14 days after receipt of the notice of a potentially dangerous dog, any owner may request an appeal of that determination by completing and serving upon the city animal control authority a request for appeal of a potentially dangerous dog designation on the form provided along with the notice, including at a minimum the following information:
- (1) The full name, address, daytime and evening telephone numbers of the person requesting an appeal;
  - (2) The full name and address of all of the dog's owners;
  - (3) The ownership interest of the person requesting the appeal;
  - (4) The names of any witnesses to be called at the hearing;
  - (5) A list and copies of all exhibits to be presented at the hearing; and
  - (6) A summary statement as to why the dog should not be declared potentially dangerous.

Failure to timely submit a completed request for appeal shall be deemed a waiver of the right to appeal and consent to the designation of the dog as potentially dangerous.

- (d) *Hearing procedure.* The owner of a potentially dangerous dog has the right to a hearing by an impartial hearing officer, who shall be either an impartial employee of the city or an impartial person retained by the city to conduct the hearing.
- (1) Within 14 days after receipt of the request for appeal, the hearing officer shall hold a hearing on the request to determine the validity of the potentially dangerous dog designation.
  - (2) The hearing shall be held at a place to be determined by the animal control authority during the city's normal business hours.
  - (3) At the hearing, the parties shall have the opportunity to present evidence in the form of exhibits and testimony. Each party may question the other party's

witnesses. The strict rules of evidence do not apply and the records of the animal control officer or law enforcement official are admissible without further foundation. Objections as to the evidence presented can be made on the basis of the evidence being incompetent, irrelevant, immaterial or unduly repetitious. The hearing examiner shall admit and give probative weight to evidence, including reliable hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. The order of proof shall follow the burden of proof with the initial burden upon the city animal control authority to demonstrate by a preponderance of the evidence that the animal is potentially dangerous. The hearing shall be tape recorded and a full record of the hearing shall be kept by the hearing examiner.

(4) Within ten days of the conclusion of the hearing, the hearing officer shall make written findings of fact and reach a written conclusion as to whether the dog is a potentially dangerous dog pursuant to this Code or state law. Upon receipt of those findings and conclusions or as soon thereafter as reasonably possible, the city animal control authority must personally serve a written copy thereof to the owner who requested the hearing or a person of suitable age at the residence of such owner. The decision of the hearing examiner is final without any further right of administrative appeal. An aggrieved party may obtain review thereof by petitioning the Minnesota Court of Appeals for a writ of certiorari not more than 30 days after service of the hearing examiner's written decision.

(e) *Potentially dangerous dog requirements.* It shall be the joint and several responsibility of each owner of any dog kept or harbored within the city and determined to be potentially dangerous under this article of the Code or under the provisions of a substantially similar local or state law to:

- (1) Have a microchip implanted in the dog for identification and provide the city animal control authority with proof thereof, including the name of the microchip manufacturer and its serial identification number, within 30 days of any owner's receipt of the notice of potentially dangerous dog or within ten days of the dog's location within the city, whichever occurs first; and
- (2) Provide the city animal control authority with written notice of any intended relocation of the dog from its current residence and provide any new owner's full name, address, daytime and evening telephone numbers and the relocation address at least ten days prior to any such relocation or new ownership.
- (3) If the dog is outdoors, the dog must be either confined in a proper enclosure or restrained by a substantial chain or leash not longer than six feet and under the physical restraint of a responsible person.
- (4) If the dog is outdoors and is not confined in a proper enclosure or restrained by a substantial chain or leash not longer than six feet under the physical restraint of a responsible person, the owner must pay the city \$250.00 per incident. If the dog has been impounded by the city, the \$250.00 must be paid before the animal is reclaimed by the owner.

- (f) *Review of potentially dangerous dog designation.* Beginning six months after a dog is declared potentially dangerous hereunder, an owner may request annually that the city animal control authority review the designation by serving upon it with a written request for review that includes the full name, address and telephone numbers of the requestor, a list of the names and addresses of all owners of the dog, the requestor's ownership interest, and a summary of the basis for the claimed change in the dog's behavior. The request for review shall be accompanied by all documents in support of the contention that the dog's aggressive behavior has been modified. Within 14 days of the receipt of the request, the animal control authority shall make a determination in writing as to whether or not to rescind the potentially dangerous dog designation.

