

**AGENDA  
MAPLE PLAIN PLANNING COMMISSION  
MAPLE PLAIN CITY HALL  
THURSDAY, NOVEMBER 6, 2014  
AT 7 p.m.**

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ADOPT AGENDA**
- 4. CONSENT AGENDA**
  - a. Minutes from October 21, 2014**
- 5. SITE PLAN REVIEW-1275 POPLAR AVENUE**
- 6. VARIANCE REQUEST– 5530 MAIN STREET WEST**
- 7. TEXT AMENDMENT– CHAPTERS 93, ANIMALS AND CHAPTER 153, LAND USAGE**
- 8. ADMINISTRATIVE REPORTS**
- 9. OLD BUSINESS**
- 10. NEW BUSINESS**
- 11. COMMISSION REPORTS AND OTHER BUSINESS**
- 12. VISITORS TO BE HEARD**

Note: This is a courtesy extended to persons wishing to address the Commission who are not on the agenda. A completed public comment form should be presented to the City Administrator prior to the meeting. The presentation will be limited to 3 minutes. The session will be limited to 15 minutes.
- 13. ADJOURN**

**City of Maple Plain Planning Commission  
Meeting Minutes  
October 21, 2014  
7 p.m.**

**1. CALL TO ORDER**

**Chair Bliss called the meeting to order at 7 p.m.**

Present: Chair Michele Bliss and Commissioners John Fay, Stephen Shurson, and Mardelle DeCamp. Also in attendance were Councilmember Dave Eisinger, City Planner, Mark Kaltsas and City Administrator, Tessia Melvin.

Excused was Commissioner Barb Rose.

**2. PLEDGE OF ALLEGIANCE**

**3. ADOPT AGENDA**

**Commissioner DeCamp moved to adopt the Agenda; Commissioner Shurson seconded. Motion passed 4-0.**

**4. CONSENT AGENDA**

**A. Minutes from October 2, 2014**

**Commissioner Shurson moved to accept the October 21 minutes with minor changes; Commissioner DeCamp seconded. Motion passed 4-0.**

**5. CONTINUATION OF DISCUSSION TO CONSIDER SITE PLAN REVIEW TO ALLOW A NEW LIQUOR BUSINESS TO OCCUPY THE EXISTING BUILDING AT 5030 HIGHWAY 12**

The applicants (Sean Schumacher and his parents) and the architect Paul Jaunich were in attendance. Mark Kaltsas, City Planner, reported that the applicants received a letter with recommendations from the October 2 Planning Commission Meeting. The letter stated the following concerns:

- a. The Planning Commission would like to see proposed colors of the building and verify what areas would be painted.
- b. The proposed columns appear to provide some architectural relief to the south building elevation. The Planning Commission would like to see the base of the columns expand and be constructed out of masonry material.
- c. The Planning Commission would like to see a revised landscape plan, which provides additional landscaping along the Highway 12 frontage. The landscaping proposed along the north property line should provide a higher level of opacity.

- d. The existing site plan does not have any existing parking lot lighting.
- e. The Fire Department has requested that the applicants identify the location of the fire hydrant location.
- f. The Fire Department has requested that a portion of the existing gravel located on the east and north sides to remain in place to provide support for trucks driving around the building.
- g. The Fire Department noted that there were questions regarding the sprinkling of the building.
- h. The trash enclosure detail will need to be provided which identifies the structure and proposed building materials.
- i. The Commission did discuss the intended signage for the building and wanted it noted that any signage in the downtown mixed use district would be required to meet the design guidelines.

Kaltsas reported that with the additional landscape plan that staff would like to see additional plants included. In addition, Kaltsas suggested that the lighting plan now includes 2 light poles and lights on the building. The proposed poles have an acorn fixture and range from 15-20 feet and the fixture is similar in design to those illustrated in the Design Guidelines.

Commissioner Bliss asked if there were lights being installed on the east side of the building. Kaltsas responded that there are no doors on the east side of the building. He added, that while the plan does not include lighting; however, can lighting could be added under the overhang.

Commissioner Shurson expressed similar concerns about lighting and asked if can lighting would be added to the front of the building. Shurson also added that he would like to see a light fixture that provides a more historical look. Kaltsas responded that staff can work with the applicants on finding alternative light fixtures.

Commissioner Fay asked about the specific colors of the building and the columns. Paul Jaunich, architect, provide sampling of colors and stone for the Planning Commission. Jaunich also stated that the columns are designed for architectural relief and the size can be adjusted.

Commissioner Fay asked about the rear elevation. He suggested the drawing makes some of the columns vary in size. Jaunich responded that the columns will be the same size.

Chair Bliss asked if the sign package is complete. Kaltsas responded that the sign package is not yet complete, but it would require a Council approval.

Commissioner Fay asked for further illustration on where the windows would be placed. Jaunich provided further illustration and explanation. He added that the only windows not fully determined were on the east side of the building, as the applicants are waiting to see what tenant goes there to match the windows to their needs.

Commissioners Fay, Shurson and Bliss asked that the Landscaping Plan provide more details. Chair Bliss asked that it identify where the class-five gravel and the grass are. Commissioner Shurson added that he would like to see a detailed plan that included three varieties of trees. Kaltsas responded that staff would require a modified landscaping plan when they receive the sign plan.

Commissioner Shurson asked for the gravel to be removed on the east side of the building, to improve the aesthetics. Councilmember Eisinger added that the gravel needs to be there for the emergency vehicles.

Chair Bliss concurred that the plan seems reasonable, but needs to address the following items:

1. Improved Landscaping Plan
2. Improved Complete Lighting Plan
3. Complete Signage Plan
4. Fire Sprinkling Issue must be resolved by Fire Department and applicants

**Commissioner Fay moved to accept the site plan review with the four conditions 1). Landscaping Plan, 2). Complete Lighting Plan, 3). Complete Signage Plan and 4). Fire Sprinkling Issue must be resolved by Fire Department and applicants; seconded by Commissioner DeCamp. Motion passed 4-0.**

**6a. CONTINUATION TO DISCUSS THE TITTLE IX, CHAPTER 92 ANIMALS, CONSIDERATION TO AMEND THE ORDINANCE TO FURTHER DEFINE THE NUMBER AND TYPE OF ANIMALS PERMITTED.**

Commissioner DeCamp asked to discuss the fence text amendment changes first.

**6B. TITLE XV, LAND USAGE CHAPTER 153.063: GENERAL FENCING, SCREENING, LANDSCAPING AND STORAGE, CONSIDERTION TO AMEND THE ORDINANCE TO PROVIDE MORE DETAILS PERTAINING TO FENCING REQUIREMENTS AND FENCING PERMITS.**

Kaltsas reported that the changes by staff were not meant for consideration, but to create ideas for discussion. Chair Bliss asked if the code needed to add 6 feet

or more for commercial use fences. Kaltsas suggested it be added, but the Commission can remove it.

Commissioner Fay asked who is the code enforcement for this. Kaltsas responded that it is written for the City Administrator, and currently there are no designated staff to code enforcement. Fay also asked if there would be a fee for the fencing permit. Kaltsas suggested that the Council would set the fee when they approve the 2015 Fee Schedule. Fay added that the intent of the code is to monitor the fences being installed as sometimes fences make bad neighbors.

Chair Bliss commented about the record keeping. She asked that if a written agreement were required for owners that it be placed in both property files. Bliss also questioned the proposed text around utilities and easements. Kaltsas responded that the text was added to distinguish between overhead and under utilities.

The Planning Commission provided general feedback to staff and would like to see the wording more concise.

Commissioner Fay asked how the fences relate to retractable pool covers. He asked staff to investigate to determine if a pool owner has a retractable pool cover, do they need a fence.

The Commission discussed concerns about maintaining a fence in regards to property lines, trespassing or creating an area of unusable land between fences. Kaltsas suggested that if there is no written agreement between neighbors, then the fence be placed back from the property line.

Commissioner Fay concluded that he would like to see staff do the following for further discussion at an upcoming Planning Commission meeting.

1. Clean up No. 9
2. Check on the retractable pool covers
3. Check and clarify height for No. 1
4. Review and change language in No. 2

**6a. CONTINUATION TO DISCUSS THE TITTLE IX, CHAPTER 92 ANIMALS, CONSIDERATION TO AMEND THE ORDINANCE TO FURTHER DEFINE THE NUMBER AND TYPE OF ANIMALS PERMITTED.**

Chair Bliss began this topic by stating that this issue had been on the Planning Commission goals. Kaltsas responded that this code needs to be re-written to clearly define the number of animals allowed by a property owner and to specifically define what animals are prohibited in Maple Plain.

Commissioner DeCamp stated that under State statute exotic animals are prohibited and asked that the City's Code reflect that wording. Kaltsas added that reptiles are not included, but noted the edit.

Chair Bliss asked about the role of police and what they can do to help monitor animals in the City. Kaltsas responded that state law does not allow police to enter a home due to animals, unless a specific crime has been committed or allegedly committed.

Chair Bliss asked if the code regarding animals is only for single detached family homes. Kaltsas responded yes.

Chair Bliss stated that she would like to see the code eliminate livestock in the City as it is inhumane to animals. However, she does support chickens being allowed, as long as limits are set regarding the number of chickens and their housing.

Commissioner DeCamp added that currently in the proposed draft, bees are listed under farm animals. She stated that they are not farm animals and would like to see a separate section that pertains specifically to bees.

Commissioner Fay stated that the code could be much more simplified by eliminating chickens in the City. Commissioner Shurson disagreed, as his neighbor has a 1/3 acre lot and has chickens. He added that the neighbor takes good care of the animals and buildings. In addition, Shurson stated, that as a neighbor living next to chickens, it is not a problem if handled properly. Commissioner DeCamp added that she supports chickens being allowed, but would like to see the proposed changes be much shorter. In addition, she asked that staff and the Planning Commission talk to residents who have chickens to see if the text amendments make sense and meet the needs of the owners, while not causing a nuisance to neighbors.

Chair Bliss asked what happens if a resident violates that City Code regarding animals. Kaltsas responded that they are issued a cite violation letter.

Commissioner Fay concluded the conversation around chickens, that the proposed language is too vague and should provide more direction on structures needed for chickens.

## **8. ADMINISTRATIVE REPORTS**

Melvin reported that the RoseCreek Townhome Development received the needed finances and the intent is to begin some excavating this year and begin building in 2015.

Melvin also reported that the Dog Grooming business that recently had a site plan approved by the Planning Commission, lost the intended building to be moved. The building was demolished. The applicant is now working with the City Planner to build something new with the same site plan.

Commissioner Fay added his concern to the general maintenance of some building throughout Maple Plain.

#### **9. OLD BUSINESS**

The only item that was to be discussed was scheduling a workshop. This item was not discussed, but due to workload will get rescheduled to December.

#### **10. NEW BUSINESS**

No new business was discussed.

#### **11. COMMISSION REPORTS AND OTHER BUSINESS**

#### **12. VISITORS TO BE HEARD**

*Note: this is a courtesy extended to persons wishing to address the Commission who are not on the agenda. A completed public comment form should be presented to the City Administrator prior to the meeting. The presentation will be limited to 3 minutes. The session will be limited to 15 minutes.*

There were no visitors to be heard.

#### **12. ADJOURNMENT**

**Commissioner Shurson moved to adjourn the meeting at 9:59 p.m.;**  
**Commissioner DeCamp seconded. Motion passed 4-0.**

## City of Maple Plain

### Request by Jeffrey Markus for Site Plan Review to Allow Modifications to the Existing Building and Associated Site Improvements on the Property Located at 1275 Poplar Avenue

---

*To:* Planning Commission  
*From:* Mark Kaltsas, City Planner  
*Meeting Date:* November 6, 2014  
*Applicant:* Jeffrey Markus  
*Owner:* Jeffrey Markus  
*Location:* 1275 Poplar Avenue

**Request:**

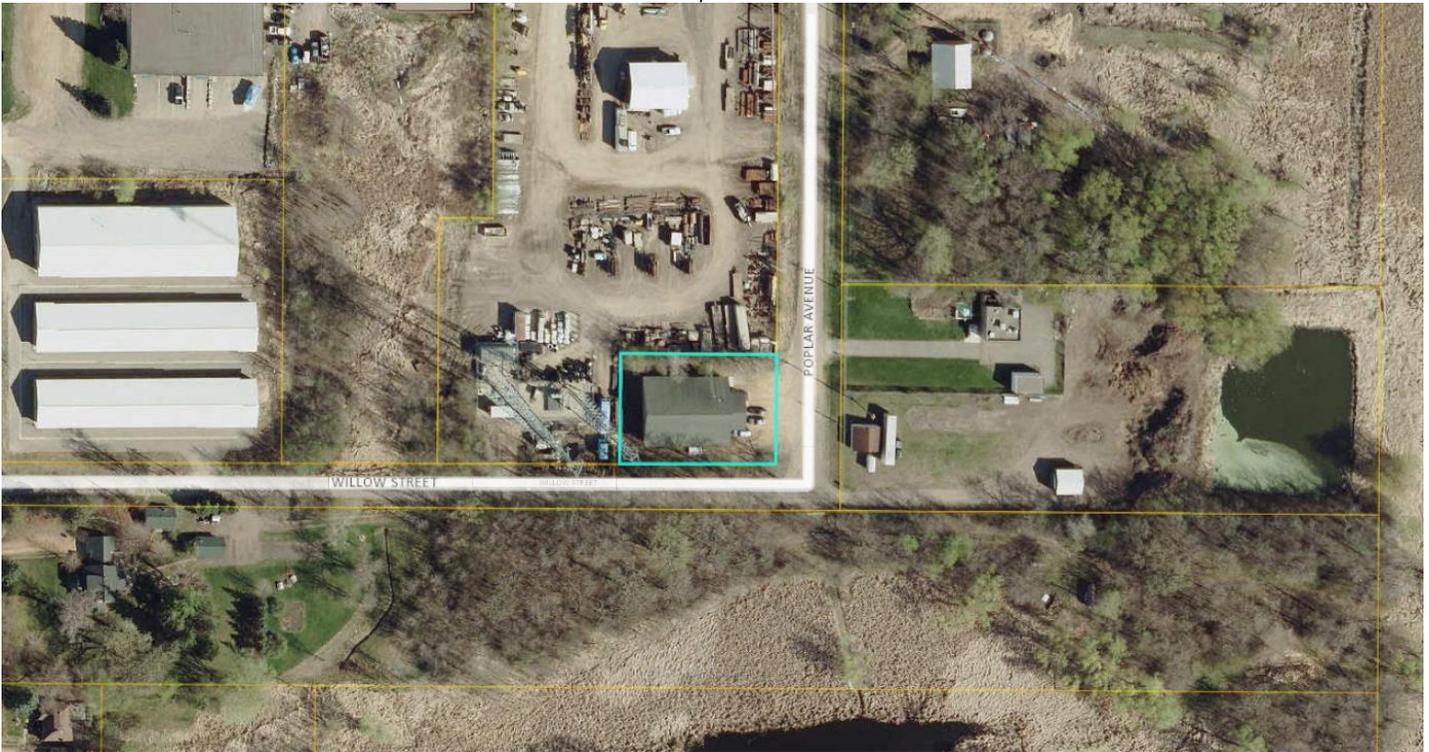
Jeffrey Markus (Applicant) requests that the City consider the following action for the property located at 1275 Poplar Avenue (PID No. 25-118-24-13-0011):

- a. Site Plan Review to allow modifications to the existing commercial building and associated site improvements on the subject property.

**Property/Site Information:**

The property is located on the northwest corner of the intersection of Poplar Avenue and Willow Street. The site has an existing building that is accessed from Poplar Avenue. The subject property is located within the I - Industrial Zoning District. The property has the following characteristics:

Property Information: 1275 Poplar Avenue  
Zoning: *I – Industrial*  
Comprehensive Plan: *Industrial*  
Acreage: *.34 Acres (14,790 SF)*



**Discussion:**

The applicant is seeking site plan review to allow modifications to the existing building and use of the site for a landscaping business. The existing building is oriented such that the entrance faces east and has a driveway access off of Poplar Avenue. The existing building is approximately 4,650 SF and contains office area as well as storage/warehouse space. The applicant would like to convert the western portion of the building into a garage/storage/service area for the landscape business. In order to utilize the western portion of the building, the applicant would like to install an overhead door that would provide access to the western portion of the building via a new driveway access off of Willow Street. In addition to the building modifications, the applicant is requesting use of the site for outdoor storage associated with the principal use of the building. The outdoor storage would be required to be located to the west and north sides of the building. All commercial and industrial development is required to go through the site plan review process. Site plan review requires the review of the Planning Commission and City Council. The Planning Commission holds a public hearing as a part of the site plan review process. The City shall consider the proposed site plan and subsequent effects relating to evaluation criteria established in the City's ordinance.

