



STAFF REPORT

DATE: March 4, 2020

REGULAR

AGENDA ITEM: Animal Ordinance Update
SUBMITTED BY: Julie Johnson, City Clerk

BACKGROUND:

Staff is proposing an update to the City Ordinance to remove the requirement for obtaining dog licenses. State law does not require licensing of pets and we have found that in the past several years the City issues just over 100 dog licenses per year which likely represents a small portion of the dogs actually in the City. Many other cities in the metro area no longer require dog licenses as the information gathered is no longer utilized. Microchips, social media and custom tags are a much more efficient method for identifying pets and returning them to their owners.

The City's Animal Control Officer has reviewed the proposed changes and the City Attorney also reviewed the changes and added changes to the dangerous/potentially dangerous dog provisions to bring them in compliance with current state statutes.

ISSUE BEFORE COUNCIL:

Should the Council approve changes to Chapter 95 of the City Code to remove the requirement to license dogs?

FISCAL IMPACT:

License fees were removed from the 2020 budget in anticipation of the Ordinance update.

RECOMMENDATION:

Staff recommends the following motion:

“Motion to adopt Ordinance 08-234 Amending Chapter 95 of the Lake Elmo City Code and Resolution 2020-026 Authorizing Summary Publication of Ordinance 08-234”

ATTACHMENTS:

- Redlined Chapter 95
- Ordinance 08-234
- Resolution 2020-026

CHAPTER 95: ANIMALS

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GENERAL PROVISIONS

§ 95.001 PURPOSE AND INTENT.

The purpose of this chapter is to promote health, safety and general welfare of animals and the people around them by requiring animals be cared for in such a manner that they will not become a public nuisance, requiring animals be properly fed, sheltered and cared for, requiring the removal of animal defecation from public property and to ensure licensing of dogs and rabies vaccination of all dogs and cats within the City of Lake Elmo.

(Ord. 08-088, passed 10-15-2013)

§ 95.002 STATE CODE ADOPTED.

All of the relevant provisions of Minnesota Statutes Chapter 343, as amended, are hereby incorporated by reference into this chapter with the same force and effect as if fully set forth in this chapter.

(Ord. 08-088, passed 10-15-2013)

§ 95.003 CONSTRUCTION AND APPLICATION.

This chapter shall not be interpreted as covering any law regulating the trapping of animals, the use of live animals in dog trials or in training of hunting dogs, or the slaughter of animals by persons acting under state and federal law, or taking of animals through hunting or fishing as permitted by law.

(Ord. 08-088, passed 10-15-2013)

§ 95.004 DEFINITIONS.

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

ADULT DOG. A dog over 4 months of age.

ANIMAL. Any live vertebrate or invertebrate creature either domestic or wild, except a human being.

ANIMAL, DANGEROUS. Any animal that is declared to be dangerous by the animal control officer after a temperament test has been conducted on the animal or as defined by § 11.01 of this code.

ANIMAL CONTROL OFFICER. Any person designated by the city to enforce state statutes, adopted by reference, and local ordinances as they pertain to animal control.

ANIMAL SHELTER, PUBLIC. A facility operated by a humane society, or a governmental agency or its authorized agents for the purpose of impounding or caring for animals.

ANIMAL, WILD OR EXOTIC. Apes, coyotes, foxes, wolves, bears, cougars, lynx, bobcats, wild boars, cheetahs, jaguars, lions, tigers, leopards, panthers, ocelots, monkeys, elephants or other similar animals as determined by the humane officer.

AT LARGE. To be off the premises of the owner and not under the control of some person, either by leash or otherwise, but a dog or cat within an automobile of its owner or in an automobile of any other person with the consent of the dog's or cat's owner, shall be deemed to be upon the owner's premises.

CAT. A domesticated animal of the feline type (*Felis domesticus*), except for a feral cat.

CAT, ALTERED. A cat which has been certified in writing by a veterinarian as being nonreproductive.

CAT, FERAL. A cat without owner identification of any kind whose usual and consistent temperament is extreme fear and resistance to contact with people. A **FERAL CAT** is unsocialized to people.

CIRCUS. A commercial variety show featuring animal acts for public entertainment.

COMMERCIAL ANIMAL ESTABLISHMENT. Any pet shop, grooming shop or boarding kennel and shall exclude any city pound, humane society, animal shelter or veterinary facility.

CRUEL. Causing unnecessary and excessive pain or suffering or unjustifiable pain, injury or death to an animal.

DOG. A domesticated animal of the canine type (*Canis familiaris*); young animals (puppies) of this type are considered dogs. It shall not include any animal which is in whole or in part of the *canis lupus* or wolf species.

DOG, ALTERED. A dog which has been certified in writing by a veterinarian as being nonreproductive.

DOG, SERVICE. Any dog individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, minimal protection work, rescue work, pulling a wheelchair or fetching dropped items.

~~**DOG, UNLICENSED.** A dog for which a required license fee has not been paid, or to which the license tag required by this chapter is not attached.~~

FOSTER PARENT, ANIMAL. A person who provides temporary care for kittens, puppies, cats and dogs in their homes for 6 months or less at a time. ~~Animals which are in temporary foster care are not required to be licensed.~~

GROOMING SHOP. A commercial establishment where animals are bathed, clipped or otherwise groomed.

KENNEL. A facility where dogs, cats or other animals are kept for 24 hours or more for boarding, training or similar purposes for compensation. This does not include animal shelters or a facility owned or operated by a veterinarian where animals are boarded only in conjunction with the provision of veterinary care.

OWNER. Any individual, partnership or corporation that has the right of property in an animal or who keeps, harbors, cares for or acts as its custodian or who knowingly permits an animal to remain on or about or return to his/her property/premises for 5 or more consecutive days is presumed to be harboring or keeping the animal within the meaning of this chapter.

PERMANENT ANIMAL EXHIBITION. Any spectacle, display, act or event other than circuses, in which animals perform or are displayed, with the exception of education programs presented by persons or organizations with proper state and federal education permits, as required, and which are perpetual in nature and in a stationary location.

PERSON. Includes all natural persons and any firm, sole proprietorship, limited liability corporation (LLC), partnership, corporation, trust and any association of persons, government agency or political subdivision.

PET. An animal kept for pleasure rather than utility, which may/may not be susceptible to rabies.

PET SHOP. Any person, sole proprietorship, limited liability corporation (LLC), partnership or corporation, whether operated separately or in connection with another business enterprise, except for a kennel, that buys, gives away, sells or takes on consignment any species of animal.

TEMPERAMENT TESTING. Evaluating an individual dog's temperament through a series of tests that measure traits including stability, confidence, shyness, friendliness, aggressiveness, protectiveness, prey instincts, play drive, and self-defense instincts, and the ability to distinguish between threatening and nonthreatening situations.

TRANSIENT ANIMAL EXHIBITION. Any spectacle, display, act or event other than circuses, in which animals perform or are displayed, with the exception of education programs presented by persons or organizations with proper state and federal education permits, as required, and which are traveling shows of a temporary duration.

VETERINARIAN. Has the meaning as defined in Minnesota Administrative Rules, Chapter 9100.0100.

VETERINARY HOSPITAL OR CLINIC. Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of disease and injuries in animals.