(Ord. No. 10-08, § 2, 9-22-2011)

***Sec. 10-31 - Regulations regarding dangerous dogs***

- (a) *Determination of dangerous dog by city.* A city animal control officer or other law enforcement official shall determine that a dog is a dangerous dog if the officer believes, based upon the officer's professional judgment, that a dog:
- (1) Has, without provocation, inflicted substantial bodily harm on a human being on public or private property; or
  - (2) Has killed a domestic animal without provocation while off the owner's property; or
  - (3) Has been determined to be a potentially dangerous dog, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.
- (b) *Exemption.* Dogs may not be declared dangerous if the threat, injury, or damage was sustained by a person:
- (1) Who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
  - (2) Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
  - (3) Who was committing or attempting to commit a crime.
- (c) *Notice of dangerous dog.* Upon a determination by a city animal control officer or other law enforcement official that a dog is dangerous, the city shall provide a notice of dangerous dog to the owner of such dog by delivering or mailing it to the owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The notice shall include the following:
- (1) A description of the dog determined to be a dangerous dog; the authority for and purpose of the dangerous dog declaration and seizure, if applicable; the

time, place, and circumstances under which the dog was declared dangerous; and if the dog has been seized, the telephone number and contact person where the dog is kept;

- (2) A statement as to whether or not the dog's destruction is being sought by the city; a person claiming an interest in a seized dog may prevent disposition of the dog by posting security in an amount sufficient to provide for the dog's actual costs of care and keeping; and the security must be posted within seven days of the seizure inclusive of the date of the seizure;
  - (3) A statement that the owner of the dog may request a hearing concerning the dangerous dog declaration and, if applicable, prior potentially dangerous dog declarations for the dog, and that failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing under this section;
  - (4) A statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of Minn. Stats. § 347.52, paragraphs (a) and (c), and until such time as the hearing officer issues an opinion;
  - (5) A statement that if the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all other requirements of Minn. Stats. §§ 347.51, 347.515, and 347.52;
  - (6) A form to request a hearing under this subdivision;
  - (7) If the dog has been seized, a statement that all actual costs of the care, keeping, and disposition of the dog are the responsibility of the person claiming an interest in the dog, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law;
  - (8) A statement of the requirements to own a dangerous dog in [subsection 10-31\(g\)](#); and
  - (9) The criminal penalties for violations of this Code.
- (d) *Requirements upon receipt of a notice of dangerous dog.* After receipt of the notice, the owner must do the following:
- (1) At all times keep the dog either confined in a proper enclosure or muzzled in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration;
  - (2) Implant the dog with a microchip for identification and provide the city animal control authority with the name of the microchip manufacturer and the serial identification number of the microchip implanted within 14 days; and
  - (3) Provide the city animal control authority with written notice of any relocation of the dog from its current residence and provide any new owner's full name, address, daytime and evening telephone numbers and relocation address at least ten days prior to any such relocation.

(e) *Appeal of the dangerous dog designation.* Within 14 days after receipt of the notice of dangerous dog any owner may request an appeal of that determination by completing and serving upon the city animal control authority a request for appeal of dangerous dog designation on the form provided along with the notice, including at a minimum the following information:

- (1) The full name, address, daytime and evening telephone numbers of the person requesting an appeal;
- (2) The full name and address of all of the dog's owners;
- (3) The ownership interest of the person requesting the appeal;
- (4) The names of any witnesses to be called at the hearing;
- (5) A list and copies of all exhibits to be presented at the hearing; and
- (6) A summary statement as to why the dog should not be declared dangerous.

Failure to timely submit a completed request for appeal shall be deemed a waiver of the right to appeal and consent to the designation of the dog as dangerous.

(f) *Hearing procedure and costs.* The owner of a dangerous dog has the right to a hearing by an impartial hearing officer, who shall be either an impartial employee of the city or an impartial person retained by the city to conduct the hearing.