**153.045 INTENT AND PROCEDURE**

*(l) Evaluation criteria. The Planning Commission and City Council shall evaluate the effects of the proposed site plan. This review shall be based upon, but not be limited to, compliance with the City Comprehensive Plan, provisions of this chapter (Design Guidelines and City Engineering Requirements).*

The applicant has purchased this property for the purpose of relocating their existing business. The City allows landscaping contractor shops in the Industrial Zoning District. Outdoor storage is also permitted in the Industrial Zoning District. The applicant is requesting approval to add the new driveway access to Willow Street and use a portion of the site for outdoor storage. The City has requirements pertaining to both requests. The applicant is also proposing to leave the existing driveway and parking area located on Poplar Avenue "as is". This parking area is currently a gravel surface with several undefined parking spaces. The City requires existing buildings to be brought into compliance with current site design standards if they are altered to 67% of their value. The applicant is not proposing to make alterations which would exceed 67% of the building value (current value - \$261,000 \* 67% = \$175,000). For this reason, the existing parking area would be permitted to remain in its current condition. It should be noted that the City would require approximately 14 parking spaces for this building if constructed today. There are currently no defined parking spaces on this property. The site could likely accommodate approximately 8-10 spaces. Based on the type of building and its proposed use, the City would require the following number of parking spaces:

Parking Summary:

Office Space – 1 space per 250 sf (2070 sf/ 250) = 8 spaces required

Warehouse Space – 1 space per 400 sf (2580 sf/400) = 6 spaces required

Total Number of Parking Spaces Required = 14

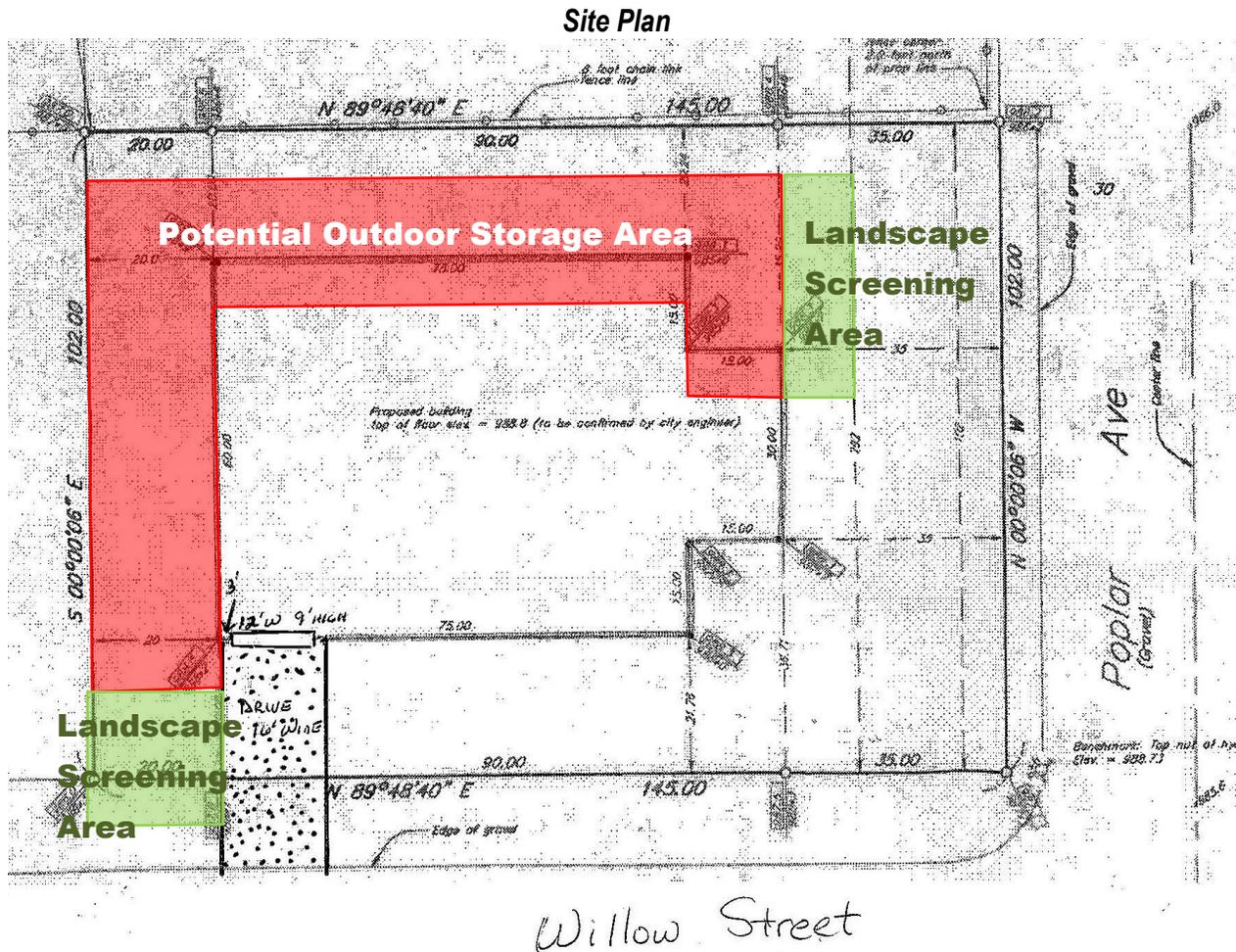
Total Number of Parking Spaces Provided = approximately 8-10 spaces

The applicant is proposing to construct a new driveway off of Willow Street that would be gravel. The City requires all new driveways and parking areas to be paved. The applicant is proposing to utilize a portion of the site for outdoor storage. The City has requirements pertaining to outdoor storage areas. The following provisions apply to outdoor storage areas:

- (3) Outdoor storage (not open sales lots) provided that:
- (a) The storage area is landscaped and screened from view of neighboring uses, residential zoning districts, and public rights-of-way per § 153.063 (C) and (D) of the City Code;
  - (b) The storage area is fenced in a manner approved by the City;
  - (c) The storage area shall be paved or surfaced (concrete or blacktop) to control dust and erosion, unless determined by the city that a vegetative or alternative low impact development surface is more appropriate in order to reduce hard surface but will maintain water runoff and quality;
  - (d) All lighting shall be in compliance with City's light standards identified in § 150.01;
  - (e) The storage area does not take up parking space or loading space as required for conformity to this Ordinance and not in front yards;
  - (f) The storage area shall not abut property zoned for residential use, including land in another city. "Abutting" includes across the street. "Abutting" does not include properties that touch only corner to corner;

- (g) The ratio of storage area to building footprint shall not exceed 3:1; and
- (h) Storage shall not include material considered hazardous under Federal or State Environmental Law.

In order to comply with the requirements for outdoor storage the applicant will need to fence and screen the proposed outdoor storage area. On the south side of the property, no outdoor storage is permitted because it is located across from a residential zoning district in an adjacent City. The applicant would be permitted to utilize the west and north sides of the property for outdoor storage. The applicant is requesting that the City allow the outdoor storage areas to be gravel rather than paved to reduce impervious surface. The City requires outdoor storage areas to be paved to control dust and erosion, unless determined by the City that a vegetative or low impact surface is more appropriate to reduce hard surface. The City will need to determine if a non-paved surface will be permitted in this location. The City will require the applicant to submit a landscape plan which indicates the actual type and size of the proposed landscaping. In addition, the applicant will need to provide the City with the actual fencing plan for the outdoor storage area. This plan shall also indicate the proposed location for access into the outdoor storage area.



Storm Water Management, Grading and Drainage:

This project does not trigger the Watershed review of stormwater management. The City's engineer will review the final plans prepared by the applicant. Any conditions required as a result of the City's review will be incorporated into the conditions of approval should the site plan be approved.

The proposed site plan generally meets the requirements established by the City.

Additional Considerations:

This property is located in an area that is zoned I- Industrial. The area is bordered on two sides by heavy commercial users. The property is bordered on the south side by residential property in the City of Independence. The portion of the property directly across from this site does not contain any structures and is generally wooded with some wetlands. Adding the overhead door and driveway access does not appear to have an impact on the surrounding properties. The south side of the property is currently screened by an existing wooded area. The applicant would need to remove some existing vegetation along the south side of the property to provide the proposed access. The remaining vegetation would provide some screening of any outdoor storage proposed on the west side of the property. Additional landscaping on the south side may not need to be overly dense depending on the extent of the existing plant removal. Utilizing the north and west sides of the property for outdoor storage is consistent with the allowed use of the property. There is adequate space to provide a landscape buffer for the proposed outdoor storage area.

***Neighbor Comments:***

The City has received questions relating to the proposal from the adjacent property owner.

***Recommendation:***

Staff is seeking a recommendation from the Planning Commission relating to the requested Site Plan Review. Should the Planning Commission recommend approval of the requested action to the City Council, the following findings and conditions should be included:

1. The proposed site plan review meets all applicable conditions, criteria and restrictions stated in the City of Maple Plain Zoning Ordinance.
2. Prior to the City Council's review of the site plan, the applicant shall complete the following items:
  - a. The Applicant shall address all engineering comments that may arise as a result of their final review of the site plan.
  - b. The Applicant shall provide the City with a revised site plan which indicates the location of the proposed fence and access into the outdoor storage area.

- c. The Applicant shall provide the City with a revised landscape plan detailing the proposed landscape to screen the outdoor storage area.
3. The Applicant shall pay for all costs associated with the City's review of the site plan review.

**Attachments:**

1. Property Pictures
2. Survey
3. Building Plan

Aerial Photograph (looking west)



This diagram shows the proposed location of a 12' X 9' overhead garage door on the south side of the building, with a 16-18' wide driveway opening to Willow Street.

The distance between the building and the existing fence is approximately 35', with an additional 10' to the roadway.

The driveway would be either class 5 rock, consistent with what is on the rest of the property now, or it could be asphalt if that is what the City [refers, assuming the asphalt does not push us over hard cover limits.



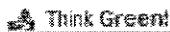
Interactive  
Maps

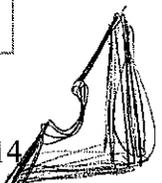
Property  
Map

WILLOW STREET

POPLAR AVENUE

10' GARAGE DOOR

<b>Parcel ID:</b> 25-118-24-13-0011 <b>Owner Name:</b> Maple Plain Automation Llc <b>Parcel Address:</b> 1275 Poplar Ave Maple Plain, MN 55359 <b>Property Type:</b> Industrial-Preferred <b>Home-stead:</b> Non-Homestead <b>Parcel Area:</b> 0.34 acres 14,790 sq ft	<b>A-T-B:</b> Abstract <b>Market Total:</b> \$261,000 <b>Tax Total:</b> \$9,925.10 (Payable: 2014) <b>Sale Price:</b> \$390,000 <b>Sale Date:</b> 01/2006 <b>Sale Code:</b> Warranty Deed	Map Scale: 1" ≈ 50 ft. Print Date: 9/9/2014  This map is a compilation of data from various sources and is furnished "AS IS" with no representation or warranty expressed or implied, including fitness of any particular purpose, merchantability, or the accuracy and completeness of the information shown. COPYRIGHT © HENNEPIN COUNTY 2014 
---	---	---



As you can see, both Willow Street and Poplar Avenue are basically service roads for the few properties that border them. There is no through-traffic.

There are currently three properties with access to Willow Street and five properties that access Poplar.

The driveway we are requesting on Willow would be only the fourth driveway on that one-block street.



# Interactive Maps

# Property Map



<p><b>Parcel ID:</b> 25-118-24-13-0011</p> <p><b>Owner Name:</b> Maple Plain Automation Llc</p> <p><b>Parcel Address:</b> 1275 Poplar Ave Maple Plain, MN 55359</p> <p><b>Property Type:</b> Industrial-Preferred</p> <p><b>Homestead:</b> Non-Homestead</p> <p><b>Parcel Area:</b> 0.34 acres 14,790 sq ft</p>	<p><b>A-T-B:</b> Abstract</p> <p><b>Market Total:</b> \$261,000</p> <p><b>Tax Total:</b> \$9,925.10 (Payable: 2014)</p> <p><b>Sale Price:</b> \$390,000</p> <p><b>Sale Date:</b> 01/2006</p> <p><b>Sale Code:</b> Warranty Deed</p>	<p><b>Map Scale:</b> 1" ≈ 400 ft.</p> <p><b>Print Date:</b> 9/13/2014</p> <div style="text-align: center;">  </div> <p style="font-size: small;">This map is a compilation of data from various sources and is furnished "AS IS" with no representation or warranty expressed or implied, including fitness of any particular purpose, merchantability, or the accuracy and completeness of the information shown.</p> <p style="font-size: x-small;">COPYRIGHT © HENNEPIN COUNTY 2014</p> <p style="text-align: center; font-weight: bold;">Think Green!</p>
---	---	---

This diagram shows the City block on which the subject property is located, with the driveways of the five plats located there. Three of the five plats have multiple driveways and access from more than one street.

-  - Subject property
-  - Current driveways

 **Interactive Maps** **Property Map**

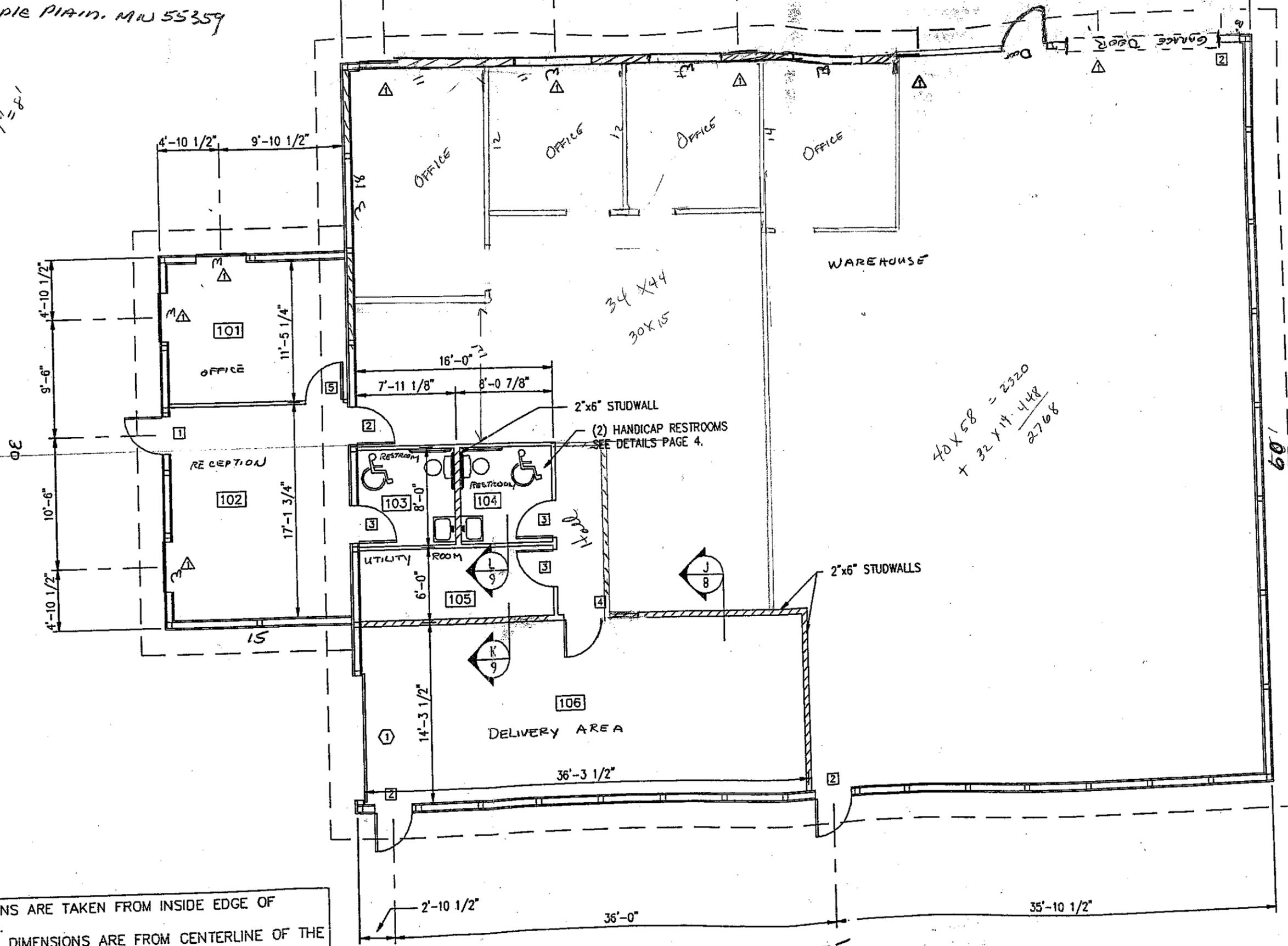


<b>Parcel ID:</b> 25-118-24-13-0005	<b>A-T-B:</b> Abstract	<b>Map Scale:</b> 1" ≈ 200 ft. <b>Print Date:</b> 9/13/2014
<b>Owner Name:</b> Kevin Thomas Jerde	<b>Market Total:</b> \$225,000	  This map is a compilation of data from various sources and is furnished "AS IS" with no representation or warranty expressed or implied, including fitness of any particular purpose, merchantability, or the accuracy and completeness of the information shown.  COPYRIGHT © HENNEPIN COUNTY 2014  
<b>Parcel Address:</b> 1262 Co Rd No 19 N Independence, MN 55359	<b>Tax Total:</b> \$2,899.48 (Payable: 2014)	
<b>Property Type:</b> Residential	<b>Sale Price:</b> \$120,000	
<b>Homestead:</b> Homestead	<b>Sale Date:</b> 04/1991	
<b>Parcel Area:</b> 4.86 acres 211,714 sq ft	<b>Sale Code:</b> Warranty Deed	

1275 POPLAR AVE  
 MAPLE PLAIN, MN 55359

ROOM FINISH SCHEDULE							
RM #	DESCRIPTION	SIZE (NOMINAL)	FLOOR FINISH	BASE	WALL FINISH	CEILING FINISH	HEIGHT
101	OFFICE	15'x11'-6"	TO BE DETERMINED	T.B.D.	GYP SUM	GYP SUM	10'-0"
102	RECEPTION	17'x15'	TO BE DETERMINED	T.B.D.	GYP SUM	GYP SUM	10'-0"
103	RESTROOM	8'x8'	TO BE DETERMINED	T.B.D.	M.R. GYP SUM	M.R. GYP SUM	10'-0"
104	RESTROOM	8'x8'	TO BE DETERMINED	T.B.D.	M.R. GYP SUM	M.R. GYP SUM	10'-0"
105	UTILITY ROOM	6'x16'	TO BE DETERMINED	T.B.D.	OSB	STEEL	10'-0"
106	DELIVERY AREA	14'-6"x36'-6"	TO BE DETERMINED	T.B.D.	STEEL	STEEL	10'-0"
107	WAREHOUSE	60'x75'	TO BE DETERMINED	T.B.D.	GYP SUM	GYP SUM	10'-0"

1"=8'

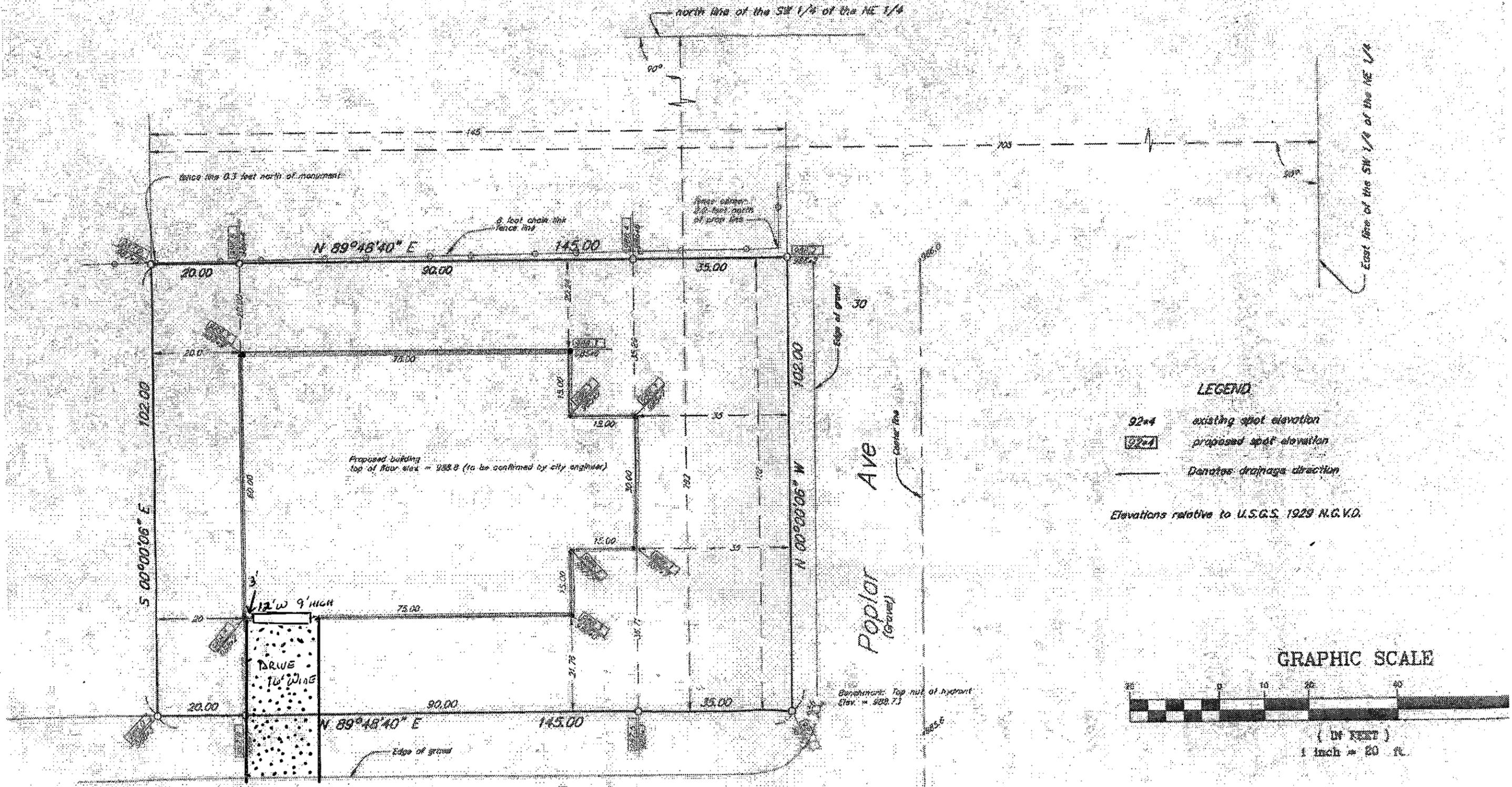


40x58 = 2320  
 + 32x14 = 448  
 -----  
 2768

NOTES: 1.) INTERIOR DIMENSIONS ARE TAKEN FROM INSIDE EDGE OF INTERIOR STRIPPING.  
 2.) INTERIOR STUDWALL DIMENSIONS ARE FROM CENTERLINE OF THE STUDWALL.  
 3.) EXTERIOR WINDOW & DOOR LOCATIONS ARE DIMENSIONED FROM THE EXTERIOR OF THE BUILDING COLUMN TO THE CENTERLINE OF THE WINDOW OR DOOR UNIT.  
 4.) STUDWALLS ARE TO BE 2"x4"S @ 16" O.C. UNLESS SPECIFIED OTHERWISE.