(Ord. 08-088, passed 10-15-2013)

Cross References

Definitions generally, § 11.01.

§ 95.005 CARE OF DOMESTICATED ANIMALS.

All domesticated animals shall be cared for, maintained and handled in a humane and sanitary manner and in such a way as to prevent noises such as barking, fighting or howling or other disturbance of the peace and quiet of the neighborhood. No domestic animal shall be abandoned or turned loose by its owner. No animal shall be inhumanely confined in a manner which causes or is likely to cause pain, suffering, injury or death. No person who owns, harbors, or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured.

(Ord. 08-088, passed 10-15-2013) Penalty, see § 10.99

§ 95.006 NUMBER OF DOGS AND CATS LIMITED.

(A) The keeping of a large number of dogs or cats poses health, safety and public welfare risks and is deemed a public nuisance.

(B) *Cats*. Unless the property owner has an authorized kennel, no individual or family unit living together, firm or corporation shall keep more than 3 cats over the age of 4 months on any parcel not zoned RT, A, or RR.

(C) *Dogs*. Unless the property owner has an authorized kennel, no individual or family unit living together, firm or corporation shall keep more than 3 dogs over the age of 4 months on any parcel not zoned RT, A, or RR.

(D) *Cats and dogs*. Unless the property owner has an authorized kennel, no individual or family unit living together, firm or corporation shall keep more than a combination of 3 cats and dogs over the age of 4 months on any parcel not zoned RT, A, or RR.

(E) *Grandfather clause*.

(H) Any person who owned, possessed, kept or harbored dogs and/or cats on or before October 15, 2013, in excess of the above allowed number of dogs and/or cats shall be permitted to continue ownership or possession as long as they meet all the requirements set forth under state and federal law in addition to those set forth in this chapter.

~~(2) Anyone whose animals fall under the grandfather clause shall have obtained license for the dogs within 60 days of the effective date of the original ordinance (October 15, 2013).~~

~~(a) Any person who successfully obtains license within 60 days of the adoption of the ordinance codified herein shall be permitted to hold, keep, harbor or maintain the number of animals that person had as of the date of the adoption of the ordinance but shall not be permitted to increase the number of animals. Following death of the licensed animal, the property owner shall not acquire more animals until they have brought the number of animals down to legal limits through attrition.~~

~~(b) Any person who has not successfully obtained license for their animal within 60 days of the adoption of the ordinance codified herein shall forfeit the right to keep the animal under the grandfather clause and be deemed to unlawfully possess the animal.~~

(Ord. 08-088, passed 10-15-2013; Am. Ord. 08-100, passed 2-18-2014)

§ 95.007 RABIES SHOTS REQUIRED.

At the time of application for registration, the applicant shall present to the city a written statement from a licensed veterinarian or other satisfactory evidence that a rabies shot has been administered, within the previous 24 months, to the dog or dogs being registered.

(Ord. 08-088, passed 10-15-2013)

~~§ 95.008 DOG LICENSING REQUIRED.~~

~~(A) No person shall own, keep, or harbor any dog over the age of 4 months, within the city, unless a dog license has first been secured. Dog licenses shall be issued by the city for a fee as set by resolution of the Council. It shall be the duty of each person owning, keeping, or harboring a dog to pay the license fee imposed by §§ 95.008 et seq. to the city on or before the first day of January of each year, or upon establishing residence in the city to immediately pay the license fee. The city may cause a notice of the necessity of the license fee to be printed in the official newspaper in December prior to each license year. The license fees are provided for in the city fee schedule for the following:~~

~~(1) Altered dogs;~~

~~(2) Unaltered dogs; and~~

~~(3) Service dogs.~~

~~(B) All licenses shall be valid for 1 year from each January 1 to the following December. License applications may be made from January 1 through January 31 each year without penalty. When application is made after January 31 for any animal subject to licensing prior to that date, an additional fee shall be charged for the license. The additional fee herein prescribed is assessed to cover the additional costs of the administration and not as a penalty, and the payment of such a fee shall not exempt any owner from any penalties imposed for any violation of this subchapter.~~

~~(C) A license will be one half of the amount set out in the fee schedule if properly obtained after June 30 of the license year.~~

~~(D) The city shall deliver 1 appropriate tag to the owner when the fee is paid. The owner shall cause the tag to be affixed by a permanent metal fastener to the collar of the dog registered in a manner that the tag may be easily seen. The owner shall ensure that the tag is constantly worn by the dog. In case any dog tag is lost, a duplicate may be issued upon verification of the licensure for the current year. A charge of \$1 shall be made for the duplicate tag.~~

~~(E) The provisions of this section shall not be intended to apply to domestic animals brought into the city for the purpose of participating in any domestic animal show or for less than 30 days.~~

~~(Ord. 08-088, passed 10-15-2013) Penalty, see § 10.99~~

~~§ 95.009 OFFENSES INVOLVING TAGS.~~

~~It shall be unlawful to counterfeit or attempt to counterfeit the tag provided for in § 95.008 or take from any dog a tag legally placed upon by its owner with the intent to place it upon another dog.~~

~~(Ord. 08-088, passed 10-15-2013) Penalty, see § 10.99~~

~~§ 95.010 TAGS NOT TRANSFERABLE; REFUNDS.~~

~~Dog tags shall not be transferable. No refunds shall be made on any dog registration fee because of leaving the city or death of the dog before the expiration of the registration period.~~

~~(Ord. 08-088, passed 10-15-2013) Penalty, see § 10.99~~

§ 95.011 PROHIBITION OF KENNELS; PRIVATE KENNELS.

(A) No commercial kennels may be established in the city unless a special use permit has been issued for the kennel as provided by the city ordinances regulating land use.

(B) An individual or family unit living together, firm, or corporation may keep a private kennel consisting of a combination of no more than 6 domestic pets over the age of 4 months on any parcel 5 acres or greater in size and located in zoning districts RT, A, or RR.

(Ord. 08-088, passed 10-15-2013; Am. Ord. 08-100, passed 2-18-2014) Penalty, see § 10.99

Cross-reference:

Definitions, § 11.01

Zoning use types and classifications, § 154.012

§ 95.012 PROHIBITION OF DOGS AND CATS RUNNING AT LARGE.

It shall be unlawful for any person who owns, harbors or keeps a dog or cat to allow the dog or cat to run at large in the city.

(Ord. 08-088, passed 10-15-2013) Penalty, see § 10.99

§ 95.013 UNREASONABLE DISTURBANCE PROHIBITED.

The following are prohibited:

(A) The keeping or harboring of any animal or fowl, ~~whether licensed or not~~, which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the city which tends to cause or create a disturbance is prohibited and is a public nuisance. An animal is considered to be in violation of this section when written complaints from 2 or more adults living in separate residences within audible distance of the noisy animal are filed with the law enforcement or the city within a 4-week period. No prosecution shall be commenced, except upon the request of the law enforcement or city, following a written petition signed by 2 or more adult persons residing at different residences. Failure to correct the disturbance within 24 hours of written notification from law enforcement or other designee of the city shall constitute a violation of this section and will subject the owner or occupant of the premises to the penalties set forth in § 10.99, Penalty. Each day that such nuisance exists constitutes a separate offense.