- (1) Within 14 days after receipt of the request for appeal, the hearing officer shall hold a hearing to determine the validity of the dangerous dog declaration.
- (2) The hearing shall be held at a place to be determined by the city animal control authority during the city's normal business hours.
- (3) At the hearing, the parties shall have the opportunity to present evidence in the form of exhibits and testimony. Each party may question the other party's witnesses. The strict rules of evidence do not apply and the records of the animal control officer or law enforcement official are admissible without further foundation. Objections as to the evidence presented can be made on the basis of the evidence being incompetent, irrelevant, immaterial or unduly repetitious. The hearing examiner shall admit and give probative weight to evidence, including reliable hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. The order of proof shall follow the burden of proof with the initial burden upon the city animal control authority to demonstrate by a preponderance of the evidence that the animal is dangerous. The hearing shall be tape recorded and a full record of the hearing shall be kept by the hearing examiner.
- (4) Within ten days of the conclusion of the hearing, the hearing officer shall make written findings of fact and reach a written conclusion as to whether the dog is a dangerous dog pursuant to this Code or state law. A separate finding shall be made as to whether or not the dog should be destroyed by the city animal control authority in accordance with [subsection 10-31\(j\)](#). Upon receipt of those findings and conclusions or as soon thereafter as reasonably possible, the city animal control authority must personally serve a written copy thereof to the owner who

requested the hearing or a person of suitable age at the residence of such owner. The decision of the hearing examiner is final without any further right of administrative appeal. An aggrieved party may obtain review thereof by petitioning the Minnesota Court of Appeals for a writ of certiorari not more than 30 days after service of the hearing examiner's written decision.

- (5) In the event that the dangerous dog declaration is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000.00 will be the responsibility of the dog's owner.
- (g) *Dangerous dogs requirements.* Upon a determination after a hearing that the dog is dangerous under this Code or state law, or upon the expiration of the 14-day appeal period where no owner serves upon the city animal control authority a timely and proper request for appeal of the dangerous dog designation, or upon the relocation of a dog to this city from another location where the dog was previously declared dangerous under either state law or a local law substantially similar to this section, it shall be the joint and several responsibility of each owner of the dangerous dog kept or harbored within the city to strictly comply with the following requirements:
- (1) Keep the dog in a proper enclosure or, if the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash not longer than six feet and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration. The premises where the dog is kept must prominently post a visible warning sign, including a warning symbol to inform children, that there is a dangerous dog on the property;
  - (2) Register the dog as a dangerous dog with the City of Falcon Heights in accordance with state law and renew the registration of the dog annually until the dog is deceased. The city will issue a certificate of registration upon proof that the requirements of this section have been satisfied. If the dog is removed from the jurisdiction, it must be registered as a dangerous dog in its new location;
  - (3) Cause the dog to be implanted with a microchip for identification and provide the city animal control authority with the name of the microchip manufacturer and the serial identification number of the microchip implanted within 14 days of the date the dog was determined to be dangerous;
  - (4) Maintain affixed to the dog's collar at all times a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol, as approved by the state's commissioner of public safety;
  - (5) Cause the dog to be sterilized at the owner's expense and provide the city animal control authority with proof thereof, including the name, address and telephone number of the veterinarian who performed the procedure, within 30 days of the date the dog was determined to be dangerous. If the owner does not have the dog sterilized within 30 days, the city animal control authority shall

seize the dog and have it sterilized at the owner's expense;

- (6) Provide the city animal control authority with written notice of the death of the dog within 30 days thereof and if requested execute an affidavit under oath setting forth the circumstances of the dog's death and disposition;
  - (7) Provide the city animal control authority with written notice of any intended relocation of the dog from its current residence on record and provide any new owner's full name, address, daytime and evening telephone numbers and the relocation address at least ten days prior to any such relocation or new ownership;
  - (8) Accompany the sale or transfer of the dog to another owner with a written statement signed and notarized by the transferee listing his or her full name, address, daytime and evening telephone numbers and acknowledging that the city animal control authority has identified the dog as dangerous and provide a copy thereof to the city animal control authority;
  - (9) Provide the owner of real property where the dangerous dog will reside with a written disclosure that the city animal control authority has identified the dog as dangerous prior to entering into a lease agreement and at the time of any lease renewal; and
  - (10) Obtain a surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the animal control authority in the sum of at least \$300,000.00, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least \$300,000.00, insuring the owner for any personal injuries inflicted by the dangerous dog.
- (h) *Confiscation of dangerous dogs.*
- (1) *Seizure.* The city animal control authority shall immediately seize any dangerous dog if:
    - a. After 14 days after the owner has notice that the dog is dangerous, the dog is not validity registered;
    - b. After 14 days after the owner has notice that the dog is dangerous, the owner does not secure the property liability insurance or surety coverage;
    - c. The dog is not maintained in a proper enclosure; or
    - d. The dog is outside the proper enclosure and not under physical restraint of a responsible person.
  - (2) *Subsequent offenses; seizures.* In addition, if the dog's owner is convicted of violating this section or state laws regulating dangerous dogs, the court as a part of its sentence may order that the dog be confiscated and destroyed in a proper and humane manner and that the owner pay the costs incurred in confiscating, confining and destroying the dog. Where an owner is convicted of violating this section or state laws regulating dangerous dogs and is thereafter charged with a