# INTERIOR LAYOUT

# Certificate of Survey



Willow Street



City of Maple Plain  
 1620 Maple Avenue  
 P.O. Box 97  
 Maple Plain, MN 55359  
 Office: (763) 479-0515  
 Fax: (763) 479-0519

# ZONING & LAND USE APPLICATION

## APPLICANT INFORMATION

Applicant Name <u>Jeffrey A. Markus</u>	Company, if applicable <u>Drake Landscaping</u>
Address <u>4310 Windwood Way</u>	Phone Number <u>612-325-5796</u>
City, State, Zip <u>Minnetonka MN 55345</u>	Email <u>drake_landscaping_services@gmail.com</u>
Are you the owner of the property? <input type="checkbox"/> Yes. <input checked="" type="checkbox"/> No. (If not, property owner information is required.)	

Owner Name <u>William Whittenburg</u>	Company, if applicable
Address	Phone Number <u>612-819-4929</u>
City, State, Zip	Email <u>whittenburg@tucker-ventures.com</u>

Applicant Signature <u>Jeff Markus</u> 10/10/14	Owner Signature <u>W Whittenburg</u>
Date	Date <u>10/13/14</u>

## PROJECT INFORMATION

Site Address or Property Identification Number 1275 Po Plain Rd, Maple Plain MN 55345

Type of Request (Check all that apply)	Fee	Escrow		Fee	Escrow
<input checked="" type="checkbox"/> General Application			<input type="checkbox"/> Conditional Use Permit		
<input checked="" type="checkbox"/> Site Plan Review	\$500	\$3,000	<input type="checkbox"/> Home Occupation	\$200	\$1,000
<input type="checkbox"/> Rezoning	\$500	\$2,000	<input type="checkbox"/> Commercial / Industrial	\$500	\$2,000
<input type="checkbox"/> Preliminary Plat	\$500	\$3,000	<input type="checkbox"/> Cell Towers	\$500	\$2,000
<input type="checkbox"/> Final Plat	\$500	\$1,500	<input type="checkbox"/> Amendment	\$200	\$2,000
<input type="checkbox"/> Comprehensive Plan Amendment	\$500	\$5,000	<input type="checkbox"/> Others	\$200	\$2,000
<input type="checkbox"/> Simple / Minor Subdivision			<input type="checkbox"/> Planned Unit Development		
<input type="checkbox"/> Lot Split	\$350	\$1,000	<input type="checkbox"/> Concept Plan	\$500	
<input type="checkbox"/> Lot Combination	\$350	\$1,000	<input type="checkbox"/> General Plan	\$1,000	\$5,000
<input type="checkbox"/> Lot Line Rearrangement	\$350	\$1,000	<input type="checkbox"/> Final Plan	\$500	
<input type="checkbox"/> Subdivision			<input type="checkbox"/> Variance		
<input type="checkbox"/> 1-5 Lots	\$800	\$3,000	<input type="checkbox"/> Residential	\$100	\$750
<input type="checkbox"/> More than 5 Lots	\$500	\$3,000	<input type="checkbox"/> Commercial / Industrial	\$250	\$1,500
<input type="checkbox"/> Vacate Public Rights of Way			<input type="checkbox"/> Special Uses		
<input type="checkbox"/> Vacation of Property	\$400		<input type="checkbox"/> Interim Use Permit	\$350	\$3,000

### Brief Project Narrative / Overview (Use additional paper if necessary. Please be thorough.)

-Applicant proposes using the property as follows:

- Leaving the front 40% of the building's office space as-is.
- Installing a fire wall and using the back 60% of the building for storage and service of his landscaping vehicles and equipment.
- Installing a 12' X 9' overhead garage door on the south side of the building, 3' from the back wall.
- Creating a 16-18' wide driveway from that door to Willow Street (either gravel to reduce hardcover, or asphalt if preferred by City.)
- Periodic parking/storing of trailers (3), trucks (2) and accessory equipment (plow blade, bucket, trencher, log splitter, etc) on west or south sides of building when not in use. Areas to be fenced, screened and landscaped per City codes. Surface to remain gravel to reduce hardcover and allow rain runoff.



## NOTICE TO APPLICANT

The Maple Plain City Code guides and enables development activities within the City by ensuring proper and well-coordinated projects. The land use application is the mechanism that allows the City to examine proposed land uses to ensure compatibility with the City Codes, design and development standards, and the surrounding land uses and natural environments. The review is intended to ensure positive growth for the community.

All applications are reviewed individually and are evaluated based on their own merit. Each land use request has an associated checklist of required items. Applicants are encouraged to participate in the City's pre-application workshop prior to submitting a formal land use application. The workshop is an opportunity to informally discuss the conceptual idea of the proposed project in an effort to reduce delays. Participation in the pre-application process does not provide approval, or guarantee of approval, of the project. The City shall not accept plans, drawings or other information related to the project except upon submittal of a formal application. The City reserves the right to reject an incomplete application.

## APPLICATION FEE STATEMENT

All expenses pertaining to project reviews are the responsibility of the applicant. Planning review deposits and other applicable fees must be paid when submitting land use applications and accompanying materials. All fees, which are set annually by City ordinance, help cover costs incurred by the City to review the application. The City of Maple Plain often uses consulting firms to assist in the review of projects. City staff and consultant review costs are billed hourly; all other costs are billed at cost. Applicants shall be billed directly for incurred expenses upon receipt by the City. The City reserves the right to request an applicant to submit a development escrow in advance of the formal project review.

Please refer to the City's Fee Schedule for information on planning review fees and deposits, and other applicable costs.

By signing this form, the applicant recognizes his/her responsibility for any and all fees associated with the land use application from project review through to construction and release of financial guarantees for an approved project. All fees associated with a project that is denied or withdrawn remain the sole responsibility of the applicant and shall be paid upon receipt of invoice.

**I hereby understand the fee statement and responsibilities associated with this land use application:**

<b>Applicant Signature</b>	<b>Owner Signature</b>
Date <span style="margin-left: 100px;">10/10/14</span>	Date

## REVIEW REQUIREMENTS

Minnesota State Statute 15.99 requires local governments to review an application within 15 business days of its submission to determine if an application is complete and/or if additional information is required to complete the review. Once complete, a formal 60-day review period begins. The City has the ability to extend the review period an additional 60 days, if necessary, due to insufficient information or scheduling difficulties.

Please review the corresponding checklist that goes with the request as all materials are required unless waived by the City. All applications must be received by the deadline(s) attached hereto. Failure to submit by the date shown may result in a delay of the review by the Planning Commission and City Council.

## DEADLINES

Application Due Date	Planning Commission Review	City Council Review
December 2, 2013	January 2, 2014	January 20, 2014
January 6, 2014	February 6, 2014	February 24, 2014
February 3, 2014	March 6, 2014	March 24, 2014
March 3, 2014	April 3, 2014	April 21, 2014
April 7, 2014	May 1, 2014	May 19, 2014
May 5, 2014	June 5, 2014	June 23, 2014
June 2, 2014	July 3, 2014	July 21, 2014
July 7, 2014	August 7, 2014	August 25, 2014
August 4, 2014	September 4, 2014	September 22, 2014
September 1, 2014	October 2, 2014	October 20, 2014
October 6, 2014	November 6, 2014	November 24, 2014
November 3, 2014	December 4, 2014	December 22, 2014
December 1, 2014	January 8, 2015	January 26, 2015



**OFFICE USE ONLY**

<b>Application Type</b>	<b>Review Deadline</b> <input type="checkbox"/> 15 Business Days: _____ <input type="checkbox"/> 60 Day Review: _____ <input type="checkbox"/> 120 Day Review: _____
<b>Fees Collected</b> <input type="checkbox"/> Application Fee Collected: \$ _____ <input type="checkbox"/> Escrow: \$ _____ <input type="checkbox"/> Total Receipt: \$ _____	<b>Received By</b> <input type="checkbox"/> Name: _____ <input type="checkbox"/> Signature: _____ <input type="checkbox"/> Date: _____
<b>Receipt</b> <input type="checkbox"/> Receipt Number(s) _____	<b>Application Complete</b> Are there any missing materials? <input type="checkbox"/> Yes. <input type="checkbox"/> No.  If yes, was the application accepted? <input type="checkbox"/> Yes. <input type="checkbox"/> No.  Please list what was missing according to the



City of Maple Plain

Request by Dave Meeks for a Variance to Allow Construction of a New Detached Garage in the Same Location as the Existing Garage on the Property Located at 5530 Main Street W.

---

To: Planning Commission  
From: Mark Kaltsas, City Planner  
Meeting Date: November 6, 2014  
Applicant: Tom Champion Construction, LLC  
Owner: Dave Meeks  
Location: 5530 Main Street W.

**Request:**

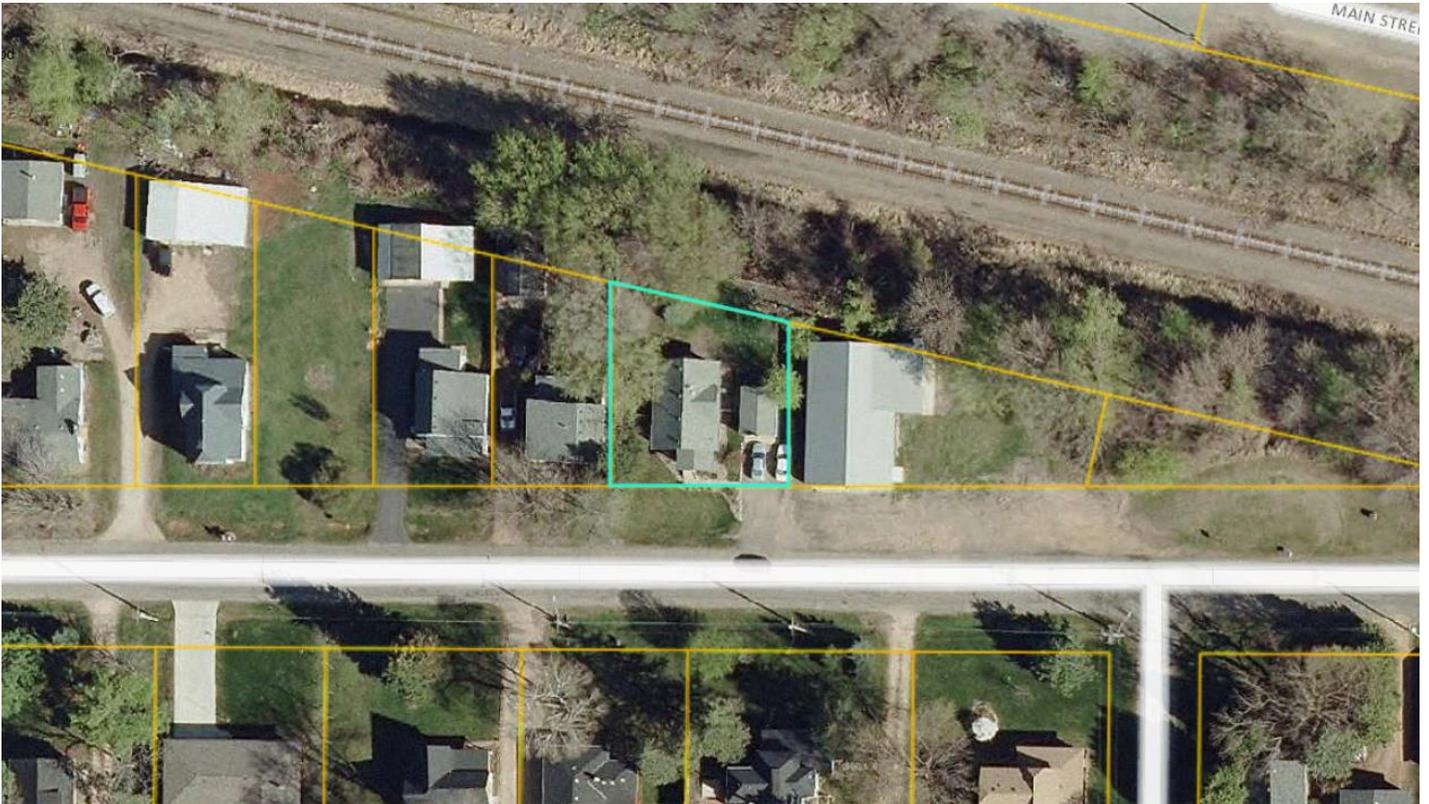
Dave Meeks (Owner) requests that the City consider the following action for the property located at 5530 Main Street W. (PID No. 24-118-24-33-0020):

- a. A variance to allow the construction of a detached accessory structure with the following provisions:
  - 1. An accessory structure which is not located wholly to the rear of the house;
  - 2. An accessory structure that does not have 20 feet of separation from the main house; and
  - 3. An accessory structure which is located closer than 35 feet from the street right of way.

**Property/Site Information:**

The property is located along the north side of Main Street W. just west of Pioneer Avenue. The property backs up to the railroad tracks on the north side. The property has an existing home and detached garage. The property has the following characteristics:

Property Information: **5530 Main Street W.**  
Zoning: *R-2 Single and 2-Family Residential District*  
Comprehensive Plan: *Residential*  
Acreage: *.13 Acres (5,791 SF)*



***Discussion:***

The applicant is seeking variance from the City's zoning ordinance to allow the replacement of the existing detached garage located on the property. There is currently an existing single car garage located on the property. The applicant would like to raze the existing garage and replace it with a new garage in exactly the same location. During the City's review of the building permit application, it was noted that the existing garage does not meet the current setbacks for an accessory structure. The City noted that if the existing structure was razed, a variance would be required to replace the structure in its current location. It should be noted that the existing home also does not meet the required setbacks from the street right of way. Both structures would be considered legal non-conforming.