(B) The phrase "unreasonable disturbance" shall include, but is not limited to, the creation of any noise by any animal which can be heard by any person, including a law enforcement officer or animal control officer, from a location outside of the building or premises where the animal is being kept and which animal noise occurs repeatedly over at least a ~~30~~15 minute period of time with a 5 minute or less lapse of time between each animal noise during the ~~30~~15 minute period.

(C) *Exemptions.* The provisions of this section shall not apply to animal veterinary hospitals or clinics operated for the treatment of animals or to permitted kennels.

(Ord. 08-088, passed 10-15-2013) Penalty, see § 10.99

§ 95.014 DOGS OR CATS WHICH ARE PUBLIC NUISANCES.

Every ~~unlicensed dog~~, unsecured female dog or cat in heat, and every dog or cat that runs at large or causes disturbance, or noise, in violation of the provisions of §§ 95.008 *et seq.* is declared a public nuisance.

(Ord. 08-088, passed 10-15-2013)

§ 95.015 INTERFERENCE WITH ENFORCEMENT.

It shall be unlawful for any unauthorized person to take or attempt to take from any officer any animal taken up by the officer in compliance with §§ 95.008 *et seq.* or in any manner to interfere with or hinder the officer in the discharge of official duties under §§ 95.008 *et seq.*

(Ord. 08-088, passed 10-15-2013) Penalty, see § 10.99

§ 95.016 INVESTIGATION.

Any agent of the Council may enter the premises where any animal is kept in a reportedly cruel or inhumane manner, after obtaining required warrant or legal consent, and demand to examine the animal and to take possession of the animal when in the agent's opinion it requires humane treatment.

(Ord. 08-088, passed 10-15-2013)

§ 95.017 QUARANTINE.

(A) Whenever any person owning, possessing, or harboring any dog within the corporate limits of the city shall learn that the dog has bitten any human being, the person shall immediately impound the dog in a place of confinement where it cannot escape or have access to any human being or other animal. The person shall also immediately notify either the Animal Control Officer or Agency, who

shall ascertain the identity of the dog and the person owning, possessing, or harboring it. The Officer or -Agency shall immediately direct the person to impound the dog as required. Any dog so impounded shall be kept continuously confined for a period of 10 days from the day the dog bit a human being. The person owning, possessing, or harboring the dog shall also notify the Minnesota Department of Health Infectious Disease Epidemiology, Prevention and Control Division.

(B) Upon learning that a dog has bitten a human being, the city shall immediately notify the Animal Control Officer and inform Animal Control Officer of the place where the dog is impounded. If the -animal is -current on its -rabies vaccination with proof provided by a rabies certificate, then the animal is -safe to be quarantined in the owner's home. If no proof of a current rabies vaccine is able to be provided the animal must be impounded at the current impound facility. When an animal is impounded at home, the animal should be required to be inspected by a licensed veterinarian at the beginning of the rabies quarantine and at the end of the rabies quarantine. The Animal Control Officer will inspect the animal as needed during the 10 day quarantine only when the animal is kept in the home of the owner. For this purpose, the Animal Control Officer shall have access to the premises where the dog is kept at all reasonable hours and may take possession of the dog and confine it in a suitable place at the expense of the owner. In the circumstance that the animal is impounded at the impound facility it is the duty of the licensed veterinarian on staff to inspect the animal during the rabies quarantine.

(C) The owner or person in possession or harboring the dog shall immediately notify the Animal Control Officer of any evidence of sickness or disease in the dog during its period of confinement. In the case that an animal dies during this period when the animal is kept in the owner's home, the animal is to be brought to the impound facility where it will then be transported to the U of MN for diagnostic testing. If the animal dies while being impounded at the impound facility, then the impound facility will be responsible for diagnostic rabies testing.

(D) In the case that the owner of the animal that has bitten does not have a current rabies vaccine and it is impounded at the impound facility, and if the owner decides not to reclaim the animal from the impound facility, the impound facility can then humanely euthanize the animal and send it for diagnostic testing without holding the animal for a 10 day quarantine.

(Ord. 08-088, passed 10-15-2013)

§ 95.018 MUZZLING PROCLAMATION.

Whenever the prevalence of hydrophobia renders action necessary to protect the public health and safety, the Mayor shall issue a proclamation ordering every person owning or keeping a dog to confine it securely on the owner's or keeper's premises unless it is muzzled so that it cannot bite. Any unmuzzled dog running at large during the time fixed in the proclamation shall be killed by law enforcement without notice to the owner.

(Ord. 08-088, passed 10-15-2013)

§ 95.019 REQUIRED REMOVAL OF ANIMAL EXCRETA.

The owner or person having immediate care, custody or control of any animal shall promptly remove and dispose of, in a sanitary manner, any excreta left or deposited by the animal upon any public or private property. Failure to do so shall be a violation of this section and will subject the owner or occupant of the premises to the penalties set forth in § 10.99 Penalty. Each day that such act exists shall constitute a separate offense.

(Ord. 08-088, passed 10-15-2013) Penalty, see § 10.99

§ 95.020 ANIMALS ON OWNERS PROPERTY.

The accumulation of dog feces or wastes upon private property in the city is declared to be a public nuisance. The owner or occupant of property upon which there exists any accumulation of dog feces or waste shall remove all such waste from his premises and dispose of the wastes in a safe and sanitary manner within 24 hours of written notification from law enforcement or the city to remove the wastes. Failure to do so shall be a violation of this section and will subject the owner or occupant of the premises to the penalties set forth in § 10.99 Penalty. Each day that such act exists shall constitute a separate offense.

(Ord. 08-088, passed 10-15-2013) Penalty, see § 10.99

§ 95.021 ANIMAL CONTROL OFFICER.

The Council may appoint a person, persons, or firm as the Council may deem necessary and advisable as Animal Control Officer for the city. The Animal Control Officer shall be charged with the duty of enforcement of §§ 95.008 *et seq.* and shall be vested with all the authority conferred by §§ 95.008 *et seq.*, including the power to issue a summons requesting a violator to appear in court. The Council may provide for compensation for the Animal Control Officer as it may deem reasonable. The Animal Control Officer shall file a monthly report with the Council relating to the operation of the Animal Control Officer as it applies to the city.

(Ord. 08-088, passed 10-15-2013)

§ 95.022 ANIMAL CONTROL AGENCY.

The city may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impounded animals, and for assisting in the administration of rabies vaccinations programs.

§ 95.023 IMPOUNDING OF DOGS OR CATS.

The Animal Control Officer may take up and ~~impound~~ impound any dog found in the city without the tags provided in § 95.008 or any dogs which are in violation of any ~~other~~ provisions of §§ 95.008 *et seq.* To enforce §§ 95.008 *et seq.*, the Animal Control Officer is empowered and instructed to go upon any premises to seize for impounding any dog or cat that may lawfully be seized and impounded when such officer is in immediate pursuit of such animals where the officer has reasonable cause to believe there is ~~an unlicensed dog,~~ a dog or cat which has been at large during the same day, or an unsecured female dog or cat in heat, except upon the premises of the owner of the dog or cat if the owner is present and forbids the same; in that case, or for entry into premises, the officer must obtain required warrant or legal consent to do so. Animals will not be impounded with any facility that sells, trades, or deals animals for licensed educational or scientific institution purposes.