subsequent such violation relating to the same dog, the dog must be summarily seized and impounded by the animal control authority. Upon conviction of that subsequent offense, the court shall order as part of its sentence that the dog be destroyed in a proper and humane manner and that the owner pay the cost of confiscating, confining and destroying the dog. If the owner is not convicted and the dog is not reclaimed by the owner within seven days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of in a proper and humane manner. Any person who harbors, hides or conceals or aids and abets the harboring, hiding or concealment of a dog determined to be dangerous under this Code or state laws regulating dangerous dogs shall be guilty of a misdemeanor.

- (i) *Reclaiming seized dog.* A confiscated dangerous dog not subject to destruction under this section may be reclaimed by an owner upon payment of impoundment and boarding fees and presenting proof of compliance with all of the requirements of this section or state laws regulating dangerous dogs. A confiscated dog not reclaimed under this section within seven days may be destroyed in a proper and humane manner with the owner being responsible for the costs of confiscation, boarding and destruction.
- (j) *Destruction of dog in certain circumstances.* Where the city animal control authority seeks to destroy a dog it has designated as dangerous, it must provide the owner with specific notice, in writing, of its intent to destroy the animal and provide the owner with a full and fair opportunity for a hearing on this issue in the context of the appeal of the dangerous dog designation in [subsection 10-31\(e\)](#). The city animal control authority may destroy a dog in a proper and humane manner, with the owner being responsible for the costs of confiscation, boarding, and destruction, if:
  - (1) The dog inflicted substantial or great bodily harm on a human on public or private without provocation;
  - (2) The dog inflicted multiple bites on the victim or bites on multiple victims on public or private property without provocation;
  - (3) The dog bit multiple human victims on public or private property in the same attack without provocation;
  - (4) The dog bit a human on public or private property without provocation in an attack where more than one dog participated in the attack;
  - (5) The owner of the dog has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals; and
  - (6) Unless the animal is destroyed another unprovoked attack on a human being is likely and that therefore the destruction of the animal is necessary to protect the public health, safety and welfare.
- (k) *Review of dangerous dog designation.* Beginning six months after a dog is declared dangerous hereunder, an owner may request annually that the city animal control authority

review the designation by serving upon it with a written request for review that includes the full name, address and telephone numbers of the requestor, a list of the names and addresses of all owners of the dog, the requestor's ownership interest, and a summary of the basis for the claimed change in the dog's behavior. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. Within 14 days of the receipt of the request, the animal control authority shall make a determination in writing as to whether or not to rescind the dangerous dog designation. Should the designation be rescinded, the dog shall nonetheless continue to be considered potentially dangerous and subject to the requirements of this Code.

(Ord. No. 10-08, § 2, 9-22-2011)

***Sec. 10-32 - Law enforcement***

This article does not apply to potentially dangerous dogs or dangerous dogs used by law enforcement officials for police work.

(Ord. No. 10-08, § 2, 9-22-2011)

***Sec. 10-33 - Reserved***

**ARTICLE IV - CHICKENS**

***Sec. 10-34 - Keeping of chickens***

Any person who keeps chickens in the city must obtain a permit prior to acquiring the chickens. Chickens may only be kept in zoning districts where chickens are an allowed accessory use. The initial permit is valid for up to two years beginning on the date the chickens arrive on the site and ending on December 31 of the following year. Subsequent permits are valid from January 1 of one year to December 31 of the second year. Applications for permits must be made to the zoning and planning director.