**Setbacks Required:**

**Front Yard Setback:** 7.25 (average of adjacent structures – 11 feet and 3 feet)

**Front Yard Setback (Accessory Structure):** 35 feet

**Side Yard Setback Principle Structure:** 7.5 feet (10% of lot width on lots between 60 and 80 feet)

**Side Yard Setback Accessory Structure:** 5 feet

**Rear Yard Setback:** 25 feet

**Rear Yard Setback (Accessory Structure):** 5 feet

**Accessory Structure Separation from Principle Structure:** 20 feet

**Driveway Setback:** 5 feet

Setbacks Proposed:

- Front Yard Setback Accessory Structure:** 23.9 feet
- Side Yard Setback Accessory Structure:** 5 feet
- Rear Yard Setback Accessory Structure:** 32 feet
- Accessory Structure Separation from Principle Structure:** 10.5 feet
- Driveway Setback:** 5 feet

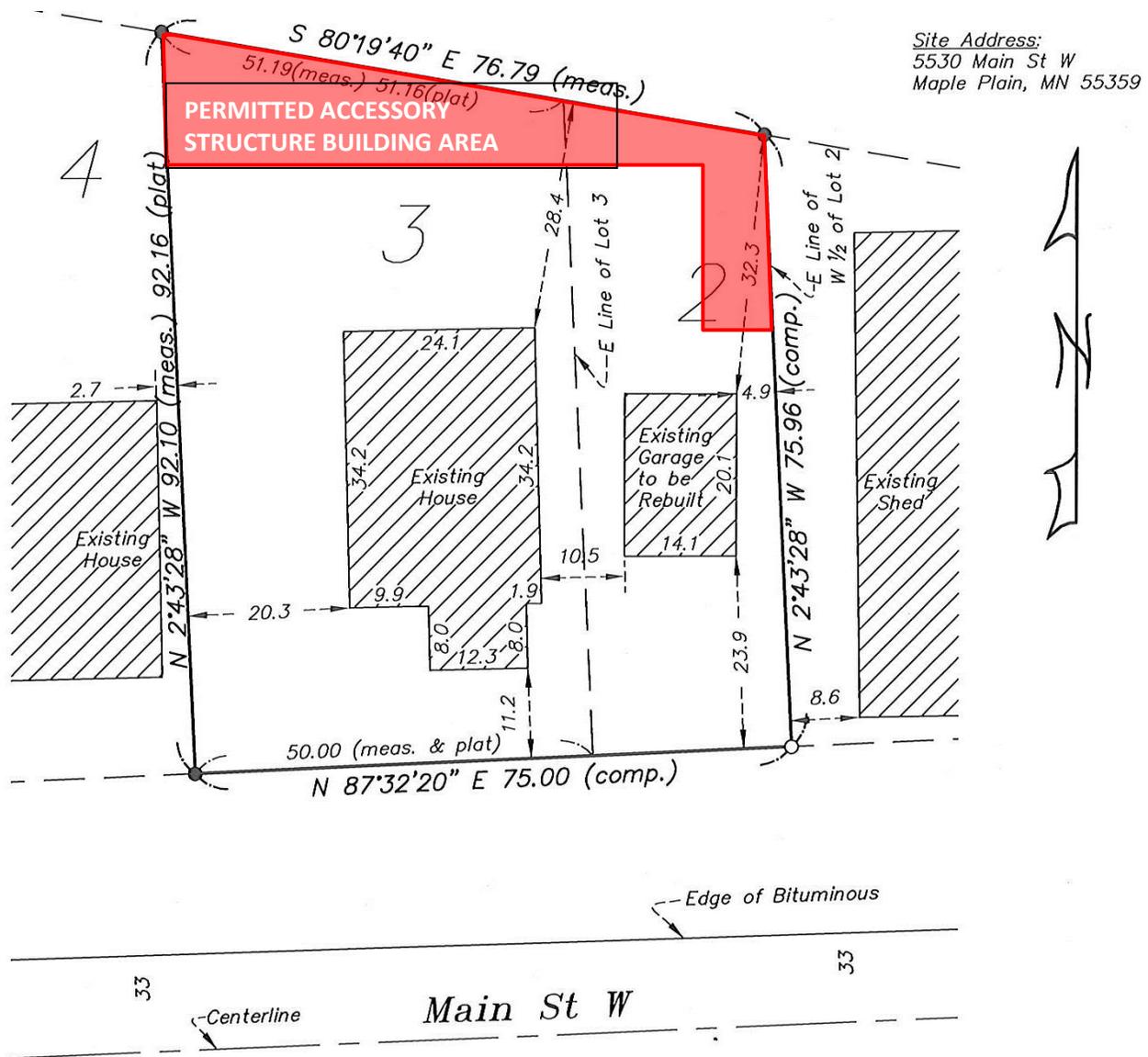
The proposed accessory structure would replace the existing garage in its current location. The property along with the orientation and location of the existing home would not support the proposed garage in a location that would meet the separation and setback requirements. The City looked at the possibility of shifting the garage to the north to be wholly to the rear of the principle structure. In reviewing the possibility of meeting the requirements, it was found that the proposed structure would not meet the rear yard setback and would not meet the minimum separation requirements. The proposed garage would be identical to the existing structure in terms of size and location. The elevation of the proposed garage would be slightly raised from the existing elevation.

The City can grant a variance if it finds that granting a variance is consistent with the Comprehensive Plan and the applicant can establish practical difficulties in complying with the requirements of the zoning ordinance. The review criteria for granting a variance are as follows:

- H) *Approval procedure and conditions. Pursuant to Minnesota Statutes, an application for a variance or appeal shall be approved or denied within 60 days from the date of its official and complete submission unless extended pursuant to statute or a time waiver is granted by the applicant.*
- I) *Review criteria.*
  - (1) *Variations shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variations are consistent with the Comprehensive Plan. Variations may be granted when the applicant for the variance establishes that there are practical difficulties in complying with this chapter.*
  - (2) *PRACTICAL DIFFICULTIES, as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by this chapter; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.*
  - (3) *Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.*
  - (4) *Variations shall be granted for earth sheltered construction as defined in M.S. § 216C.06, Subd., when in harmony with the ordinance.*

- (5) The City Council may not permit as a variance any use that is not allowed under this chapter for property in the zone where the affected person's land is located. The City Council as the case may be, may permit as a variance for the temporary use of a one-family dwelling as a two-family dwelling.
- (6) The City Council may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

The size of the existing property appears to limit the ability of the property owner to locate a conforming detached accessory structure on this property. Maintaining the 20 feet of separation from the principle structure reduces the potential area on the lot where a conforming structure could be located.



The applicant is proposing to reconstruct an existing detached accessory structure which is otherwise permitted on this property and is generally consistent with the use of the surrounding properties. The City will need to determine if the proposed garage is in keeping with the character of the surrounding properties.

Additional Considerations:

There is a large accessory structure located on the adjacent property to the east which extends into the “front yard” of this block. There are several properties located in this area that have similar principle to accessory structure relationships. The front yard setback of this property is 7.25 feet as a result of the average setback for the adjacent properties. The ordinance does not “concede” the average setback when considering the front yard requirement for an accessory structure.

**Neighbor Comments:**

The City has not received any comments pertaining to this request.

**Recommendation:**

Staff is seeking direction from the Planning Commission relating to the requested Variance. Should the Planning Commission recommend approval of the requested action to the City Council, the following findings and conditions should be included:

1. The proposed variance meets all applicable conditions, criteria and restrictions stated in the City of Maple Plain Zoning Ordinance.
2. The Applicant shall comply with any comments provided by the City’s Engineer pertaining to the proposed grading required to raise the garage elevation.
3. The Applicant shall pay for all costs associated with the City’s review of the variance.

**Attachments:**

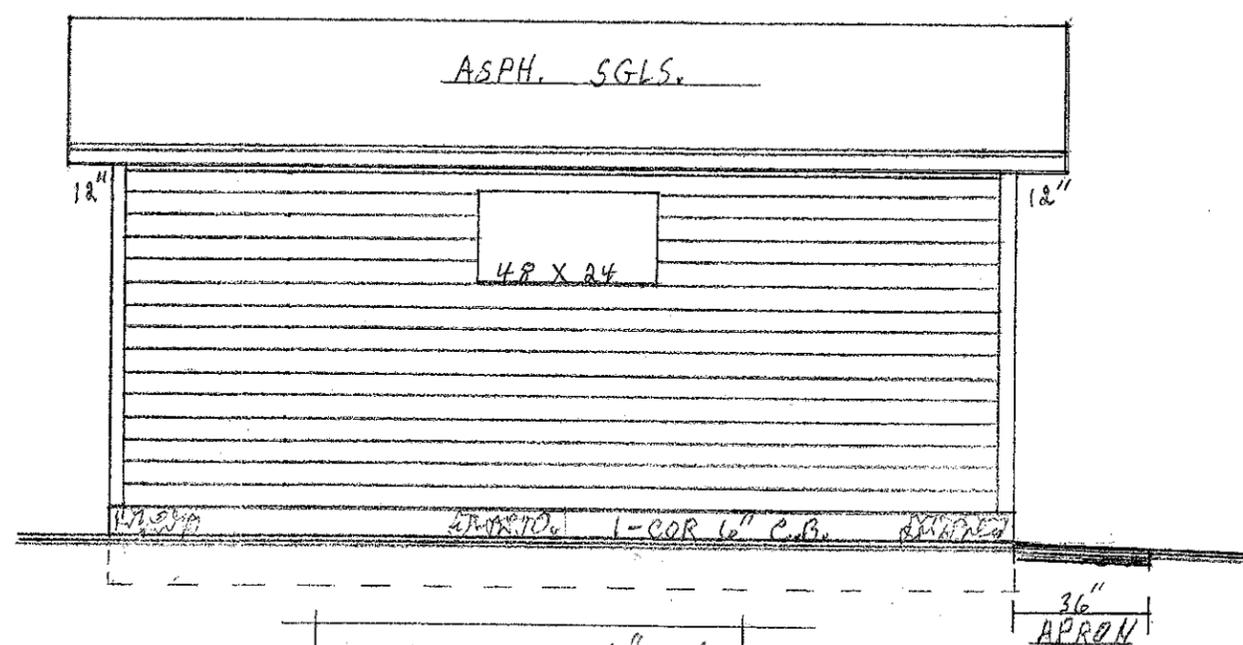
1. Property Pictures
2. Survey
3. Garage Plans

Aerial Photograph (looking north)



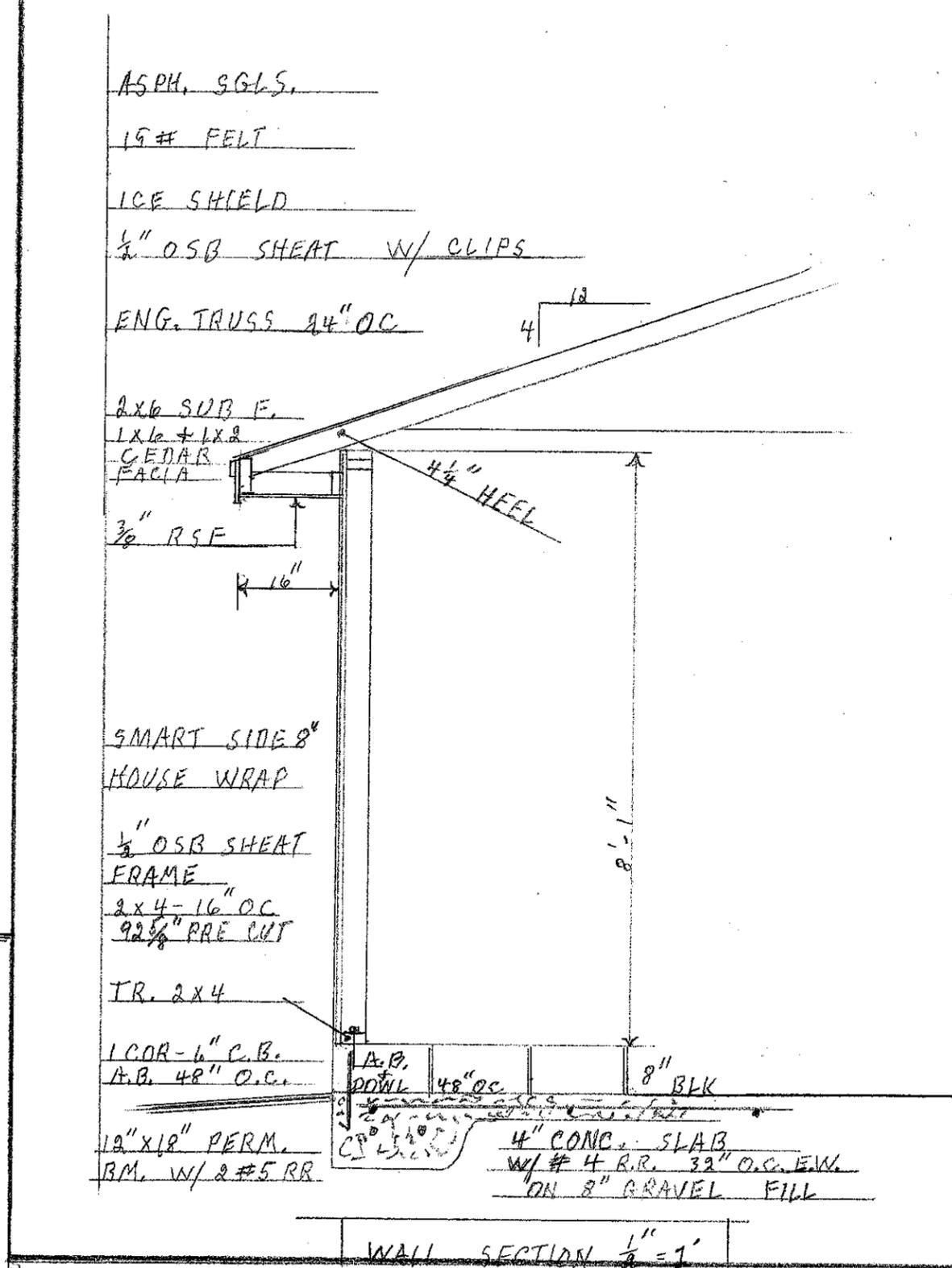
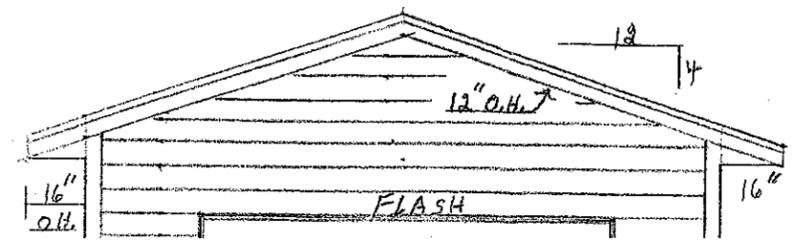
CITY OF Maple Plain  
 Date 10-2-14  
 Site COPY **REVIEWED** and noted  
 Mike Rosman / Loran Kohrman  
 For Code Compliance

NOTE: INCREASE PERIMETER  
 OF SLAB 18" D X 18" W  
 W/ 2 #5 RR

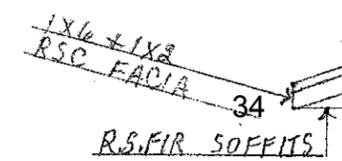


SIDE ELEV.  $\frac{1}{2}'' = 1'$   
 OMIT WDW ON EAST ELEV.

PITCH 1"

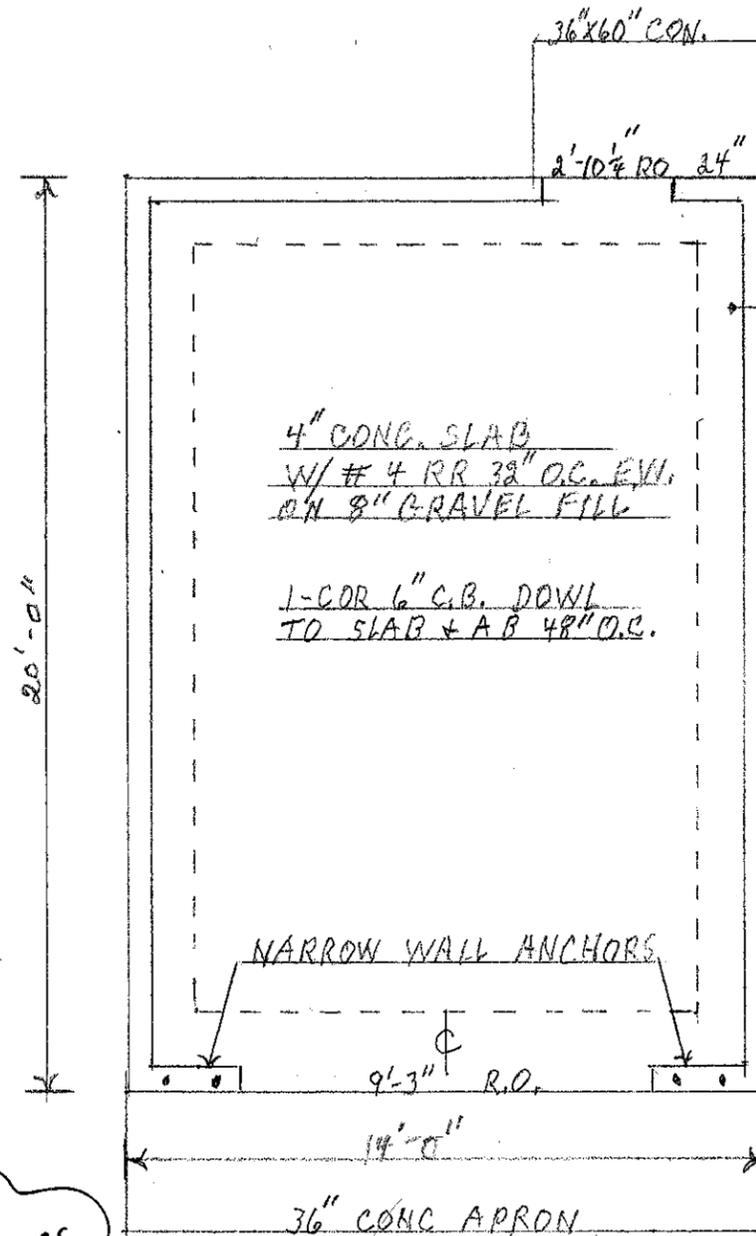


WALL SECTION  $\frac{1}{8}'' = 1'$

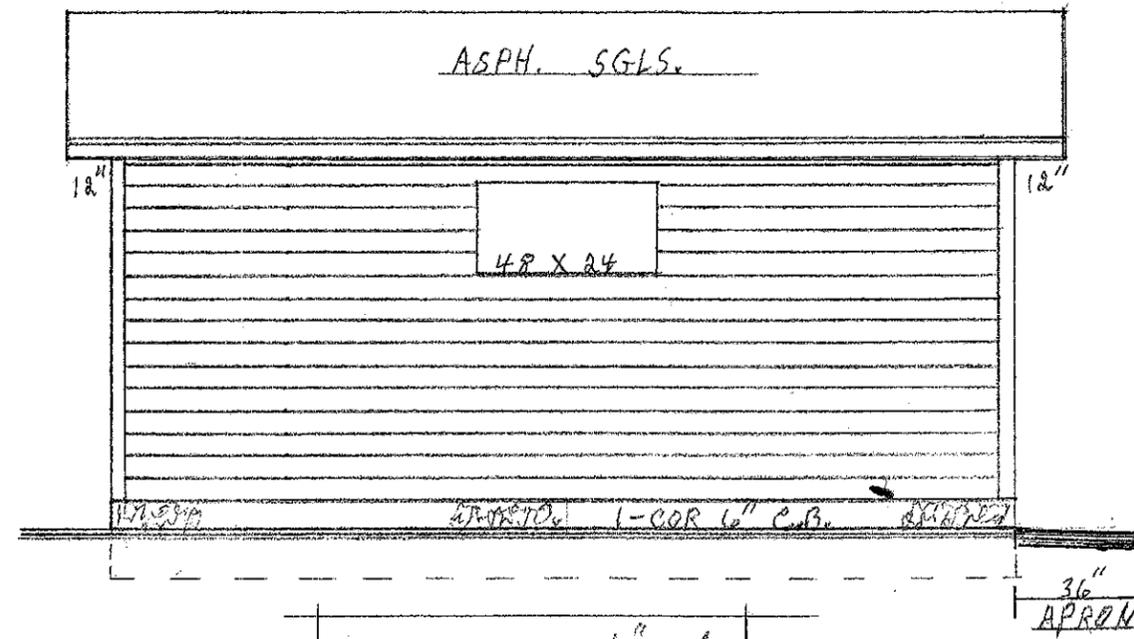


# INSPECTOR'S COPY

CITY OF Maple Plain  
 Date 10-2-14  
 Site COPY REVIEWED and noted  
Mike Rosman / Loran Kohner  
 For Code Compliance

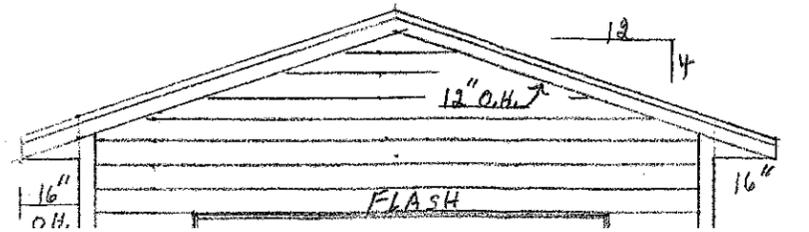
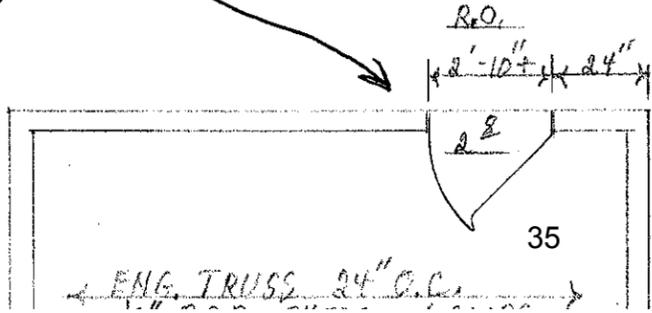


NOTE: INCREASE PERIMETER  
 OF SLAB 18" D X 18" W  
 W/ 2 #5 RR



SIDE ELEV. 1/4" = 1'  
 OMIT WDW ON EAST ELEV.