(Ord. 08-088, passed 10-15-2013)

§ 95.024 IMPOUNDMENT CHARGES.

(A) *Redemption.* Any dog or cat may be redeemed from the impound facility by the owner within 5 days after impoundment by payment of a fee as set forth from time to time by resolution of the Council for each day the dog or cat is confined in the pound, as well as the cost of boarding, feeding, and required vet charges. The city may recover, from the owner, impoundment fees charged to it by the impound facility.

(B) *Additional impoundment charge.* An additional fee, set forth from time to time by resolution of the Council, shall be charged for any dog or cat that has been impounded more than once each year.

~~(C) *Unlicensed additional charge.* In the case of unlicensed or untagged dog, an additional fee, set forth from time to time by resolution of the Council, shall be charged due to the special handling required on an unlicensed or untagged dog.~~

~~(D)~~(C) If the owner does not pay fees ~~and~~ expenses, ~~license~~ and reclaim the animal within 5 days of being notified of the impoundment, the animal will be put up for adoption without further notification, at the owner's expense. If the animal is adopted, the expenses and fees may be paid by the new owner through adoption fees.

(Ord. 08-088, passed 10-15-2013)

§ 95.025 DISPOSITION OF UNCLAIMED DOGS OR CATS.

Any dog or cat which is not claimed as provided for in § 95.024 or sold through a standard adoption process, shall be painlessly put to death and the body properly disposed of by the poundkeeper.

(Ord. 08-088, passed 10-15-2013)

§ 95.026 PROCEEDINGS FOR DESTRUCTION OF CERTAIN DOGS.

(A) Upon sworn complaint to district court that any one of the following facts exist:

- (1) That any dog at any time has attacked or bitten a person outside the owner's or custodian's premises;
- (2) That any dog is vicious or shows vicious habits, or molests pedestrians;
- (3) That any dog is a public nuisance as defined in M.S. § 561.01, as it may be amended from time to time; and/or
- (4) That any dog violates its quarantine contrary to the provisions of the chapter.

(B) The district court shall issue a summons directed to the owner or person having possession of the dog commanding the owner or person in possession to appear before the court and show cause why the dog should not be disposed of as authorized in this code. The summons shall be returnable not less than 2 nor more than 6 days from the date of delivery and shall be served at least 2 days before the time to appear mentioned in the summons. If, at the hearing, the district court finds that the facts stated in the complaint are true, the judge may either order: the owner or custodian to keep the dog confined to a designated place; the owner or custodian to remove the dog from the city; or humanely euthanized by certified veterinary staff. If the owner or custodian disobeys the order, the owner or custodian shall, upon the filing of a complaint and after a hearing and conviction before a district court, be liable to the punishment provided for violation of this chapter. Any Animal Control Officer may, upon disobedience of the order, impound and order the humane euthanasia of any dog describe in the order of the district court. The provisions of this section are in addition to and supplemental to other provisions of this code. Costs of the proceeding specified by this section shall be assessed against the owner or custodian of the dog.

(Ord. 08-088, passed 10-15-2013)

§ 95.027 PROHIBITION OF UNSECURED FEMALE DOGS OR CATS IN HEAT.

(A) It shall be unlawful for any person to own, harbor, keep, or have in their possession or on their premises any unsecured female dog or cat in heat.

(B) Any unsecured female dog or cat in heat shall be deemed to be any female dog or cat which is not confined in a building or secured in a manner that the dog or cat cannot come into contact with another animal except for planned breeding.

(Ord. 08-088, passed 10-15-2013) Penalty, see § 10.99

§ 95.028 LIABILITY.

The city and/or its animal control agents shall not be liable to any person for the death, destruction, damage, injury or disease caused to any animal that has been impounded pursuant to this chapter.

(Ord. 08-088, passed 10-15-2013)

DANGEROUS AND POTENTIALLY DANGEROUS DOGS

§ 95.040 DANGEROUS DOGS; REPORTING AND NOTIFICATION.

(A) *Incident report.* The Animal Control Officer shall complete an "incident report" on any incident listed in the definition for "dangerous dog" in § 11.01.

(B) *Notice declaring a dangerous dog.* The Animal Control Officer shall provide the animal owner with a "notice to declare dog dangerous" for any incident listed in the definition for "dangerous dog" in § 11.01. The Animal Control Officer shall provide written notice to the City Clerk/Administrator that a "notice to declare dog dangerous" has been issued to an animal owner.

(1) Every reasonable attempt should be made by the Animal Control Officer to deliver the "notice declaring a dangerous dog" to the animal owner in person.

(2) If the "notice to declare dog dangerous" cannot be delivered to the animal owner, the Animal Control Officer shall provide the "notice" to the City Clerk/Administrator for mailing. The "notice declaring dog dangerous" shall be mailed to the animal owner by certified mail.

(3) Dogs may not be declared dangerous if the threat, injury, or damage was sustained by a person:

- (a) Who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
- (b) 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
- (c) Who was committing or attempting to commit a crime.

(Ord. 08-088, passed 10-15-2013)

§ 95.041 DANGEROUS DOGS; REGISTRATION RESTRICTIONS REGISTRATION REQUIREMENT.

~~(A) —Registration rRequired.~~ The owner of a dangerous dog shall obtain a certificate of registration on from ~~on from~~ Washington County.

(A)

~~(B) — Washington County regulations indicate that a certificate of registration will be issued if:~~

~~(+) Registration.~~ The county will shall issue a certificate of registration to the owner of a dangerous dog if the owner presents sufficient evidence that:

(1) A proper enclosure exists for the dangerous dog and a posting on the premises with a clearly visible warning sign, including a warning symbol to inform children, that there is a dangerous dog on the property; and

(2) A surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the city-county in the sum of at least \$30050,000, 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 \$3050,000, insuring the owner for any personal injuries inflicted by the dangerous dog;

~~Fee. The county may charge the owner a~~ (3) An n annual fee of not more than \$500 has been paid by the owner, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section.

(4) The owner has microchip identification implanted in the dangerous dog for identification, and the name of the microchip manufacturer and identification number of the microchip has been provided to the county and the city. If the microchip is not implanted by the owner, it may be implanted by city with the costs borne by the dog's owner.

~~(C) —Law enforcement exception. Law enforcement exemption.~~ The provisions of this section do not apply to dangerous dogs used by law enforcement officials for police work.

(B)

(C) Tag. A dangerous dog registered under this section must have a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol, affixed to the dog's collar at all times.

(1) Microchip. The owner has had a microchip identification implanted in the dangerous dog, and the name of the microchip manufacturer and identification number of the microchip must be provided to the animal control authority. If the microchip is not implanted by the owner, it may be implanted by the animal control authority with the costs borne by the dog's owner.

(Ord. 08-088, passed 10-15-2013) Penalty, see § 10.99

§ 95.042 DANGEROUS DOGS; REQUIREMENTSREGULATIONS CONTAINMENT REQUIREMENTS.