- (1) Fees charged for the issuance of a permit to keep chickens will be set by the city council.
- (2) If the permit applicant is not the fee owner of the premises on which the chickens are sought to be kept and for which the permit would apply, the application shall be signed by all fee owners of the premises.
- (3) The city may refuse to grant or may revoke a permit if the chickens become a nuisance, as evidenced by a second substantiated violation (within 12 months of a first substantiated violation) of this section of the City Code, or [chapter 22](#) of the City Code.
- (4) The city may refuse to grant a permit to, or may revoke a permit from, a person convicted of cruelty to animals.

- (5) Permits are non-transferable and do not run with the land.
- (6) A permit is a license granted to the chicken keeper by the city and does not create a vested zoning right.
- (7) Prior to issuance of a permit, the prospective permit holder must acknowledge they have read the chicken run educational material provided by the city.
- (8) Prior to issuance of a permit, the prospective permit holder must provide a detailed sketch plan of the premises on which chickens are sought to be kept, including the location, the dimensions and design of the coop and run, establishing compliance with the chicken coop and run specifications provided in this article.
- (9) Prior to issuance of a permit, the prospective permit holder must provide a plan for maintaining an adequate temperature in the coop for the safety of the chicken hens. The plan must address both extreme winter and summer temperature conditions.
- (10) The permit application will be processed administratively. It will not be referred to the city council for consideration.

(Ord. No. 13-04, § 1, 7-24-2013)

***Sec. 10-35 - Permit regulations***

Each person holding a permit to keep chickens within the city must comply with the following:

- (1) The principal use of the specific property must be either single-family residential or two-family residential. A permit will not be issued for any property which is used principally for something other than single-family or two-family. If the property's principal use is two-family residential, then the property owner must sign the permit in addition to the chicken keeper.
- (2) No person may keep more than four chickens.
- (3) No person may keep a rooster.
- (4) No person may allow chickens to range freely without fencing or without a mobile pen.
- (5) No person may keep any chickens inside a house or garage.
- (6) No person may slaughter any chickens within the city.
- (7) Chickens must be provided a secure and well ventilated roofed structure ("chicken coop").
- (8) The roofed structure for the chickens may only be located in a rear yard and must meet setback and building separations as established in city zoning and building codes, except that the roofed structure and fencing must maintain a 20-

foot separation from dwellings on adjacent properties.

- (9) The roofed structure shall be fully enclosed, windproof, and have sufficient windows for natural light.
- (10) All premises on which hens are kept or maintained shall be kept clean from filth, garbage, and any substance which attracts rodents. The coop and its surrounding must be cleaned frequently enough to control odor. Manure shall not be allowed to accumulate in a way that causes an unsanitary condition or causes odors to be detected on another property. Failure to comply with these conditions may result in removal of chickens from the premises or revocation of a chicken permit.
- (11) Chickens must be kept in the roofed structure, an attached pen, or a detached mobile pen whenever they are unattended by the keeper; but when attended by the keeper, the chickens are allowed in a completely fenced exercise yard.
- (12) The coop's attached pen must be securely constructed with at least a mesh-type material and shall have protective overhead netting to keep the chickens separated from other animals.
- (13) The coop's attached pen must be well drained so there is no accumulation of moisture.
- (14) The floor area of the roofed structure or a combination of the floor area and attached pen area must equal at least ten square feet of area per chicken.
- (15) All grain and food stored for the use of the hens on a premises with a chicken permit shall be kept in a rodent-proof container.
- (16) Leg bandings are required on all chickens. The bands must identify the owner and the owner's address and telephone number.

(Ord. No. 13-04, § 1, 7-24-2013)

## **ARTICLE V – BEEKEEPING**

### ***Section 10-37 – Beekeeping***

- (a) *Definitions.* As used in this article, the following words and terms shall have the meanings ascribed in this section unless the context of their usage indicates another usage.

Apiary means the assembly of one or more colonies of bees at a single location.

Beekeeper means a person who owns or has charge of one or more colonies of bees.

Beekeeping equipment means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

Colony means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.

Flyway barrier means a barrier that raises the flight path of bees as they come and go from a hive.

Hive means the receptacle inhabited by a colony that is manufactured for that purpose.

Honey bee means all life stages of the common domestic honey bee, *apis mellifera* species.