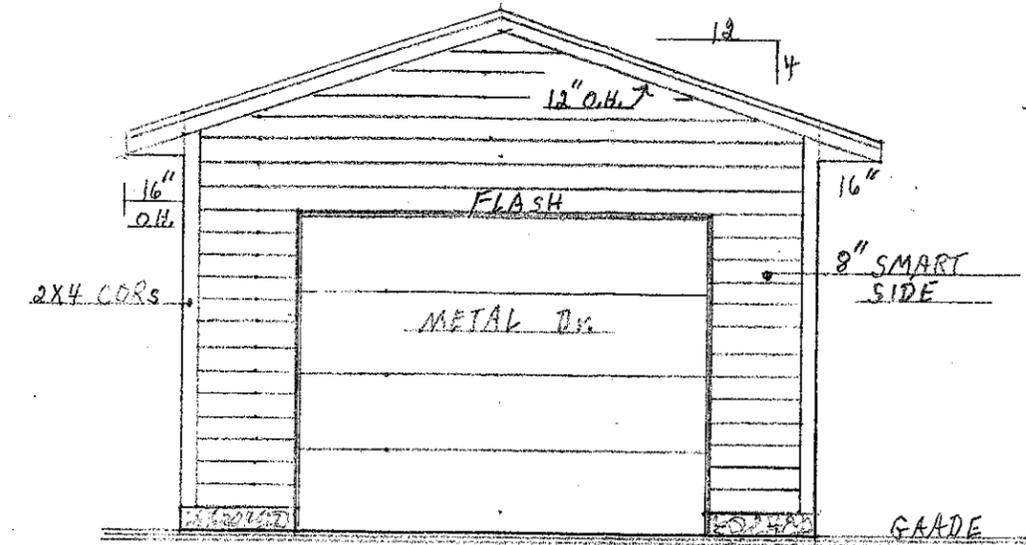
2) 2x10 HDRS  
 Per Tom Campion



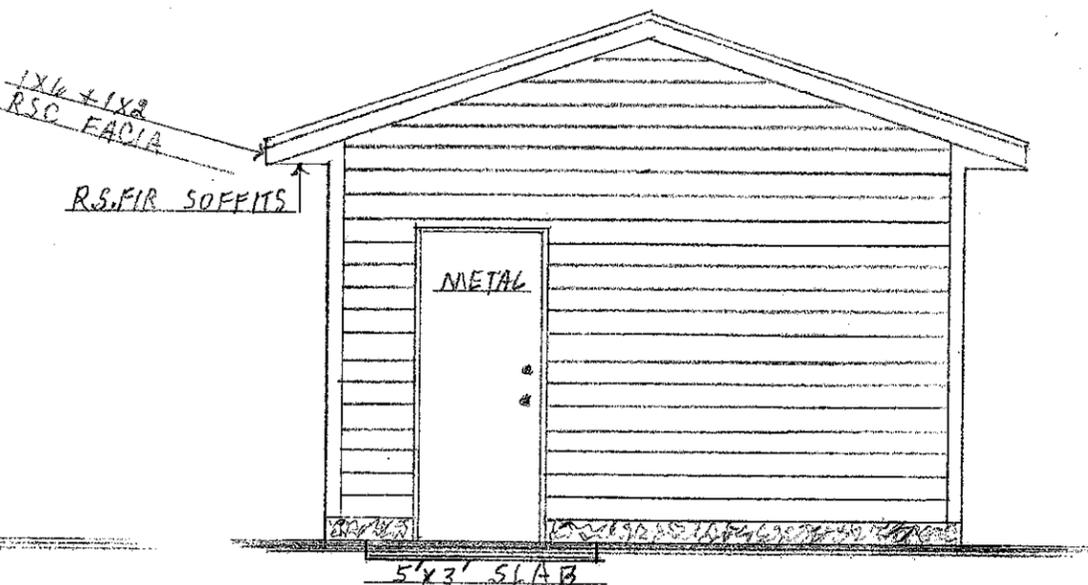
IX  
 RSC

"ON 8" GRAVEL FILL

WALL SECTION  $\frac{1}{8}'' = 1'$



FRONT ELEV.  $\frac{1}{4}'' = 1'$

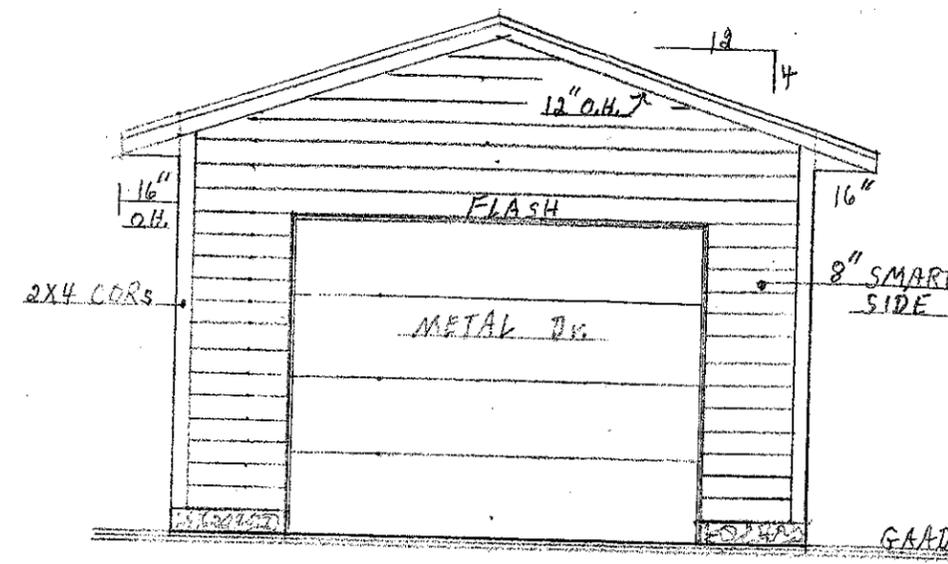
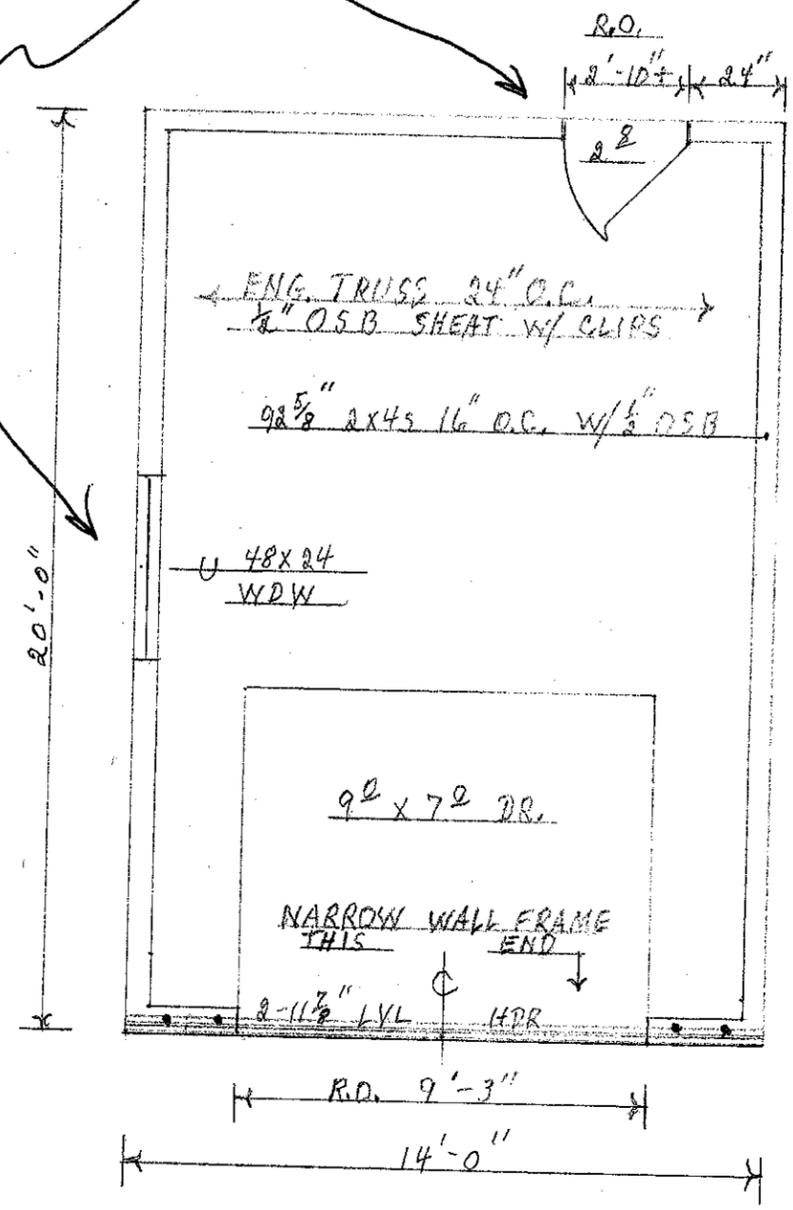


REAR ELEV.  $\frac{1}{4}'' = 1'$

NOTE: REMOVE (E) GARAGE INCLUDING SLAB  
 NEW SLAB 12" HIGHER THAN (E)

DAVE MEEKS		
5530 Main St. W. Maple Plain, MN, 55359		
SCALE:	APPROVED BY:	DRAWN BY Bob A
DATE: 9-26-14		REVISED
NEW 1-CAR GARAGE		
		DRAWING NUMBER # 1

2) Per Tom Camp



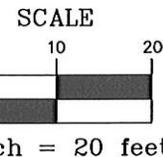
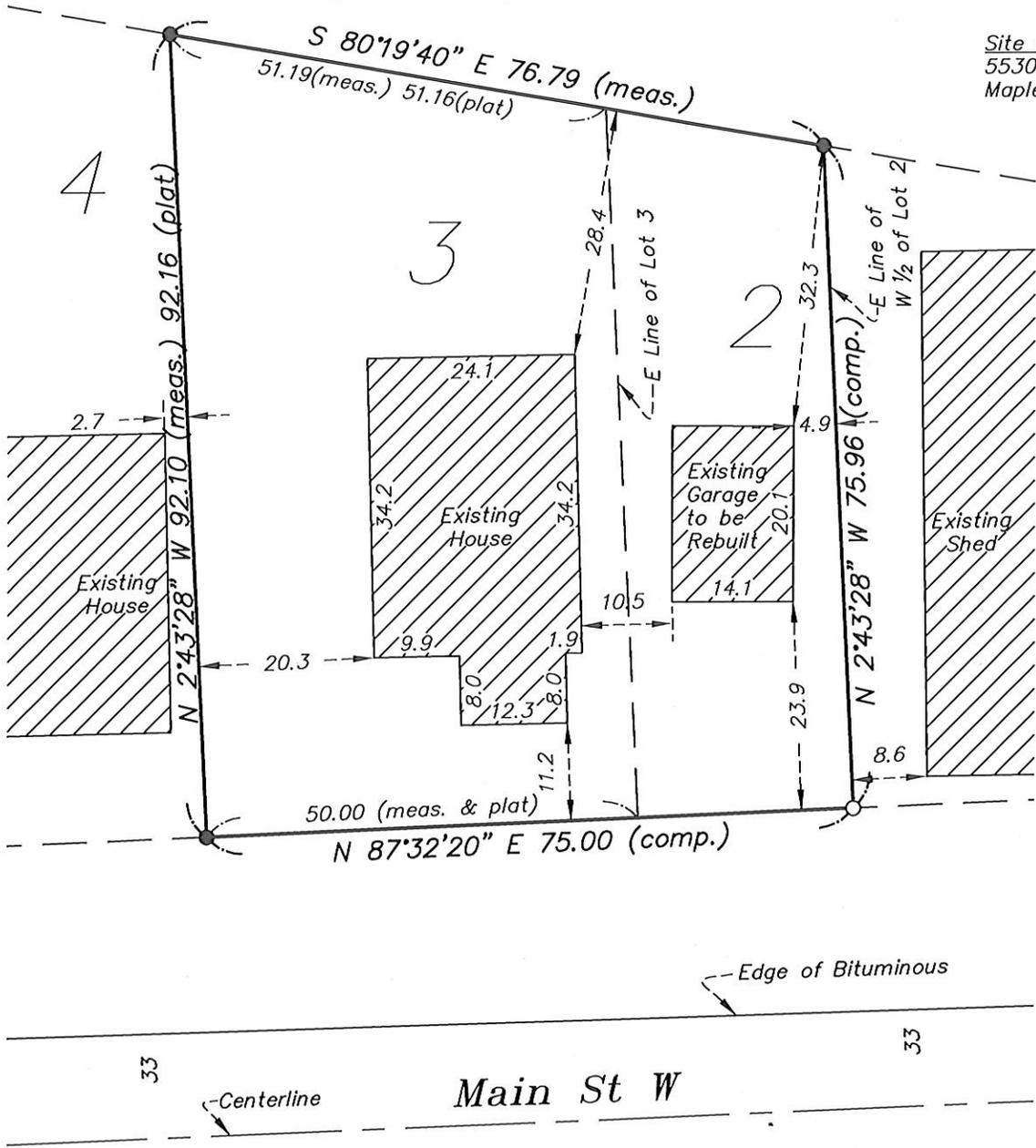
FRONT ELEV. 1/4"=1'

NOTE: REMOVE (E) GARAGE INCLUDING SLAB  
NEW SLAB 12" HIGHER THAN (E)

# Certificate of Survey

Prepared for:  
Tom Campion Construction

Site Address:  
5530 Main St W  
Maple Plain, MN 55359



Boundary Description (supplied by client)  
Lot 3 and the West Half of Lot 2, Block 6, WEST  
MAPLE PLAIN, according to the recorded plat thereof,  
Hennepin County, Minnesota. Subject to any and all  
easements of record.

Legend  
● Found Iron Monument  
○ Set Iron Monument (LS 14700)  
Bearings based on assumed datum.

**SCHOBORG**  
**LAND SERVICES**  
**INC.**

763-972-3221 8997 Co. Rd. 13 SE  
www.SchoborgLand.com Delano, MN 55328

I hereby certify that this certificate of survey was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

*Paul B. Schoborg*  
Paul B. Schoborg

Date: Oct. 30, 2014 Registration No. 14700

Job Number:	7886
Book/Page:	LL
Survey Date:	10/16/14, 10/22/14, 10/29/14
Drawing Name:	campion.dwg
Drawn by:	DMS
Revisions:	



City of Maple Plain  
 1620 Maple Avenue  
 P.O. Box 97  
 Maple Plain, MN 55359  
 Office: (763) 479-0515  
 Fax: (763) 479-0519

# ZONING & LAND USE APPLICATION

## APPLICANT INFORMATION

Applicant Name <i>Tom Champion</i>	Company, if applicable <i>Tom Champion Const. LLC</i>
Address <i>3390 Lake Sarah Asb Dr.</i>	Phone Number <i>763-238-3579</i>
City, State, Zip <i>Lovelle MN 55357</i>	Email <i>TChampionConstruct@aol.com</i>
Are you the owner of the property? <input type="checkbox"/> Yes. <input checked="" type="checkbox"/> No. (If not, property owner information is required.)	

Owner Name <i>Dave Meeks</i>	Company, if applicable
Address <i>5530 MAIN ST. W.</i>	Phone Number
City, State, Zip <i>MAPLE PLAIN, MN.</i>	Email

Applicant Signature <i>Tom Champ</i>	Owner Signature
Date	Date

## PROJECT INFORMATION

Site Address or Property Identification Number

Type of Request (Check all that apply.)					
	Fee	Escrow		Fee	Escrow
<b>General Application</b>			<b>Conditional Use Permit</b>		
<input type="checkbox"/> Site Plan Review	\$500	\$3,000	<input type="checkbox"/> Home Occupation	\$200	\$1,000
<input type="checkbox"/> Rezoning	\$500	\$2,000	<input type="checkbox"/> Commercial / Industrial	\$500	\$2,000
<input type="checkbox"/> Preliminary Plat	\$500	\$3,000	<input type="checkbox"/> Cell Towers	\$500	\$2,000
<input type="checkbox"/> Final Plat	\$500	\$1,500	<input type="checkbox"/> Amendment	\$200	\$2,000
<input type="checkbox"/> Comprehensive Plan Amendment	\$500	\$5,000	<input type="checkbox"/> Others	\$200	\$2,000
<b>Simple / Minor Subdivision</b>			<b>Planned Unit Development</b>		
<input type="checkbox"/> Lot Split	\$350	\$1,000	<input type="checkbox"/> Concept Plan	\$500	
<input type="checkbox"/> Lot Combination	\$350	\$1,000	<input type="checkbox"/> General Plan	\$1,000	\$5,000
<input type="checkbox"/> Lot Line Rearrangement	\$350	\$1,000	<input type="checkbox"/> Final Plan	\$500	
<b>Subdivision</b>			<b>Variance</b>		
<input type="checkbox"/> 1-5 Lots	\$500	\$3,000	<input checked="" type="checkbox"/> Residential	\$100	\$750
<input type="checkbox"/> More than 5 Lots	\$500	\$3,000	<input type="checkbox"/> Commercial / Industrial	\$250	\$1,500
<b>Vacate Public Rights of Way</b>			<b>Special Uses</b>		
<input type="checkbox"/> Vacation of Property	\$400		<input type="checkbox"/> Interim Use Permit	\$350	\$3,000

Brief Project Narrative / Overview (Use additional paper if necessary. Please be thorough.)