~~Annual fee. The owner of a dangerous dog shall pay an annual fee as determined by the fee schedule.~~

- ~~(A) Annual renewal. The owner of a dangerous dog must renew the registration of the dog annually until the dog is deceased and pay the annual registrationrenewal fee as determined by the fee schedule. If the dog is removed from the city, it must be registered as a dangerous dog in its new jurisdiction.~~
- ~~(B) Transfer of ownership. Sale. The owner of a dangerous dog who transfers ownership of the dangerous dog must notify the new owner-purchaser that the cityanimal control authority has identified the dog as a dangerous dog. The new ownerseller must also notify the cityanimal control authority in writing of the transfer in ownershipsale and provide the cityanimal control authority with the new owner's name, address, and telephone number.~~
- ~~(C) Death of the dog. An owner of a dangerous dog must notify the city in writing of the death of the dog or its transfer to a new location where the dog will reside within 30 days of the death or transfer, and must, if requested by the city, execute an affidavit under oath setting forth either the circumstances of the dog's death and disposition or the complete name, address, and telephone number of the person to whom the dog has been transferred or the address where the dog has been relocated.~~
- ~~(D) Muzzling. The owner of a dangerous dog shall keep the dangerous dog, while on the owner's property, in a proper enclosure. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash 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.~~
- ~~(E) Sterilization. The owner of the dangerous dog must sterilize the dog at the owner's expense. If the owner does not have the animal sterilized within 30 days, the Animal Control Officer shall seize the dog and have it sterilized at the owner's expense.~~
- ~~(F) Property Rental. A person who owns a dangerous dog and who rents property from another where the dog will reside must disclose to the property owner prior to entering into the lease agreement and at the time of any lease renewal that the person owns a dangerous dog that will reside at the property.~~

~~An owner of a dangerous dog shall keep the dangerous dog, while on the owner's property, in a proper enclosure. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash 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.~~

~~(Ord. 08-088, passed 10-15-2013) Penalty, see § 10.99~~

§ 95.043 POTENTIALLY DANGEROUS DOGS; REPORTING AND NOTIFICATION.

Incident report. The Animal Control Officer shall complete an "incident report" on any incident listed in the definition for "potentially dangerous dog" in § 11.01.

~~(A)~~

~~(A) Notice declaring a potentially dangerous dog. The Animal Control Officer shall provide the animal owner with a "notice to declare dog potentially dangerous" for any incident listed in the definition for "potentially dangerous dog" in § 11.01. The Animal~~

(B) Control Officer shall provide written notice to the City Clerk/Administrator that a "notice to declare dog potentially dangerous" has been issued to an animal owner.

(1) Every reasonable attempt should be made by the Animal Control Officer to deliver the "notice to declare a potentially dangerous dog" to the animal owner in person.

(2) If the "notice" cannot be delivered to the animal owner, the Animal Control Officer shall provide the "notice" to the City Clerk/Administrator for mailing. The "notice to declare a potentially dangerous dog" shall be mailed to the animal owner by certified mail.

(Ord. 08-088, passed 10-15-2013)

§ 95.044 POTENTIALLY DANGEROUS DOGS; RESTRICTIONS-CONTAINMENT REQUIREMENTS.

~~(A) Registration required. The owner of a potentially dangerous dog shall obtain a certificate of registration from Washington County. The County will issue Washington County regulations indicate that a certificate of registration if the owner presents sufficient evidence that will be issued if:~~

~~(1) (B) Proper enclosure. A proper enclosure exists for the potentially dangerous dog.~~

~~(2) There is and a posting on the premises with a clearly visible warning sign, including a warning symbol to inform children, that there is a potentially dangerous dog on the property.~~

~~(B) Muzzle.~~

~~(C) Muzzle. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash 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.~~

~~(A) An owner of a potentially dangerous dog shall keep the dangerous dog, while on the owner's property, in a proper enclosure.~~

~~(B) If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person.~~

~~(C) 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.~~

(Ord. 08-088, passed 10-15-2013) Penalty, see § 10.99

§ 95.045 CONFISCATION.

(A) *Seizure.*

(1) The Animal Control Officer 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 validly registered under § 95.041;

(b) After 14 days after the owner has notice that the dog is dangerous, the owner does not secure the proper liability insurance or surety coverage as required by §95.041 (A)(2);

~~(b)(c)~~ The dog is not maintained in the proper enclosure; or

~~(e)(d)~~ The dog is outside the proper enclosure and not under physical restraint of a responsible person as required under § 95.042.

(2) If an owner of a dog is convicted of a crime for which the dog was originally seized, the court 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.

(B) *Reclaimed.* A dangerous dog seized under paragraph/division (A) above may be reclaimed by the owner of the dog upon payment of impounding and boarding fees, and presenting proof to the Animal Control Officer, and the city that the requirements of §§ 95.041 and

95.042, as they may be amended from time to time, will be met. A dog not reclaimed under ~~this paragraph-subdivision~~ within 7 days may be disposed of as provided in § 95.026, and the owner is liable to the city for costs incurred in confining and disposing of the dog.

(C) Subsequent offenses; seizure.

(1) If a person has been convicted of a misdemeanor for violating a provision of §§ 95.041 and 95.042, and the person is charged with a subsequent violation relating to the same dog, the dog must be seized by the ~~city's~~ Animal Control Officer.

(2) If the owner is convicted of a crime for which the dog was seized, the court shall order that the ~~dog be~~ destroyed in a proper and humane manner and the owner pay the cost of confining and destroying the animal.

(3) If the ~~owner~~~~person~~ is not convicted of the crime for which the dog was seized, the owner may reclaim the ~~dog~~ upon payment to the city of a fee for the care and ~~_~~boarding of the dog.

(4) If the dog is not reclaimed by the owner within ~~75~~ days after the owner has been notified that the ~~dog~~ may be ~~reclaimed~~, the dog may be disposed of as provided under § 95.045, and the owner is liable ~~to the city~~ for the costs incurred in confining, impounding, and disposing of the dog.

(Ord. 08-088, passed 10-15-2013)

§ 95.046 EXCEPTIONS.

(A) This section does not apply to animals which are temporarily brought into the city for the purpose of participating in any circus or show; nor does it apply to any public zoo, or persons keeping animals for a public zoo as volunteers, docents or otherwise; nor to any bona fide research institution, or veterinary hospital, provided protective devices adequate to prevent such animal from escaping or injuring the public are provided.

(B) In the case of regulated animals, those exemptions listed in M.S. § 346.155, subd. 7 shall apply.

(Ord. 08-088, passed 10-15-2013)

HORSES

§ 95.060 HORSES; REQUIREMENTS.

(A) No person shall ride, drive, lead, or otherwise allow any horse or pony to directly travel over and in contact with any street or public road in the city which is hard surfaced or which has been ready for hard surfacing to the extent that the base for the hard surface has been applied, except the horses, ponies, and horse drawn vehicles shall be allowed on unpaved shoulders of the street or public road.

(B) No horse, pony, mule or other beast of burden shall be allowed on any public street, alley, sidewalk or other public right-of-way or upon public property unless the animal is properly attired to prevent animal waste from being deposited upon such public property or the owner of the animal shall be otherwise responsible for cleanup of all animal waste deposited upon public property by the animal.