Lot means a contiguous parcel of land under common ownership.

Nucleus colony means a small quantity of bees with a queen housed in a smaller than usual hive box designed for a particular purpose.

Undeveloped property means any idle land that is not improved or actually in the process of being improved with residential, commercial, industrial, church, park, school or governmental facilities or other structures or improvements intended for human occupancy and the grounds maintained in associations therewith. The term shall be deemed to include property developed exclusively as a street or highway or property used for commercial agricultural purposes.

(b) *Purpose of Ordinance.* The purpose of this ordinance is to establish certain requirements for beekeeping within the City and to avoid issues which might otherwise be associated with beekeeping in populated areas. Compliance with this ordinance shall not be a defense to a proceeding alleging that a given colony constitutes a nuisance, but such compliance may be offered as evidence of the beekeeper's efforts to abate any proven nuisance. Compliance with this ordinance shall not be a defense to a proceeding alleging that a given colony violates applicable ordinances regarding public health, but such compliance may be offered as evidence of the beekeeper's compliance with acceptable standards of practice among hobby beekeepers in the State of Minnesota.

(c) *Standards of practice.*

- (1) Honey bee colonies shall be kept in hives with removable frames, which shall be kept in sound and usable condition.
- (2) Each beekeeper shall ensure that a convenient source of water, such as a bird bath or pet dish, is available on the lot so long as colonies remain active outside of the hive.
- (3) Each beekeeper shall ensure that no wax comb or other material that might encourage robbing by other bees are left upon the grounds of the apiary lot. Such materials once removed from the site shall be handled and stored in sealed containers, or placed within a building or other insect-proof container.

- (4) For each colony permitted to be maintained under this ordinance, there may also be maintained upon the same apiary lot, one nucleus colony in a hive structure not to exceed one standard 9-5/8 inch depth 10-frame hive body with no supers.
- (5) Each beekeeper shall maintain their beekeeping equipment in good condition, including keeping the hives painted if they have been painted but are peeling or flaking, and securing unused equipment from weather, potential theft or vandalism and occupancy by swarms. It shall not be a defense to this ordinance that a beekeeper's unused equipment attracted a swarm and that the beekeeper is not intentionally keeping bees.

(d) *Colony density.*

- (1) Colonies must be located in a rear yard and must meet setback and building separations as established in city zoning and building codes, except that colonies must maintain a 20- foot separation from dwellings on adjacent properties.
- (2) Except as otherwise provided in this ordinance, in each instance where a colony is kept less than 25 feet from a property line of the lot upon which the apiary is located, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least 6 feet in height. The flyway barrier may consist of a wall, fence, dense vegetation or a combination thereof, such that bees will fly over rather than through the material to reach the colony. If a flyway barrier of dense vegetation is used, the initial planting may be 4 feet in height, so long as the vegetation normally reaches 6 feet in height or higher. If such a flyway barrier exists prior to establishing a colony, the beekeeper does not need to establish a new barrier.
- (3) If a flyway barrier is required, it must enclose the rear and side yards of the apiary lot, or contain the hive or hives in an enclosure at least 6 feet in height. All fences must meet the regulations of [section 113-242](#) of the code.
- (4) A flyway barrier is not required if the property adjoining the apiary lot line is
  - a. undeveloped, or,
  - b. a wildlife management area or naturalistic park land with no horse or foot trails located within 25 feet of the apiary lot line.
- (5) No person is permitted to keep more than the following numbers of colonies on any lot within the City, based upon the size or configuration of the apiary lot:
  - a. One half acre or smaller lot, 2 colonies
  - b. Larger than 1/2 acre but smaller than 3/4 acre lot, 4 colonies
  - c. Larger than 3/4 acre lot but smaller than 1 acre lot, 6 colonies

d. Larger than one acre lot, 8 colonies

- (6) If the beekeeper serves the community by removing a swarm or swarms of honey bees from locations where they are not desired, the beekeeper shall not be considered in violation of this ordinance limiting the number of colonies if they temporarily house the swarm on the apiary lot in compliance with the standards of practice set out in this ordinance for no more than 30 days from the date acquired.