*Remove Existing 14X20 GARAGE. Build 14X20 GARAGE in same foot print.*

**OFFICE USE ONLY**

<b>Application Type</b>	<b>Review Deadline</b> <input type="checkbox"/> 15 Business Days: _____ <input type="checkbox"/> 60 Day Review: _____ <input type="checkbox"/> 120 Day Review: _____
<b>Fees Collected</b> <input type="checkbox"/> Application Fee Collected: \$ _____ <input type="checkbox"/> Escrow: \$ _____ <input type="checkbox"/> Total Receipt: \$ _____	<b>Received By</b> <input type="checkbox"/> Name: _____ <input type="checkbox"/> Signature: _____ <input type="checkbox"/> Date: _____
<b>Receipt</b> <input type="checkbox"/> Receipt Number(s) _____	<b>Application Complete</b> Are there any missing materials? <input type="checkbox"/> Yes. <input type="checkbox"/> No.  If yes, was the application accepted? <input type="checkbox"/> Yes. <input type="checkbox"/> No.  Please list what was missing according to the

## Metes and Bounds

---

The following is the County Auditor's description of this tax parcel. It may not be the legal description on the most recent conveyance document recording ownership. Please refer to the legal description of this property on the public record when preparing legal documents for recording

PID: 24-118-24-33-0020

Municipality: MAPLE PLAIN

Addition Name: WEST MAPLE PLAIN

Lot:

Block: 006

**LOT 3 AND W 1/2 OF LOT 2**

---

[Print this window](#)

[Close this window](#)

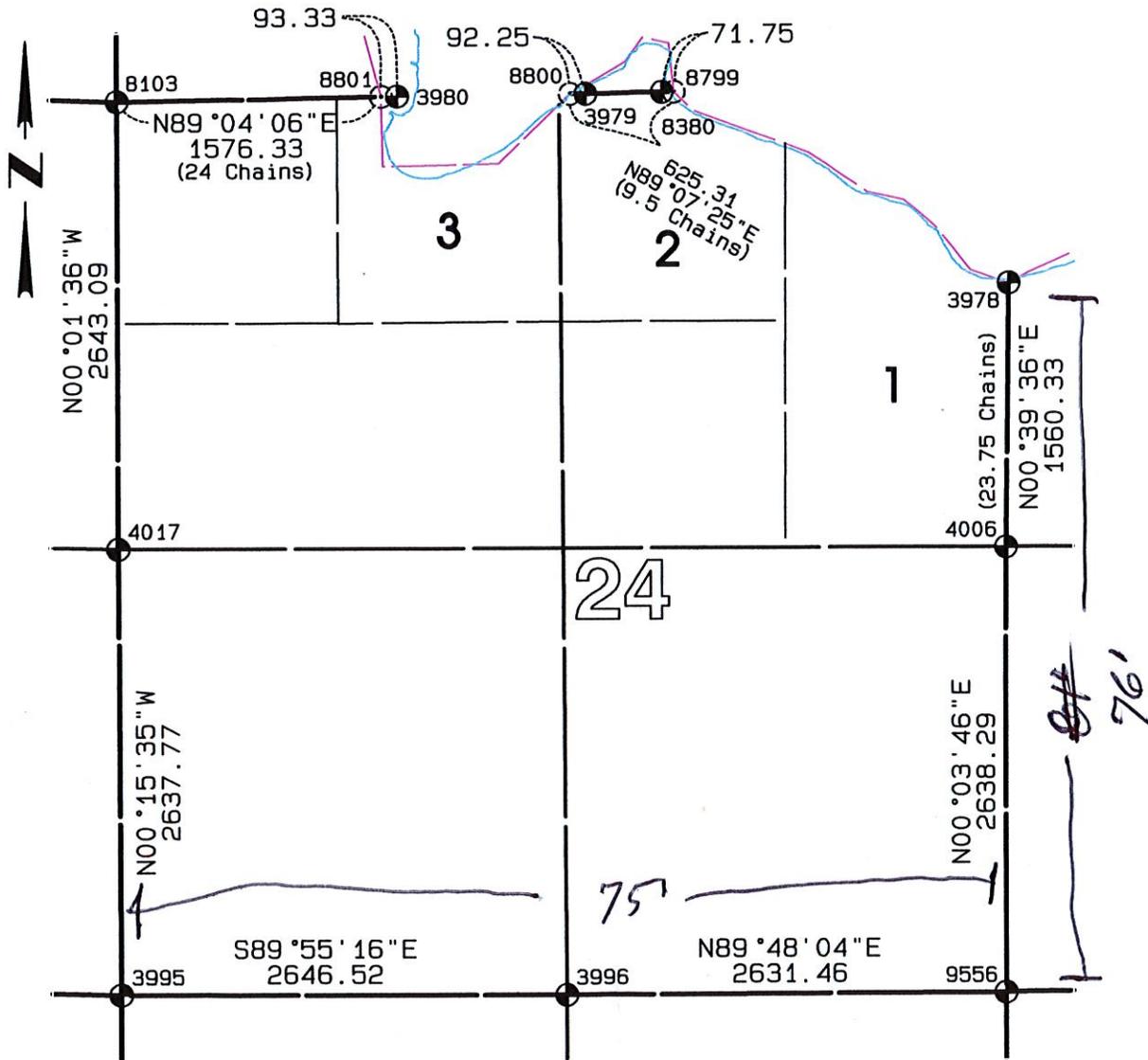
# TOWNSHIP 118 RANGE 24 SECTION 24

I hereby certify that this document was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the state of Minnesota

William P. Brown  
License No. 19527 *Wm. Brown*

### LEGEND

- Section Line
- Quarter Line
- Gov't Lot Line
- Meander Line
- Water Line
- ⊕ Hennepin County Monument
- PLS Corner Position (No Monument)



Point	North	East	Name
3978	183246.06772	432169.90169	PLS: 1182424MC01
3979	184366.01420	429642.70491	PLS: 1182424RMEMC03
3980	184350.03281	428527.32812	PLS: 1182424RMEMC04
3995	179042.05513	426871.07303	PLS: 1182426NE
3996	179038.41646	429517.58743	PLS: 1182425N4
4006	181685.84013	432151.92923	PLS: 1182424E4
4017	181679.79582	426859.11392	PLS: 1182423E4
8103	184322.88753	426857.88499	PLS: 1182423NE
8380	184373.14787	430103.96043	PLS: 1182424RMWMC02
8799	184374.25740	430175.70185	PLS: 1182424MC02
8800	184364.69255	429550.46438	PLS: 1182424MC03
8801	184348.51546	428434.01046	PLS: 1182424MC04
9556	179047.55007	432149.03431	PLS: 1182425NE

Coordinate System is based on Hennepin County Ground NAD 83 1986 Adjustment from 1991 published values.

**Hennepin** Interactive Maps Property Map



<b>Parcel ID:</b> 24-118-24-33-0020	<b>A-T-B:</b> Torrens	<b>Map Scale:</b> 1" ≈ 50 ft.	
<b>Owner Name:</b> Mary A Thal	<b>Market Total:</b> \$103,000	<b>Print Date:</b> 10/14/2014	
<b>Parcel Address:</b> 5530 Main St W Maple Plain, MN 55359	<b>Tax Total:</b> \$1,352.82 (Payable: 2014)	<p>This map is a compilation of data from various sources and is furnished "AS IS" with no representation or warranty expressed or implied, including fitness of any particular purpose, merchantability, or the accuracy and completeness of the information shown.</p> <p>COPYRIGHT © HENNEPIN COUNTY 2014</p> <p> Think Green!</p>	
<b>Property Type:</b> Residential	<b>Sale Price:</b> \$70,000		
<b>Home-stead:</b> Homestead	<b>Sale Date:</b> 04/1991		
<b>Parcel Area:</b> 0.13 acres 5,791 sq ft	<b>Sale Code:</b> Warranty Deed		

## NOTICE TO APPLICANT

The Maple Plain City Code guides and enables development activities within the City by ensuring proper and well-coordinated projects. The land use application is the mechanism that allows the City to examine proposed land uses to ensure compatibility with the City Codes, design and development standards, and the surrounding land uses and natural environments. The review is intended to ensure positive growth for the community.

All applications are reviewed individually and are evaluated based on their own merit. Each land use request has an associated checklist of required items. Applicants are encouraged to participate in the City's pre-application workshop prior to submitting a formal land use application. The workshop is an opportunity to informally discuss the conceptual idea of the proposed project in an effort to reduce delays. Participation in the pre-application process does not provide approval, or guarantee of approval, of the project. The City shall not accept plans, drawings or other information related to the project except upon submittal of a formal application. The City reserves the right to reject an incomplete application.

## APPLICATION FEE STATEMENT

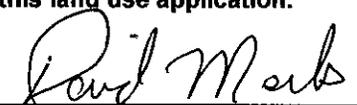
All expenses pertaining to project reviews are the responsibility of the applicant. Planning review deposits and other applicable fees must be paid when submitting land use applications and accompanying materials. All fees, which are set annually by City ordinance, help cover costs incurred by the City to review the application. The City of Maple Plain often uses consulting firms to assist in the review of projects. City staff and consultant review costs are billed hourly; all other costs are billed at cost. Applicants shall be billed directly for incurred expenses upon receipt by the City. The City reserves the right to request an applicant to submit a development escrow in advance of the formal project review.

Please refer to the City's Fee Schedule for information on planning review fees and deposits, and other applicable costs.

By signing this form, the applicant recognizes his/her responsibility for any and all fees associated with the land use application from project review through to construction and release of financial guarantees for an approved project. All fees associated with a project that is denied or withdrawn remain the sole responsibility of the applicant and shall be paid upon receipt of invoice.

**I hereby understand the fee statement and responsibilities associated with this land use application:**

Applicant Signature 

Owner Signature 

Date 10/23/2014

Date 10/23/2014

## REVIEW REQUIREMENTS

Minnesota State Statute 15.99 requires local governments to review an application within 15 business days of its submission to determine if an application is complete and/or if additional information is required to complete the review. Once complete, a formal 60-day review period begins. The City has the ability to extend the review period an additional 60 days, if necessary, due to insufficient information or scheduling difficulties.

Please review the corresponding checklist that goes with the request as all materials are required unless waived by the City. All applications must be received by the deadline(s) attached hereto. Failure to submit by the date shown may result in a delay of the review by the Planning Commission and City Council.

## DEADLINES

Application Due Date	Planning Commission Review	City Council Review
December 2, 2013	January 2, 2014	January 20, 2014
January 6, 2014	February 6, 2014	February 24, 2014
February 3, 2014	March 6, 2014	March 24, 2014
March 3, 2014	April 3, 2014	April 21, 2014
April 7, 2014	May 1, 2014	May 19, 2014
May 5, 2014	June 5, 2014	June 23, 2014
June 2, 2014	July 3, 2014	July 21, 2014
July 7, 2014	August 7, 2014	August 25, 2014
August 4, 2014	September 4, 2014	September 22, 2014
September 1, 2014	October 2, 2014	October 20, 2014
October 6, 2014	November 6, 2014	November 24, 2014
November 3, 2014	December 4, 2014	December 22, 2014
December 1, 2014	January 8, 2015	January 26, 2015

**ACKNOWLEDGEMENT**

By signing this form, the applicant hereby acknowledges the receipt of the checklist and procedure for the project to be submitted for consideration. It is the responsibility of the applicant to submit all required materials. All permit requests should be submitted in a timely manner so as not to cause project delays.

**Applicant Signature**

*Tom King*

**Owner Signature**

*David Meek*

**Date**

*10/23/2014*

**Date**

*10-23-14*

*Updated March 7, 2014*

## City of Maple Plain

### Proposed Text Amendments to the City of Maple Plain Ordinances Title IX, Chapter 92 Animals and Title XV, Land Usage, Chapter 153.063 General Fencing, Screening, Landscaping, and Storage,

---

*To:* Planning Commission  
*From:* Mark Kaltsas, City Planner  
*Meeting Date:* November 6, 2014

**UPDATE:**

The City had an initial discussion regarding potential amendments to Chapter 92 and Chapter 153 of the City's ordinance pertaining to animals and fencing. It is anticipated that the Planning Commission will discuss and propose additional changes and modifications to the updated draft ordinance our November Meeting. The animal and fence ordinances would be prepared and reviewed in a final format at the December Planning Commission Meeting.

Staff has prepared a revised draft animal ordinance which incorporates the following changes:

1. The definition of animals has been replaced by a definition for non-domesticated animals.
2. A separate section has been added to the ordinance which delineates the number of animals permitted within the City.
3. The definition of Kennel has been revised to match the permitted number of dogs in 93.08.
4. A definition of urban farm animals has been added to address other animals such as bees.
5. The chicken provisions have been paired down based on the discussion had during the last PC Meeting.

**Consideration:**

Proposed text amendments to the City of Maple Plain Ordinances as follows:

- a. Title IX, Chapter 92 Animals, consideration to amend the ordinance to further define the total number and type of permitted animals.

**PRELIMINARY DRAFT ANIMAL ORDINANCE**

*CHAPTER 92: ANIMALS*

*Section 92.01 Definitions*

*92.02 Licenses and fees*

*92.03 Display of license*

*92.04 Prohibitions*

*92.05 Designation of dangerous or potentially dangerous dogs; registration requirement*

*92.06 Violations*

*92.07 Cats and other animals*

*92.08 Limitations on number of animals permitted*

*92.09 Harboring and Keeping of Chickens*

*92.01 DEFINITIONS.*

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

*ANIMALS - NON-DOMESTICATED (NON-DOMESTIC) ANIMAL.* *Animals which are naturally wild and not naturally trained or domesticated, or which are inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:*

- (1) Any member of the cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats;*
- (2) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs;*
- (3) Any member or relative of the rodent family including any skunk (whether or not de-scented), raccoon, or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets;*

- (4) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators; and
- (5) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this division, including but not limited to bears, deer, monkeys and other species non-indigenous to Minnesota.
- (6) Any animal defined as livestock by Minnesota Department of Agriculture rule 1515.3100.

ANIMALS – URBAN FARM ANIMALS. Ducks, geese, turkeys, chickens, bees and rabbits.

*ANIMAL CONTROL OFFICER. The city's police/public safety agency or such other person or agency under contract with the city to provide animal control services.*

*ANIMALS AT LARGE. A dog is AT LARGE when he or she is off the property of his or her owner and not under restraint.*

CHICKEN. Chicken means a fowl of the genus *Gallus* and species *Gallus domesticus* that is commonly referred to as domesticated fowl.

CHICKEN COOP. Chicken coop means any structure used for the housing of chickens.

CHICKEN RUN. Chicken run means a fenced outdoor area for the keeping and exercising of chickens.

*DANGEROUS DOG. Any dog that has:*

*(1) Without provocation, inflicted substantial harm on a human being on public or private property;*

*(2) Killed a domestic animal without provocation while off the owners property; or*

*(3) Been found to be potentially dangerous, 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.*

*KENNEL. A place where more than 2 dogs over 3 6 months of age are kept, or a place at which the business of selling, boarding, breeding, showing, or treating dogs is conducted.*

*OWNER. Any person, group, or corporation owning, harboring, or having custody of a dog.*

ROOSTER. Rooster means a male chicken.

92.04 PROHIBITIONS.

(A) It is unlawful for any person to keep or harbor any non-domesticated animal, not in transit, except (1) animals used in a parade for which a permit has been issued, or (2) animals kept in an animal hospital or clinic for treatment by a licensed veterinarian, or (3) animals kept in a pet shop licensed under the City Code, or (4) as otherwise provided in this section.

~~(A)~~ (B) It shall be unlawful for the dog or cat, of any person who owns, harbors, or keeps a dog or cat, to run at large. A person who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading Dogs or Cats Prohibited.

~~(B)~~ (C) (1) Habitual barking. It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least 5 minutes with less than 1 minute of interruption. The barking must also be audible off of the owners or caretakers premises.

(2) Warrant required. The animal control officer or police officer shall not enter the property of the owner of an animal described in this division (B) unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in ' 10.20, to search for and seize the animal.

~~(C)~~ (D) Any person in control of a dog off the property of its owner shall be responsible to pick up and dispose of the dogs feces.

92.08 Limitations on the number of animals permitted.

A. Non-domesticated animals. No person may own, keep, harbor, or maintain any non-domestic animal within the city limits, except as provided in Chapter 705 of this code.

B. Limitations on number of dogs. Within the limits of the city, no person may own, keep, harbor, or maintain more than two dogs over the age of six months unless a conditional use permit for a kennel is first obtained from the city.

C. Limitations on number of cats. Within the limits of the city, no person may own, keep, harbor, or maintain more than three cats over the age of six months.

D. Limitations on number of urban farm animals. Within the limits of the city, no person may keep, harbor, or maintain more than two urban farm animals except as permitted in Section 92.09 of this code. No bees shall be permitted within the city limits.

92.09 Harboring and keeping of chickens.

A. Permit required. It is unlawful for any person to keep, harbor, maintain, possess, or otherwise control any chickens within the city, except:

1. Pursuant to a permit issued by the city under this subdivision on a parcel of record zoned for single family detached dwelling.

B. Permit application and permit fees. An application for a permit hereunder shall be filed with the city administrator upon an application form furnished by the city. The permit fee shall be in an amount established by city council resolution. A permit issued hereunder shall be for duration of one year from its date of issuance.

C. Conditions of permit. A permit granted under this subdivision shall be subject to the following conditions:

1. Ownership. The owner of the chickens must occupy the premises for which the permit is issued.
2. Inspection. The premises, including the chicken coop and run thereon, for which a permit is issued shall at all reasonable times be open to inspection by the animal control officer or any other city official to determine compliance with this subdivision, other city code provisions and state laws relating to zoning, health, fire, building or safety.
4. Specifications for feeding chickens. All feed for the chickens shall be stored in water-tight and vermin-proof containers.
5. Specifications of the chicken coop and run. A chicken coop and run are required. The construction and location of the coop and run shall be in compliance with the applicable building and zoning regulations of the city and the following requirements:

- (a) The interior floor space of the chicken coop shall be a minimum size of two square feet for each chicken authorized under the permit.
- (b) The exterior finish materials of the chicken coop shall be: (i) weather-resistant and in accordance with the accessory structure regulations set forth in the zoning regulations in this Code.
- (c) The construction of and materials used for the chicken coop and run must be adequate to prevent access by rodents.
- (d) The chicken run shall be attached to the coop. The chicken coop and run shall be deemed as a single structure and subject to the accessory structure regulations set forth in the zoning regulations of this Code.
- (e) The floor area of the chicken run shall be a minimum size of five square feet for each urban farm animal authorized under the permit.
- (f) The chicken run shall be fully enclosed by fencing or other similar material.
- (g) No chicken coop or run, or any portion thereof, shall be within 25 feet of the outer perimeter of any inhabitable building.
- (h) The chicken coop and run shall meet all applicable setbacks and requirements of accessory structures in this ordinance.
- (i) The chicken coop and run shall be kept in a sanitary and odor-free condition, including the regular and frequent removal and proper disposal of any accumulated chicken feces or waste, dirt or filth that could create a safety or health hazard.