(C) The restrictions of this section do not apply to animals that are part of a parade or other legally sanctioned event held in the city; however, all animals participating in such events are still subject to waste and cleanup requirements.

(Ord. 08-088, passed 10-15-2013) Penalty, see § 10.99

DANGEROUS ANIMALS

§ 95.075 KEEPING OF ANIMALS.

The keeping of animals except for domesticated pets inside of the dwelling unit shall be prohibited.

(Ord. 08-088, passed 10-15-2013) Penalty, see § 10.99

§ 95.076 OTHER ANIMALS.

No person who owns or who has custody of any horse, mule, sheep, goat, swine, fowl, poultry, cattle, monkey, domesticated snake, cat, or any other animal shall permit the same to run at large in the city. Any animal or fowl found running at large shall be impounded by the Animal Control Officer who will then proceed, pursuant to §§ 95.043 through 95.046.

(Ord. 08-088, passed 10-15-2013) Penalty, see § 10.99

§ 95.077 DANGEROUS ANIMALS PROHIBITED.

(A) No person shall harbor, maintain, or control any dangerous animal within the city.

(B) A dangerous animal is one which is capable of inflicting severe bodily harm to humans, and shall include but not be limited to the following species:

(1) *Class Mammalia.*

- (a) African buffalo (*Syncerus caffer*);
- (b) Hippopotamus (*Hippopotamus amphibious*);
- (c) Wolves, dingoes, jackals, all species except foxes (Family Canidae);
- (d) Hyenas, all species except aardwolves (*Proteles cristatus*)(Family Hyaenidae);
- (e) Wolverine (*Gulo gulo*);
- (f) Honey badger or ratel (*Mellivora campensis*);
- (g) Old World badger (*Meles metes*);
- (h) Bears (Family Ursidae);
- (i) Lions, jaguars, leopards, tigers (Genus *Panthera*);
- (j) Clouded leopard (*Neofelis nebulosa*);
- (k) Cheetah (*Acinonyx jubatus*);
- (l) Cougar or mountain lion (*Felis concolor*);
- (m) Elephants (Family Elephantidae);
- (n) Rhinoceroses (Family Rhinocerotidae);
- (o) Gibbons, siamangs (Family Hylobatidae);
- (p) Orangutans, chimpanzees, gorillas (Family Pongidae);
- (q) Baboons, drills, mandrills (Genus *Papio*);
- (r) Macaques (Genus *Macaca*); and
- (s) Gelada baboon (*Theropithecus gelada*).

(2) *Class Reptilia.*

- (a) Gavials (Family Gavialidae);
- (b) Crocodiles (Family Crocodylidae);
- (c) Alligators, caimans (Family Alligatoridae);
- (d) Cobras, coral snakes (Family Elapidae);
- (e) Sea Snakes (Family Hydrophidae);
- (f) Adders, vipers (Family Viperidae);
- (g) Pit Vipers (Family Crotalidae); and
- (h) All venomous rear-fanged species (Family Colubridae).

(3) The following species of constricting snakes over 8 feet in length.

- (a) Boa constrictor (*Boa constrictor*), all subspecies;
- (b) Anaconda (*Eunectes murinus*);
- (c) Indian python (*Python molurus*);
- (d) Reticulate python (*Python reticulatus*); and
- (e) Rock python (*Python sebae*).

(4) *Other.*

(a) Gila monsters and beaded lizards (Family Helodermatidae); and

(b) Komodo dragon (*Varanus komodoensis*).

(Ord. 08-088, passed 10-15-2013)

§ 95.078 EXCEPTIONS.

(A) This section does not apply to animals which are temporarily brought into the city for the purpose of participating in any circus or show; nor does it apply to any public zoo, or persons keeping animals for a public zoo as volunteers, docents or otherwise; nor to any bona fide research institution, or veterinary hospital, provided protective devices adequate to prevent such animal from escaping or injuring the public are provided.

(B) In the case of regulated animals, those exemptions listed in M.S. § 346.155, subd. 7 shall apply.

(Ord. 08-088, passed 10-15-2013)

LIVESTOCK

§ 95.090 LIVESTOCK.

(A) *Purpose.* The purpose of this section is to promote and preserve the natural resources within the City of Lake Elmo by regulating the keeping of livestock. Erosion as a result of overgrazing and leeching of manure into groundwater have adverse and potentially irreversible impacts on water quality and environmentally sensitive lands.

(B) *Prohibition of manure deposition without safeguards.* No manure or livestock waste shall be deposited, stored, kept, or allowed to remain upon any site without reasonable safeguards adequate to prevent the escape or movement of the manure or wastes or a solution of the manure or wastes from the site which may result in pollution of any public waters or any health hazard.

(C) *Pollution Control Agency standard minimum requirement.* All regulations imposed by the Minnesota Pollution Control Agency relating to keeping of livestock shall be adhered to and the regulations shall be considered the minimum safeguard necessary to prevent pollution of public water or creation of a health hazard.

(D) *Inadequate safeguards.* In case the Zoning Administrator shall find that any manure is stored or kept on any lot or storage site without a safeguard, or that any existing safeguard is inadequate, the Zoning Administrator may order the owner or other responsible person to immediately remove the manure from the storage site and refrain from further storage or keeping of any manure at the site unless and until an adequate safeguard is provided.

(E) *Hazards and nuisances.* On parcels of less than 40 acres which are not part of a larger crop-producing commercial agricultural farm, the keeping of horses, cattle, or other grazing animals on a site with less than 2 acres of existing grazable land per animal is, by this section, declared to be a nuisance. No domestic farm animals, or livestock, other than chickens or bees, shall be allowed on any parcel of less than 5 acres. No commercial kennels shall be placed on any site of less than 10 acres.

(F) *Grazable acres.* Grazable acreage shall be defined as open, non-treed acreage exclusive of the homesite and yard that is currently providing enough pasture or other agricultural crops capable of supporting summer grazing at a density of 1 animal unit per 2 acres. Grazable acreage shall not include non-jurisdictional wetlands or slopes over 12%. There is a presumption that 0.5 acres of site are dedicated to the homesite and yard, or considered ungrazable. This presumption is subject to rebuttal if a different calculation can be established by owner and city.

(G) The number of permitted animals shall be determined by the following table:

<i>Type of Animal</i>	<i>Animal Units</i>
One slaughter steer, heifer, or mature dairy cow	1.4

One horse, mule, donkey	0.5
One hog/swine	0.5
One sheep or goat, llama, or alpaca	0.2
One turkey or goose	0.1
One duck or other fowl	0.04
One chicken, 5 acres or more	0.02

(1) For all other animals, the number of animal units shall be defined as the average weight of the animal divided by 1,000 pounds.

(2) The number of animal units allowed per parcel is cumulative. The animal density per parcel shall not exceed 1 animal unit equivalency per 2 grazable acres.

(Ord. 08-100, passed 2-18-2014) Penalty, see § 10.99

KEEPING OF CHICKENS

§ 95.105 DEFINITIONS.

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

BROODING. the period of chicken growth when supplemental heat must be provided, due to the bird's inability to generate enough body heat.

CHICKEN. a domesticated bird that serves as a source of eggs or meat (*Gallus gallus domesticus*).