(e) *Permit*

- (1) No person shall keep, maintain or allow to be kept any hive or other facility for the housing of honeybees on or in any private property in the City without a permit.
- (2) Any person desiring a permit for the keeping of honeybees shall make written application to the City Administrator on a form provided, accompanied by a site plan of the real property upon which bees are to be kept, showing the number and location of hives and the provision for flyway barriers, water supply and any other conditions required by this section. The application shall include a statement that the applicant will at all times keep the bees in accordance with the provisions of this ordinance and any additional restrictions, limitation conditions or prohibitions specified in the permit as necessary to safeguard public health and general welfare.
- (3) The City Administrator may grant a beekeeping permit pursuant to this section only after the applicant has met approved educational requirement as established by the City Administrator.
- (4) Upon receipt of a permit application, mailed notice should be given by the City to the property owners or occupants within 100 feet of the property for which a beekeeping permit is sought. If any notified owner or occupant has a medically documented allergy to bees, the permit may be denied by the City Administrator. The medical documentation must be submitted to the City Administrator within 14 days for consideration of denial of the permit.
- (5) The initial permit is valid for up to two years beginning on the date the honey bees arrive on the site and ending on December 31 of the following year. Subsequent permits are valid from January 1 of one year to December 31 of the second year. The application fee for such permit shall be an amount established by the City Council. Should the permit be refused, denied or revoked, the fee paid with the application shall be retained by the City.
- (6) If an owner or occupant of property within 100 feet of the permitted location is found to have a medically documented allergy to bees after a permit has been issued, the City Administrator will consider revocation of the permit. The medical documentation must be submitted to the City Administrator for consideration of

revocation of the permit.

(7) Beekeeping permits are non-transferable and do not run with the land.

(8) A permit is a license granted to the beekeeper by the city and does not create a vested zoning right.

(f) *Inspection.* The City Administrator or designated official shall have the right to inspect any apiary for the purpose of ensuring compliance with this Ordinance once annually upon prior notice to the owner of the apiary property, and more often upon complaint without prior notice.

(g) *Presumed Colony/Hive Value.* For the purpose of enforcing City ordinances against destruction of property, each colony/hive shall be presumed to have a value of \$275.

(h) *Compliance.*

(1) Upon receipt of credible information that any colony located within the City is not being kept in compliance with this ordinance, the City Administrator shall cause an investigation to be conducted. If the investigation shows that a violation may exist and

will continue, the City Administrator shall cause a written notice of hearing to be issued to the beekeeper, which notice shall set forth:

- a. The date, the time and the place that the hearing will be held, which date shall be not less than 30 days from the date of the notice;
- b. The violation alleged;
- c. That the beekeeper may appear in person or through counsel, present evidence, cross examine witnesses and request a court reporter, and

(2) Notices may be served personally, or by mailing to the last known address of the owner and if the premises are occupied, to the premises. However, if the beekeeper cannot be located, then notice may be given by publication in a legal newspaper for the county in which the apiary property is located, at least seven days before the hearing.

(3) The hearing shall be conducted by the City Council. The burden shall be on the City to demonstrate by a preponderance of evidence that the colony or colonies have been kept in violation of this ordinance. If the City Council finds a violation, then they may order that the bees be removed from the City or such other action as may address the violation, and that the apiary lot be disqualified for permitting under this ordinance for a period of two years from the date of the order, the apiary lot ownership changes, in which case the prohibition shall terminate. If the order has not been complied with within 20 days of the order, the City may

remove or destroy the bees and charge the beekeeper with the cost thereof.

(4) No hearing and no order shall be required for the destruction of honey bees not residing in a hive structure that is intended for beekeeping.

- (i) *Savings Clause.* In the event any part of this ordinance or its application to any person or property is held to be unenforceable for any reason, the unenforceability thereof will not affect the enforceability and application of the remainder of this ordinance, which will remain in full force and effect.

(Ord. No. 20-05, § 2, 10-14-2020)

Footnotes:

<sup>1</sup> **State Law reference** – General authority relative to animals, Minn. Stats. § 412.221, subd. 21; animal health, Minn. Stats. ch. 35; dogs and cats, Minn. Stats. ch. 347; cruelty to animals, Minn. Stats. § 343.20 et seq.; stray animals and companion animals, Minn. Stats. ch. 346.

<sup>2</sup> **State Law reference** – Dogs and cats, Minn. Stats. ch. 347.