6. Regulations. The keeping, harboring, maintaining, or possessing of any chickens under a permit issued pursuant to this subdivision shall be in accordance with the following:

- (a) No more than five chickens shall be kept or harbored on the premises to which the permit applies.
- (b) Roosters are prohibited.
- (c) Slaughtering of chickens on any property zoned for residential use is prohibited.
- (d) No chickens shall be kept, maintained, housed or permitted inside any residential dwelling or any garage.
- (e) No chickens shall be permitted to run at large. The term "run at large" is defined as any chickens freely roaming in any area not on the premises to which the permit applies.
- (f) If the chickens are not contained at all times to the coop and run and allowed to freely roam within the yard, the property shall be enclosed by a fence in accordance with the fence regulations set forth in the zoning regulations of this Code and which by material and design prevents a chicken from leaving the premises.
- (g) Chickens shall not be kept in such a manner as to constitute a public nuisance. Any violation of the provisions of this subdivision shall be deemed a public nuisance.
- (h) No eggs shall be sold or offered for sale; all chicken eggs shall be for personal use or consumption.

7. Revocation of permit. A violation of any provision of this subdivision or any provisions of the permit issued hereunder shall constitute grounds for revocation of a permit.

**Consideration:**

Staff is seeking direction, comments and feedback from the Planning Commission relating to the proposed text amendments. Planning Commissioners can make a recommendation to amend the ordinance(s) to the City Council or make/request suggested changes to the proposed language and ask that the ordinance(s) be brought back for additional review, discussion and consideration



## INFORMATION MEMO

# Animal Regulation in Cities

*Find out how cities may regulate and control pets, farm animals, exotic animals, and newly popular hobbies of keeping bees or chickens. Learn approaches to common problems such as dangerous dogs, dogs running at large, barking, and feral cats. Animal health and safety laws. Animal fighting. Owner rights and responsibilities.*

### RELEVANT LINKS:

[Minn. Stat. § 412.221, subd. 21.](#)

[Minn. Stat. §§ 347.50-.565.](#)

[Handbook, Chapter 7.](#)

[Village of Euclid v. Ambler Realty Co.](#), 272 U.S. 365, 47 S. Ct. 114 (1926).

[Press v. City of Minneapolis](#), 553 N.W.2d 80 (Minn. Ct. App. 1996). [State v Reha](#), 483 N.W.2d 688 (Minn. 1992).

[Holt v. City of Sauk Rapids](#), 559 N.W.2d 444 (Minn. Ct. App. 1997).

## I. General considerations in regulating animals

Cities have broad authority to regulate animals by adopting an ordinance under their police powers or, in some cases, by relying on state law. Police powers relate to public health, safety, and general welfare. Cities may regulate many aspects related to animals within the city, including the following:

- The keeping of animals.
- Animals running at large.
- The impounding, sale, or destruction of animals.
- Dangerous and potentially dangerous animals.

### A. Drafting the ordinance

Regulation of animals should be done by ordinance. The city should have a reasonable basis for adopting the animal control ordinance. This means that the ordinance must not be arbitrary or unreasonable. Establishing a reasonable basis for the ordinance at the time it is adopted will help the city defend the ordinance if it is later challenged.

The ordinance should be clearly drafted and, whenever possible, include objective standards that provide adequate notice of what is required. It should be written so that ordinary people can understand what conduct is prohibited or required. An ordinance can still be flexible and broad so long as it is clear what the ordinance allows or prohibits. Furthermore, a clearly written ordinance helps to avoid arbitrary or discriminatory enforcement.

When deciding how to handle animal-related issues, the city may select the solution it sees as the best fit (so long as it is reasonable) even if it is not the same method used in other cities or what other people might see as more appropriate.

*Town of Grant v. Johnson*, No. C2-93-243 (Minn. Ct. App. June 29, 1993) (unpublished decision). [Minn. Stat. § 347.51, subd. 8.](#)

Section VII-B, *Police dogs and service animals.*

*Corn v. Sheppard*, 229 N.W. 869 (Minn. 1930). *Soucek v. Banham*, 524 N.W.2d 478 (Minn. Ct. App. 1994). [Minn. Stat. § 609.52.](#)

U.S. Const. amends. V. U.S. Const. amends. XIV. Minn. Const. art. 1, § 7.

*Mathews v. Eldridge*, 424 U.S. 319, 96 S. Ct. 893 (1976).

*Mathews v. Eldridge*, 424 U.S. 319, 96 S. Ct. 893 (1976). *Sawh v. City of Lino Lakes*, 823 N.W.2d 627 (Minn. 2012).

The city will want to consider how it will enforce an animal regulation ordinance. The city should make sure it has the people, resources, interest, and capability to enforce such an ordinance. The city should also consider the unique aspects of animal regulations, such as catching or seizing animals, impounding animals, destroying animals, and other issues that arise when dealing with animals.

## **B. Making distinctions between animals**

The city may make distinctions between different types of animals in its animal control ordinance as long as there is a reasonable basis for the distinction. However, some types of distinctions are prohibited by law. For example, state law prohibits regulating dangerous dogs based solely on the breed of the dog.

There may be many distinctions that have a reasonable basis. Some common distinctions are:

- Farm animals from pet animals.
- Police dogs from other dogs.
- Service animals from other animals.
- Zoo ownership of wild or exotic animals from private ownership of the same animals.

## **II. Owner rights and responsibilities**

### **A. Rights**

In general, the law treats animals as personal property. Therefore, animal owners have the same rights with regard to their animals as with other personal property.

#### **1. Due process rights**

Both the federal and state constitutions provide that no person may be deprived of their property without due process of law. The two basic requirements of due process are: 1) notice to interested parties and 2) an opportunity to be heard by a person or group who has the authority to make a decision on the matter. The opportunity to be heard must be at a meaningful time and in a meaningful manner. Since animals are treated as property, due process considerations apply in situations where the city is dealing with animals.

Due process is a flexible concept and should be tailored to the particular situation. Statutes sometimes provide particular notice and hearing requirements that must be followed.

Even if the law is silent on notice or hearing requirements, or the requirements provided are minimal, that does not mean that due process does not apply. Rather, that means that the city, with the help of the city attorney, should determine how the city will satisfy these requirements. Whenever possible, it is a good idea to spell out the process that will be followed in the applicable city ordinance.

## **2. Lawfully entering onto private property**

The procedures covered in this memo often involve private property. Private property rights are constitutionally protected, so it is important that the city take appropriate steps to ensure these rights are respected. Whenever this memo mentions entering private property for investigative, enforcement, or other reasons, the principles outlined in this section will apply.

Generally, in order to lawfully enter private property for investigative, enforcement, or other purposes, the city must either obtain voluntary consent from the owner or an administrative search warrant.

Seeking consent is the simplest way to gain access to property. Consent must be voluntarily given by a person who has the authority to consent, such as the owner or occupant of the property. It is important that the person giving consent is aware of the purpose and scope of the inspection or investigation before consenting. It is preferable to obtain the consent in writing.

If the city does not or cannot obtain the owner's consent to enter the property, the city may obtain an administrative search warrant. An administrative search warrant is issued by a judge and allows designated people to enter the property for certain purposes specified in the warrant. An administrative search warrant removes the need for consent. In order to obtain an administrative search warrant, the city must demonstrate to the judge "probable cause," which shows its request to enter private property is justified.

While some state laws and ordinances say that searches or inspections may be conducted at any time, it is still preferable to obtain consent or a search warrant.

In some situations, it may be possible to lawfully enter private property without consent or a warrant, such as when an emergency exists. The city attorney will be able to provide specific legal advice on how best to lawfully enter private property.

U.S. Const. amend. IV.  
*Camara v. Municipal Court*,  
387 U.S. 523, 87 S. Ct. 1727  
(1967).

*Camara v. Municipal Court*,  
387 U.S. 523, 87 S. Ct. 1727  
(1967). LMC Information  
Packet, *Administrative  
Searches and Seizures*.

Minn. Stat. § 412.221, subd. 21.

Minn. Stat. ch. 343.

Section V-G, *Dangerous dogs*.

Minn. Stat. § 347.22.

Minn. Stat. §§ 347.01-.03.

Minn. Stat. § 346.39.

Section IX-A, *Animal cruelty provisions*.

## B. Responsibilities

Animal owners also have responsibilities for their animal. Some common responsibilities are to:

- Obtain the appropriate license, if any, from the city and satisfy all requirements related to obtaining and maintaining the license.
- Treat their animal humanely.
- Maintain control of their animal and comply with applicable nuisance ordinances, such as not allowing the animal to run at large, not allowing their animal to be excessively noisy, etc.

It is also the responsibility of the animal owner to comply with all state laws and city ordinances that apply to their animal. In addition, animal owners are generally responsible for the actions of their animal, including damage caused by the animal.

For instance, the owner of a dog is generally responsible for injury or damage that occurs when the dog bites another person or animal. If a dog, without provocation, attacks or injures any person who is acting peaceably in any place where the person may lawfully be, the owner of the dog is liable for damages to the person so attacked or injured for the full amount of the injury sustained. The term “owner” includes any person harboring or keeping a dog, but the owner must be primarily liable.

There are also state laws that protect the owners of animals, including domestic animals and livestock, from dog attacks on their animals. The owner or keeper of a dog that kills, wounds, or worries a domestic animal will be held liable to the owner of the animal that was damaged.

## III. City responsibilities

Cities are responsible for enforcing ordinances, properly caring for animals in their custody, and following the applicable laws and ordinances. Oftentimes, these responsibilities are most obvious when the city has captured, seized, or otherwise has an animal in its custody or care.

### A. Minnesota Pet and Companion Animal Welfare Act—cats and dogs

The Minnesota Pet and Companion Animal Welfare Act (Animal Welfare Act) sets minimum care standards of cats and dogs for veterinarians, animal boarding facilities, and commercial animal facilities. It is not clear what constitutes an animal boarding facility, so it is not clear whether these laws apply to city facilities. A conservative approach for cities is to follow the minimum care standards outlined below in facilities where animals are boarded.

Minn. Stat. §§ 346.35-.44.

This Act has different requirements for different animals, so the city should consult the statute to ensure the applicable requirements are followed, particularly when working with an animal not regularly dealt with.

Since the city most commonly deals with dogs and cats, this section will cover the requirements for those animals.

## 1. Confinement

Minn. Stat. § 346.39, subd. 4.

A confinement area must provide sufficient space to allow each cat and dog to turn about freely and easily stand, sit, and lie in a normal position. State law provides a formula to determine the minimum amount of space required.

Minn. Stat. § 346.39, subd. 7.  
Minn. Stat. § 346.39, subd. 4.

Confinement areas must be maintained at a temperature suitable for the animal involved. A shaded area must be sufficient to protect the animal from the direct rays of the sun at all times from May to October. Bedding, if used, must be kept clean and dry. Outdoor enclosures must be kept clean and base material replaced as necessary.

Minn. Stat. § 346.39, subd. 12.

Minn. Stat. § 346.39, subd. 8.

If the confinement area is indoors, it must be ventilated. Drafts, odors, and moisture condensation must be minimized. Auxiliary ventilation, such as exhaust fans, vents, and air conditioning, must be used when the room temperature rises to a level that may endanger an animal's health. Further, an indoor confinement area must have at least eight hours of illumination sufficient to permit routine inspection and cleaning.

Minn. Stat. § 346.39, subd. 9.

Minn. Stat. § 346.39, subds. 9, 10, 11.

Where applicable, the interior surfaces of confinement and exercise areas, including crates and containers, must be constructed and maintained so that they are substantially impervious to moisture and may be readily cleaned. They must protect the animal from injury and be kept in good repair. Animal wastes and excess fluids must be disposed of properly.

## 2. Food and water

Minn. Stat. § 346.39, subds. 1, 3.

National Research Council,  
500 Fifth St. N.W.,  
Washington, D.C. 20001;  
202-334-2000.

Cats and dogs must be provided with food of sufficient quantity and quality to allow for normal growth or the maintenance of body weight. Food must be provided at least once every 24 hours or more often, if necessary, to maintain the health and condition of the animals. The feed standards recommended by the National Research Council should be followed.

Minn. Stat. § 346.39, subds. 2, 3.

Cats and dogs must also be provided with clean, potable water in sufficient quantity to satisfy the cat's or dog's needs. Water must be provided at least once every eight hours. Snow and ice are not adequate water sources.

Minn. Stat. § 346.39, subd. 12.

Food and water containers must be accessible to each animal and located to minimize contamination by animal waste. The containers must be kept clean. Disposable containers must be discarded when soiled. Measures must be taken to protect animals from being contaminated with water, wastes, and harmful chemicals.

Minn. Stat. § 346.39, subds. 3, 5.

### **3. Exercise**

All cats and dogs must be provided the opportunity for exercise for 20 to 30 minutes at least once every eight hours, either through free choice or a forced work program, unless exercise is restricted by a licensed veterinarian.

Minn. Stat. § 346.39, subd. 3.

### **4. Transportation**

When dogs or cats are transported in crates or containers, the crates or containers must be constructed of nonabrasive wire or a smooth, durable material suitable for the animals. Crates and containers must be clean, adequately ventilated, contain sufficient space to allow the animals to turn around, and provide maximum safety and protection to the animals.

Minn. Stat. § 346.37, subd. 1.

### **5. Disposal of animals under Animal Welfare Act**

If the city is in possession of an animal and turns it over to a veterinarian, boarding facility, or commercial facility, and the owner does not claim the animal from that facility within ten days after notice, the law provides a process for the facility to dispose of the animal.

Minn. Stat. § 346.37, subd. 1.

The law requires that facilities must warn its patrons of the disposal process in a conspicuously posted notice or by conspicuous type in a written document given to the owner. If the city enters into agreements with these types of facilities, the city may consider giving a similar warning.

A.G. Op. 146-e (Dec. 6, 1948).

## **B. Disposition of animals**

Cities generally have the authority to dispose of animals in their custody according to the process laid out by law or city ordinance. If there is no state law or ordinance to allow disposition of the animal, the city likely lacks the authority to do so.

Minn. Stat. § 346.47, subd. 1.

### **1. Seizure of animals**

The process of seizing animals, outlined below, applies to any public or private agency, person, society, or corporation with custody of animals seized by the city or other political subdivision.

Minn. Stat. § 346.47, subd. 2.  
Minn. Stat. § 346.47, subd. 1.

Unclaimed animals must be held for redemption by the owner for at least five regular business days of the impounding agency. The city can, by ordinance, require the holding period to be longer. A “regular business day” means a day during which the establishment having custody of an animal is open to the public not less than four consecutive hours between the hours of 8 a.m. and 7 p.m.

While the law does not provide notice and hearing requirements, it would be prudent for the city to notify owners or others with an interest in the animal, if known, that the animal has been seized and is being held. There should also be some process for the owner to reclaim the animal.

Minn. Stat. § 346.47, subd. 2.

The establishment must maintain the following records of the animal in custody:

- The description of the animal by species, breed, sex, approximate age, and other distinguishing traits.
- The location at which the animal was seized.
- The date of seizure.
- The name and address of the person from whom any animal three months of age or over was received.
- The name and address of the person to whom any animal three months of age or over was transferred.

Minn. Stat. § 346.47, subd. 2.

These records must be preserved for at least six months and must be maintained in a form permitting easy perusal by the public. A person may view the records and animal in custody at any time during which the establishment is open to the public.

*Coyle v. City of Delano*, 526 N.W.2d 205 (Minn. Ct. App. 1995).

Where the city transfers the animal to another agency, that agency has the same duties imposed by law, including keeping these records.

Minn. Stat. § 346.47, subd. 3.

A person must not release an animal seized for research or product testing, either directly or through an animal dealer. This does not apply to the temporary transfer of an animal to a college of veterinary medicine or veterinary technology school accredited by the American Veterinary Medicine Association for the purpose of sterilization or needed veterinary care.

## 2. Disposition

If after the specified time and when the statutory and due process requirements have been met, the city may dispose of the animal. State law prohibits the use of a decompression chamber to destroy an animal. State law also prohibits unjustifiably administering any poisonous or noxious drug or substance. The attorney general has advised that the issue of whether to use poison to dispose of animals is an issue of fact for the city to decide.

*State v. Utech*, No. A09-1766 (Minn. Ct. App. Sept. 28, 2010) (unpublished decision).  
Minn. Stat. § 343.37.  
Minn. Stat. § 343.27.  
A.G. Op. 210d7 (May 19, 1947).

“HSUS Condemns the Use of Carbon Monoxide (CO) for Euthanasia of Animals in Shelters,” Humane Society of the United States (August 2, 2012). “AVMA Guidelines on Euthanasia of Animals: 2013 Edition,” American Veterinary Medical Association (2013).

Minn. Stat. § 347.17.

Minn. Stat. § 35.69.

Minn. Stat. § 347.03.

Minn. Stat. § 35.82, subd. 2.

The way cities dispose of animals varies. Some cities contract with a veterinarian to have the animal “put down.” Other cities may have the staff and resources available to dispose of the animal without the need to contract with another person or organization.

There are many organizations that make recommendations or have guidelines on euthanizing animals. While these are not binding on cities (and, indeed, are not written for cities), they may provide helpful information for cities when deciding how animals will be destroyed.

### 3. Diseased dogs

There are certain situations described by law that allow any person to kill a dog immediately. Any person may kill any dog:

- That the person knows is affected with the disease hydrophobia (which is associated with rabies).
- That may suddenly attack while the person is peacefully walking or riding and while being out of the enclosure of its owner or keeper.
- Found killing, wounding, or worrying any horses, cattle, sheep, lambs, or other domestic animals.
- Running at large on the public streets or roads without the required muzzle when a board of health determines that rabies exists in the town or city and the required rabies proclamation is filed.
- Found chasing, injuring, or worrying sheep or other livestock or poultry owned by or in care of an owner or caretaker. Further, any owner or caretaker of sheep may kill any dog found on their property where sheep are kept, not under human restraint or control.

These laws are intended only for specific circumstances. Cities should not rely on these laws to generally kill or dispose of animals.

### 4. Disposing of animal carcasses

Sometimes the city will be asked what an animal owner should do with the animal carcass when the animal dies at home. State law provides that the animal should be buried at a depth that will prevent scavenging by other animals, a thorough burn of the carcass, or disposal of the animal by other approved methods. Some cities will spell out what to do with a carcass by ordinance. Other cities prohibit the burning of carcasses, particularly by burning them in a wood burner or boiler.