COOP. The structure for the keeping or housing of chickens permitted by the subchapter.

EXERCISE YARD. A larger fenced area that provides space for exercise and foraging for the birds when supervised.

HEN. A female chicken.

OFFICER. Any person designated by the city as an enforcement officer.

ROOSTER. A male chicken.

RUN. A fully-enclosed and covered area attached to a coop where the chickens can roam unsupervised.

(Ord. 08-100, passed 2-18-2014)

§ 95.106 PURPOSE.

It is recognized that the ability to cultivate one's own food is a sustainable activity that can also be a rewarding pastime. Therefore, it is the purpose and intent of this subchapter to permit the keeping and maintenance of hens for egg and meat sources in a clean and sanitary manner that is not a nuisance to or detrimental to the public health, safety, and welfare of the community.

(Ord. 08-100, passed 2-18-2014)

§ 95.107 INVESTIGATION AND ENFORCEMENT.

Officers designated by the city shall have authority in the investigation and enforcement of this subchapter, and no person shall interfere with, hinder or molest any such officer in the exercise of such powers. The city shall make investigations as is necessary and may grant, deny, or refuse to renew any application for permit, or terminate an existing permit under this subchapter.

(Ord. 08-100, passed 2-18-2014)

§ 95.108 KEEPING OF CHICKENS.

(A) *Chickens on less than 5 acres.*

<i>Lot Size (Acres)</i>	<i>Chickens Allowed</i>
0.00 - 0.49	0
0.50 - 0.99	4
1.00 - 1.49	6
1.50 - 1.99	8
2.00 - 2.49	10
2.50 - 2.99	12
3.00 - 3.49	14
3.50 - 3.99	16
4.00 - 4.49	18
4.50 - 4.99	22

(B) *Chickens on 5 acres or more.* Chickens maintained on parcels of 5 acres or more are restricted to 0.02 animal units per acre. A permit is not required for keeping chickens on a parcel size of 5 acres or more. For reference, see "Animal Unit Equivalency" chart in § 95.090.

(Ord. 08-100, passed 2-18-2014)

§ 95.109 PERMIT REQUIRED; TERM, CONSENT, FEE.

(A) No person shall (without first obtaining a permit in writing from the City Clerk) own, keep, harbor, or have custody of any live chicken on a lot less than 5 acres.

(B) The first permit is valid for up to 2 years beginning on the date of issuance and ending on December 31 of the following year. Subsequent permits are valid from January 1 to December 31.

(C) Prior to issuance of a permit, notices must be mailed to all homes within 150 feet of the applicant's property lines.

(D) The fee for a permit may be imposed, set, established and fixed by the city council, by ordinance, from time to time.

(Ord. 08-100, passed 2-18-2014) Penalty, see § 10.99

§ 95.110 APPLICATION.

Any person desiring a permit required under the provisions of this subchapter shall make written application to the City Clerk upon a form prescribed by and containing such information as required by the city. Among other things, the application shall contain the following information:

(A) A description of the real property upon which it is desired to keep the chickens.

(B) The breed and number of chickens to be maintained on the premises.

(C) A site plan of the property showing the location and size of the proposed chicken coop and run, setbacks from the chicken coop to property lines and surrounding buildings (including houses and buildings on adjacent lots), and the location, type, and height of fencing proposed to contain the chickens in a run or exercise area. Portable coops and cages are allowed, but portable locations must be included with the site plan.

(D) Statements that the applicant will at all times keep the chickens in accordance with all of the conditions prescribed by the officer, or modification thereof, and that failure to obey such conditions will constitute a violation of the provisions of this article and grounds for cancellation of the permit.

(E) Such other and further information as may be required by the officer.

(Ord. 08-100, passed 2-18-2014)

§ 95.111 PERMIT CONDITIONS.

Each person keeping chickens within the City of Lake Elmo shall comply with the following:

(A) No person may keep a rooster or crowing hen.

(B) No person may allow chickens to range freely without fencing or without a mobile pen.

(C) No person may keep chickens inside the house or attached garage.

(D) Chickens must be provided a secure and well ventilated roofed structure ("chicken coop").

(E) The roofed structure and required fencing 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.

(F) The roofed structure shall be fully enclosed, wind proof, and have sufficient windows for natural light.

(G) Chickens, coops, and/or runs shall not be kept in such a manner as to constitute a nuisance.

(H) The chicken coop and run shall be kept in good repair as to be in compliance with the property maintenance regulations elsewhere in the code.

(I) All chicken coops must have a minimum size of 4 square feet per bird and must be at least 4 feet in height.

(J) Fenced in chicken runs must have a minimum of 10 square feet per bird and must be at least 4 feet in height.

(K) All butchering waste shall be disposed of in a sanitary manner.

(L) Dead chickens must be disposed of according to the Minnesota Board of Animal Health rules which require chicken carcasses to be disposed of as soon as possible after death, usually within 48 to 72 hours. Legal forms of chicken carcass disposal include burial, off-site incineration or rendering, or composting.

(Ord. 08-100, passed 2-18-2014; Am. Ord. 08-177, passed 6-20-2017) Penalty, see § 10.99

§ 95.112 VIOLATIONS.

(A) Any person violating any of the sections of this article shall be deemed guilty of a misdemeanor and upon conviction, shall be penalized in accordance with § 10.99.

(B) If any person is found guilty by a court for violation of this section, their permit to own, keep, harbor, or have custody of chickens shall be deemed automatically revoked and no new permit may be issued for a period of 1 year.

(C) Any person violating any conditions of this permit shall reimburse the city for all costs borne by the city to enforce the conditions of the permit including, but not limited to, the pickup and impounding of chickens.

(Ord. 08-100, passed 2-18-2014)

§ 95.113 ISSUANCE, REVOCATION.

(A) If granted, the permit shall be issued by the city and shall state the conditions, if any, imposed upon the permitted for the keeping of chickens under this permit. The permit shall specify the restrictions, limitations, conditions and prohibitions which the city deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, or annoyance, or to protect the public health and safety. Such permit may be modified from time to time or revoked by the city for failure to conform to such restrictions, limitations, or prohibitions. Such modification or revocation shall be effective after 10 days following the mailing of written notice thereof by certified mail to the person or persons keeping or maintaining such chickens.

(B) The city may revoke any permit issued under this subchapter if the person holding the permit refuses or fails to comply with this subchapter, with any regulations promulgated by the city council pursuant to this article, or with any state or local law governing cruelty to animals or the keeping of animals. Any person whose permit is revoked shall, within 10 days thereafter, humanely dispose of all chickens being owned, kept or harbored by such person, and no part of the permit fee shall be refunded.

(Ord. 08-100, passed 2-18-2014)

KEEPING OF BEES

§ 95.125 DEFINITIONS.

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

APIARY. The assembly of 1 or more colonies of bees at a single location.

BEEKEEPER. A person who owns or has charge of 1 or more colonies of bees.

BEEKEEPING EQUIPMENT. Anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

COLONY. An aggregate of bees consisting principally of workers, but having, when perfect, 1 queen and at times drones, brood, combs, and honey.

HIVE. The receptacle inhabited by a colony that is manufactured for that purpose.

HONEY BEE. All life stages of the common domestic honey bee, *apis mellifera* (African subspecies and Africanized hybrids are not allowed).

LOT. A contiguous parcel of land under common ownership.

(Ord. 08-100, passed 2-18-2014)

§ 95.126 PURPOSE.

The purpose of this subchapter is to establish certain requirements for beekeeping within the city, to avoid issues that might otherwise be associated with beekeeping in populated areas.

(A) Compliance with this subchapter 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 previous nuisance.

(B) Compliance with this section 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.

(Ord. 08-100, passed 2-18-2014)

§ 95.127 STANDARDS OF PRACTICE.

These standards of practice apply only to lots smaller than 5 acres.

(A) Honey bee colonies shall be kept in hives with removable frames, which must be kept in sound and usable conditions.

(B) Each beekeeper must ensure that a convenient source of water is available within 10 feet of each colony at all times that the colonies remain active outside the hive.

(C) Each beekeeper must ensure that no wax comb or other material that might encourage robbing by other bees that 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 vermin-proof container.

(D) Each beekeeper shall maintain his or her 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.

(E) Honey bee colonies may only be kept on lots three-quarters of an acre or larger.

(F) Each beekeeper is allowed to make in person sales of honey from the beekeeper's residence as long as the following standards are met:

(1) The beekeeper must live on the apiary lot;

(2) All honey sold in person on the residential premise must be produced by the beekeeper's hives that are located on the subject residential premise;

(3) No products may be sold in person at the residence except honey and honey related products produced from hives on the premise;

(4) No outside storage or display of products or merchandise;

(5) No traffic that is greater than the residential level of the neighborhood;

(6) No separate business entrance;

(7) All signage must comply with city sign regulations;

(8) Not more than 15% of the total gross floor area of the residence or 200 square feet, whichever is less is devoted to making, storing, and selling honey;

(9) No activity or equipment may be used that creates noise, vibration, glare, fumes, odor, or electric or television interference is permitted if it is detectable by adjacent neighbors; and

(10) No nonresident employees are permitted.

(Ord. 08-100, passed 2-18-2014) Penalty, see § 95.999

§ 95.128 COLONY DENSITY.

(A) No person is permitted to keep more than the following numbers of colonies on any lot within the city, based upon the size of the apiary lot:

(1) Lots three-quarters of 1 acre or larger but smaller than 2 and 1/2 acres: 4 colonies;

(2) Two and one-half acre lot or larger but smaller than 5 acres: 6 colonies;

(3) Five acres or larger: no restriction.

(B) Colonies must be setback 25 feet from the property line of an adjacent occupied residential lot.

(Ord. 08-100, passed 2-18-2014) Penalty, see § 95.999

§ 95.129 PERMIT REQUIRED.

(A) No beekeeping may occur on properties of less than 5 acres unless the city issues a permit to the beekeeper on that specific property. The permit will be valid for 2 growing seasons.

(B) A beekeeping permit will only be issued if:

(1) The permit application documents the satisfaction of all applicable items found in §§ 95.125 through 95.130 of the City Code; and

(2) Notices have been mailed to all homes within 150 feet of the applicant's property lines.

(a) If there are objections received within 10 days of mailing the notices, then the permit application must be considered by the City Council.

(b) If there are no objections received within 10 days of mailing the notices, then the permit application will be processed by city staff. It will not be referred to the City Council for consideration.

(C) Permits are non-transferable and do not run with the land.

(D) A permit constitutes a limited license granted to the beekeeper by the city and in no way creates a vested zoning right.

(E) By signing the permit, the beekeeper acknowledges that he or she shall defend and indemnify the city against any and all claims arising out of keeping the bees on the premises.

(F) Beekeeping permit fees shall be as established by the city council.

(G) All standards of practice and colony density standards must be met in order to issue a permit.

(H) If the standards of practice are not maintained subsequent to issuance of a beekeeping permit, the permit may be revoked by the city.

(I) Beekeeping training is required for the beekeeper prior to issuance of an initial beekeeping permit by the city.

(1) Either provide a certificate of completion from a honeybee keeping course from the University of Minnesota or from Century College;

(2) Request consideration for having completed a comparable course from another institution or instructor;

(3) Request consideration for substituting equivalent experience for the honeybee keeping course; or

(4) Provide a letter from a current beekeeping instructor at the University of Minnesota, Century College, or other educational institution offering similar beekeeping courses that states that the permit applicant has gained through other means a substantially similar knowledge base to one that could be gained through appropriate beekeeping courses at the University of Minnesota or Century College.

(J) Any beekeeper wishing to make in person sales of honey from their home according to the standards of practice section must so indicate on the annual permit.

(Ord. 08-100, passed 2-18-2014) Penalty, see § 95.999

§ 95.130 APPLICATION.

Any person desiring a permit required under the provisions of this article shall make written application to the city clerk upon a form prescribed by and containing such information as required by the city. Among other things, the application shall contain the following information:

(A) A description of the real property upon which it is desired to keep the bees.

(B) A site plan of the property showing the location and size of the proposed apiary, the number of hives, setbacks from apiary to property lines and surrounding buildings (including houses and buildings on adjacent lots), and the location, type, and height of any related flyways.

(C) Statements that the applicant will at all times keep the bees in accordance with all of the conditions prescribed by the officer, or modification thereof, and that failure to obey such conditions will constitute a violation of the provisions of this article and grounds for

cancellation of the permit.

(D) Such other and further information as may be required by the officer.

(Ord. 08-100, passed 2-18-2014)

§ 95.999 PENALTY.

Any person who shall violate the provisions of §§ 95.125 through 95.130 shall be guilty of a misdemeanor and upon conviction, shall be penalized in accordance with § 10.99.

(Ord. 08-100, passed 2-18-2014)

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

ORDINANCE NO. 08-234

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE BY
AMENDING CHAPTER 95**

The City Council of the City of Lake Elmo ordains that Lake Elmo City Code, Chapter 95, shall be amended by adding Ordinance No. 08-234, as follows:

SECTION 1. Chapter 95 shall be amended as reflected on the attached redlined document.

SECTION 2. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 3. Adoption Date. This Ordinance 08-234 was adopted on this 4th day of March 2020, by a vote of - Ayes and - Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

RESOLUTION NO. 2020-026

RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-234

WHEREAS, the Lake Elmo City Council has adopted Ordinance No. 08-234, an ordinance amending the City's Code as it pertains to Animals in Chapter 95.

WHEREAS, the ordinance is lengthy; and

WHEREAS, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

WHEREAS, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo, that the City Clerk shall cause the following summary of Ordinance No. 08-234 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-234, which amends the City Code language for Animals. The following is a summary of the adopted ordinance language:

- Eliminates the requirement for licensing dogs.
- Amends the dangerous/potentially dangerous dog language to bring it into compliance with current state statutes.

The full text of Ordinance No. 08-234 is available for inspection at Lake Elmo City Offices during regular business hours.

BE IT FURTHER RESOLVED by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance at City Hall for public inspection and that a full copy of the ordinance be placed in a public location within the City.

Dated: March 4th, 2020

Mayor Mike Pearson

ATTEST:

Julie Johnson, City Clerk

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member

_____ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.