### 5. Liability

*Soucek v. Banham*, 524 N.W.2d 478 (Minn. Ct. App. 1994). *Molenaar v. United Cattle Co.*, 553 N.W.2d 424 (Minn. Ct. App. 1996).

*Wilson v. City of Eagan*, 297 N.W.2d 146 (Minn. 1980).

*Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520 (1993).

Section I, *General considerations in regulating animals*.

*City of Faribault v. Wilson*, 25 N.W. 449 (Minn. 1885).

Section IV-G, *Vaccinations*.

The city should be cautious when disposing of animals because owners can recover damages from the city if the city wrongfully destroys their animal. This may also apply when there is an emergency or urgent situation where an animal is killed without due process. Generally, the measure of damages is the fair market value of the animal.

There is some uncertainty about whether the owner of the animal may recover punitive damages as well. It is important for the city to be cautious and to document the reasons that justified their actions; this will help defend the city if the action is challenged.

## 6. Slaughtering

Cities generally have the authority to regulate slaughtering within the city. Many cities prohibit slaughtering of animals in city limits, unless the location is a slaughterhouse or similar establishment or is in a particularly zoned area. However, cities need to be careful in drafting and enforcing ordinances on slaughtering of animals so that the ordinance is not used to target religious slaughtering or sacrificing of animals.

## IV. Animal regulation—general information

Cities have broad authority to regulate animals and may adopt appropriate regulations for the needs of the community. This section will discuss some general issues about regulating animals, as well as issues specific to common types of pets.

### A. Licensing

A city may license pets. If the city chooses to license pets, it should adopt an ordinance that sets forth the process and requirements. The city may charge a reasonable fee for the license. The cost of the license should be set at a level to recoup the costs of issuing the licenses, enforcement, and other related costs.

Some cities require proof of current vaccination in order to obtain a license. One way to do this is to require animal owners to show a certificate from a veterinarian indicating that the animal has been vaccinated. This method is preferred to having applicants check a box indicating the animal has been vaccinated. Having an applicant check a box, without a certificate to verify the vaccinations, could allow the owner to provide inaccurate information.

Some cities also offer a lower-cost license if the animal has been spayed or neutered. Spaying and neutering can help to minimize the populations of unwanted or stray animals. Presumably, the lower cost is related to the lower cost of enforcement of an animal that will not produce offspring or the troubles related to mating.

Some cities also provide animal licenses for free or at a reduced cost for service animals and police dogs. There are a couple of reasons for the lower cost. One rationale is that these animals are not just pets, but perform important (and sometimes necessary) work for the individuals and, in the case of police dogs, for the community.

The other rationale is that these animals are less likely to cause animal-control issues, such as running at large.

Licensing animals serves different purposes, depending on the licensing ordinance. For example, when animals are required to be properly vaccinated, it leads to a healthier animal population. Another benefit is that the city can collect a fee that can be used to offset the costs of enforcing animal regulations. In tight budget times, this might be a way to help pay for the services related to animal control.

## **1. Lifetime licenses**

Some cities offer lifetime licenses for an animal as an alternative to a regular license. As the name suggests, the owner only needs to purchase one license for the animal instead of renewing the licenses annually or at some other set interval. Lifetime licenses may have more conditions to meet than a standard license, such as requiring proof that the animal has had a microchip implanted. Some cities still require that the owner regularly update the city with vaccination certificates for each animal with a lifetime license. This allows the city to ensure licensed animals are regularly vaccinated and that the license is still active (i.e., the animal is still alive and living in the city).

## **2. County licenses**

If the city does not have a licensing ordinance, the county may have ordinances about licensing and regulating dogs running at large that apply in the city. If there is an applicable county ordinance, the city clerk should be familiar with his or her responsibilities under the county ordinance.

[Minn. Stat. §§ 347.08-.21.](#)

Minn. Stat. §§ 346.35-.44.  
Section III-A *Minnesota Pet  
and Companion Animal  
Welfare Act.*

*Holt v. City of Sauk Rapids*,  
559 N.W.2d 444 (Minn. Ct.  
App. 1997).

*State v. Reinke*, 702 N.W.2d  
308 (Minn. Ct. App. 2005).  
*State v. Schuler*, No. C9-96-  
1047 (Minn. Ct. App. Feb.  
25, 1997) (unpublished  
decision).

*Boitz v. Preblich*, 405  
N.W.2d 907 (Minn. Ct. App.  
1987).

Minn. Stat. § 346.57, subd. 1.

Minn. Stat. § 346.57, subd. 3.

## **B. Humane care**

While state law regulates the humane care of animals, cities may choose to adopt similar provisions by ordinance. The ordinance should clearly spell out what is or is not acceptable. Instead of drafting an ordinance from scratch, the city may incorporate state law, such as the Animal Welfare Act, into city ordinances.

When looking into whether an animal is being treated inhumanely, cities should keep in mind that different animals, and different breeds of animals, may have different needs and different thresholds. Otherwise, an owner may challenge a citation for animal cruelty on the basis that the ordinance was applied to him or her arbitrarily.

## **C. Limiting number of animals**

The city may place reasonable limits on the number of animals per household or residential unit.

Minnesota courts have upheld ordinances that limit the number of dogs per household in order to deal with noise, odor, and other related concerns. The courts have found that ordinances that address these issues were reasonably related to the public's health, safety, and welfare. The city does not have to base the number on empirical evidence, but there should be some rational relationship between the ordinance and the health or safety of the community.

Cities approach limiting the number of animals per household in different ways. For example, some cities will cap the total number of animals allowed per household and other cities will limit the number of each type of animal that is allowed. The numbers of allowed animals also ranges. The city can determine the best approach for its community.

## **D. Animals at large**

Animals that are running loose may be considered a public nuisance. One solution to this issue is to enact a "leash law" that requires animals to be on leashes or otherwise under control.

## **E. Dogs and cats in vehicles**

A person may not leave a dog or cat unattended in a standing or parked motor vehicle in a manner that endangers the animal's health or safety. The most common example would be leaving a dog or cat in a car in hot or cold weather. A violation of this law is subject to a \$25 fine.

A peace officer, humane agent, dog warden, or volunteer or professional member of a fire or rescue department may use reasonable force to enter a motor vehicle and remove a dog or cat that has been left in the vehicle. The person removing the dog or cat must use reasonable means to contact the owner to arrange for its return. If the person is unable to contact the owner, the person may take the dog or cat to an animal shelter.

## F. Cleaning up animal waste

Many cities also have an ordinance that requires people to pick up animal waste. The point is to prevent animal waste from accumulating or entering storm drains, which could lead to a variety of livability and health-related concerns.

## G. Vaccinations

A city may require that animals be vaccinated in order to obtain a pet license. The vaccines required should be tailored to the needs of the surrounding area. The city should require only “core” vaccines that are recommended for most pets.

A local veterinarian can assist the city in determining what vaccines are considered “core” in the area.

Rabies vaccines are commonly required to obtain a pet license. Vaccines are an important way to minimize the chance of rabies becoming a problem in the city.

Another commonly required vaccine for dogs is canine distemper. This highly contagious and serious virus is spread through airborne exposure to the virus from an afflicted dog or wild animal. Distemper is often fatal, and where it is not fatal, it causes irreparable damage to an animal’s health.

## H. Rabies

Rabies is a deadly disease caused by a virus that attacks the nervous system. It is most commonly spread when people and animals are bitten by an infected animal. Because rabies can be fatal, it is important to minimize the spread of this disease. One way to do this is to require pets to be vaccinated.

In its “Compendium of Animal Rabies Prevention and Control,” the National Association of State Public Health Veterinarians (NASPHV) recommends that local governments initiate and maintain effective programs to ensure vaccinations of all dogs, cats, and ferrets.

Section IV-A, *Licensing*.

“[Vaccinations](#),” American Veterinary Medical Association (December 2009).

Section IV-H, *Rabies*.

“[Canine Distemper](#),” American Veterinary Medical Association (March 2010).

“[Rabies](#),” American Veterinary Medical Association (March 2010).

“[Compendium of Animal Rabies Prevention and Control, 2011](#),” National Association of State Public Health Veterinarians (November 4, 2011).

Minn. R. 1721.0550, subp. 2.

Minn. R. 1721.0540, subp. 3.

“Rabies Vaccination Certificate (Form 51),” National Association of State Public Health Veterinarians (2007).

“Compendium of Animal Rabies Prevention and Control, 2011,” National Association of State Public Health Veterinarians (November 4, 2011).

Minn. R. 1721.0020, subp. 7. “Reportable Animal Diseases in Minnesota,” Minnesota Board of Animal Health (May 2013).

Minn. Stat. § 35.67.

## 1. Vaccination

Animal rabies vaccines may only be administered by or under the supervision of a licensed veterinarian. Minnesota law requires that the veterinarian responsible for the administration of the rabies vaccine sign a rabies vaccination certificate for each dog, cat, or ferret that has been vaccinated for rabies. The certificate must include the information specified by law, which includes the NASPHV’s Compendium. The NASPHV has a recommended Rabies Certificate (Form 51) for use as the rabies vaccination certificate.

## 2. Control measures

In addition to vaccinations, the NASPHV recommends the following procedures to enhance rabies control:

- Identification of dogs, cats, and ferrets (e.g., metal or plastic tags or microchips) to allow for verification of rabies vaccination status.
- Registration and licensure of all dogs, cats, and ferrets. Evidence of current vaccination should be a requirement to obtain a license.
- House-to-house checks by animal control officials to ensure compliance with vaccination and licensure requirements.
- Citations issued to owners for violations, including the failure to vaccinate or license their animals.
- Incorporate stray animal control, leash laws, and animal-bite prevention, and training of appropriate city personnel on these procedures.
- Incorporate education covering responsible pet ownership, bite prevention, and appropriate veterinary care into city programs.

## 3. Complaints and investigations

Any person who knows or reasonably suspects that an animal is infected with a disease listed on the board’s reportable animal diseases list, which includes rabies, must immediately report that knowledge or suspicion to the board of animal health. Reports must be made by calling the board office, the district veterinarian, or the Minnesota duty officer.

If the state board of animal health, or city or county board of health, receives a written complaint that rabies exists within the board’s jurisdiction, the board must investigate the truth of the complaint. A board of health may also make an investigation and determination without receiving a complaint.

Minn. Stat. §§ 35.67-.69.  
Minn. R. 1721.0580, subp. 5.  
Minn. Stat. § 145A.04.

Local peace officers, animal control officials, and boards of health must enforce these laws on rabies. Peace officers and authorized agents of a board of health must file a complaint concerning any known violation of the rabies laws.

#### 4. Proclamations

Minn. Stat. § 35.68. Minn. Stat. § 35.69.

If rabies are found to exist, the entity doing the investigation must make a proclamation that prohibits the owner or custodian of any dog from allowing the dog to be at large within the city, either on the premises of the owner or elsewhere, unless the dog is effectively muzzled so that it cannot bite any other animal or person. The proclamation must be filed with the appropriate personnel at all political subdivisions subject to the proclamation.

Minn. Stat. § 35.68.

If a proclamation is filed with the city, the city must, at its own expense, publish a copy of it in one issue of a legal newspaper published in the city, if one is published there. If no newspaper is published there, the clerk must post a copy of the proclamation in three public places. Proof of publication must be by affidavit of the publisher and proof of posting must be by the person doing the posting. The affidavit must be filed with the proclamation. The proclamation is effective five days after the publication or posting and remains effective for a specified period of time, which should not exceed six months.

Minn. Stat. § 35.69.

When a rabies proclamation is in effect, any person may kill a dog running at large on the public streets or roads unless the dog is effectively muzzled so that it cannot bite any person or animal. The owner of the dog has no claim against the person who kills the dog.

Minn. Stat. §§ 35.67-.69.

#### 5. Disposition

Minn. R. 1721.0570, subp. 1.

Animals determined by the board of animal health to have been exposed to rabies must be confined, euthanized, or quarantined, depending on the circumstances. An animal confined for rabies observation must be restricted in such a way that the animal can always be found and cannot wander away. An animal confined and observed for rabies must also be reported to the Department of Health. If the animal shows signs suggestive of rabies, it must be euthanized and tested for rabies. An animal that dies or is euthanized during the confinement period must be tested for rabies.

Minn. R. 1721.0580, subp. 3.

Minn. R. 1721.0580, subp. 4.

Minn. R. 1721.0570, subp. 2.

If animals are quarantined, they must be quarantined in a manner approved by the board so as to minimize contact with people or other animals. Unless exempted by the board, quarantined dogs, cats, and ferrets must be vaccinated or revaccinated for rabies at the beginning of the quarantine period.

Minn. R. 1721.0570, subp. 3.

Minn. R. 1721.0570, subp. 4.

Minn. R. 1721.0580, subp. 1.

Minn. R. 1721.0580, subp. 3.

Minn. R. 1721.0010, subp. 16. "Compendium of Animal Rabies Prevention and Control, 2011," National Association of State Public Health Veterinarians (November 4, 2011).

Minn. R. 1721.0580, subp. 1.  
Minn. R. 1721.0520, subp. 10. Minn. Stat. § 346.47.

Minn. R. 1721.0580, subp. 2.

Section IX, *Animal health and safety laws.*

*City of Edina v. Dreher*, 454 N.W.2d 621 (Minn. Ct. App. 1990).

All animals that are quarantined for rabies must be inspected by a veterinarian at the end of the quarantine period. Quarantined animals must not be released until the board receives a written report from a licensed veterinarian stating the veterinarian inspected the animal at the end of the quarantine period and observed no signs of rabies. No dog, cat, or ferret may be released from quarantine unless it is vaccinated for rabies. Any animal that is confined or quarantined for rabies must be reported immediately to the board.

If a dog, cat, or ferret bites a human, it must be confined and observed for signs suggestive of rabies for ten days or euthanized and tested for rabies. A dog, cat, or ferret that is currently vaccinated for rabies may be confined in the home or as directed by local authorities. A dog, cat, or ferret that is not currently vaccinated for rabies may be required by local authorities to be confined at a veterinary clinic or other secure location at the owner's expense. "Currently vaccinated for rabies" means an animal is (1) vaccinated for rabies in accordance to the law, which includes NASPHV's Compendium, and (2) not overdue for a rabies booster vaccination and the proof of rabies vaccination is available.

If requested by the Department of Health, a stray or impounded dog, cat, or ferret that bites a human may be euthanized and tested for rabies before the required five-day holding period.

An animal other than a dog, cat, or ferret that bites a human must be managed on a case-by-case basis based on the recommendations of the Department of Health. The animals may be required to be confined and observed for signs suggestive of rabies. If the Department of Health requests a rabies test, the animal must be euthanized and tested for rabies.

## V. Regulation of dogs

Dogs are regulated both at the state and local level. In addition to the general laws and considerations discussed earlier in this memo, there are some special provisions for dogs.

### A. Barking dogs

A barking-dog ordinance must give guidance to the pet owners, neighbors, and enforcement officers as to what would be considered allowable or prohibited barking, whining, or other noisy conduct. One way to accomplish this is to include objective criteria, such as designating barking, howling, etc. for more than a pre-determined number of minutes to be a violation. It is best to avoid vague language like prohibiting animals that disturb the peace and quiet of any persons in the vicinity because such vague language can lead to inconsistent or arbitrary enforcement.

## B. Dogs at outdoor restaurants

Minn. Stat. § 157.175, subds. 1, 2.

A city may adopt an ordinance permitting restaurants to allow dogs to accompany persons using the designated outdoor areas of food and beverage service establishments, such as restaurants, cafes, etc. The ordinance must prohibit dangerous and potentially dangerous dogs from accompanying persons to these establishments.

Minn. Stat. § 157.175, subd. 3.

The ordinance cannot prohibit an establishment from banning dogs. If a person is accompanied by a dog at an establishment, and knows that the establishment has posted a sign banning dogs or is otherwise informed that dogs are not permitted, the person may be ordered to leave.

Minn. Stat. § 157.175, subd. 4(a).

The ordinance must require participating establishments to apply for and receive a permit from the city before allowing dogs on the premises. The city must require the applicant to provide information that the city deems reasonably necessary. This information must include, at a minimum, the following:

- The name, location, and mailing address of the establishment.
- The name, mailing address, and telephone contact information of the permit applicant.
- A description of the designated outdoor areas in which the permit applicant intends to allow dogs.
- A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor areas.

Minn. Stat. § 157.175, subd. 7.

The ordinance must also include a definition of “designated outdoor area” that is consistent with applicable rules adopted by the Commissioner of Health.

Minn. Stat. § 157.175, subd. 4(b).

The permit cannot be transferred to a new owner and expires automatically upon the sale of the establishment. The new owner is required to reapply for a permit if he or she wishes to continue to allow dogs on the premises.

Minn. Stat. § 157.175, subd. 4(c).

The city may incorporate these permit requirements into a permit or license issued under an existing ordinance if the city ensures that current and future permit and license holders comply with the requirements of the law. A city may exempt current permit and license holders from reapplying for a permit, if current permit or license holders provide information requested by the city.

Minn. Stat. § 157.175, subd. 5.

The ordinance must include regulations and limitations that the city deems reasonably necessary to protect the health, safety, and general welfare of the public. At a minimum, the ordinance must include the following requirements:

- Employees must be prohibited from touching, petting, or otherwise handling dogs.
- Employees and patrons must not allow dogs to come into contact with items involved in food service operations such as dishes, utensils, tableware, linens, paper products, or other items.
- Patrons must keep their dogs on a leash at all times and must keep their dogs under reasonable control.
- Dogs must not be allowed on chairs, tables, or other furnishings.
- Dog waste must be cleaned immediately and the area sanitized.

The requirements listed above must be clearly printed on a sign or signs posted on the premises in a manner and place that are conspicuous to employees and patrons.

Any ordinances related to animals in restaurants must not limit a disabled person access to places of public accommodation while accompanied by a service animal as provided by law. Further, the lawful use of a service animal by a licensed police officer must not be limited.

### **C. Dogs at large**

Cities may prohibit dogs running at large or otherwise uncontrolled.

If the city does not prohibit dogs running at large, state law provides that the owner or custodian of a dog that is permitted to be uncontrolled off the owner or custodian's premises must have the dog identified in one of the ways specified by law, such as an identification tag, microchip, tattoo, etc. A violation of this state law is a petty misdemeanor.

When an animal shelter receives a dog, an employee must check for identification on the animal, identify the owner by the identification whenever possible, and promptly notify the owner of the location of the animal by the most expedient means. While not required by law, the city should also check for these identifications if it receives a dog.

### **D. Dogs as a nuisance**

Any dog that habitually worries, chases, or bothers people traveling peaceably on the public road is a public nuisance. In addition to the remedies in city ordinances on dogs running at large, a person may make a written complaint to a district court judge regarding the dog. After the court procedures described by law, the judge will decide if it is a public nuisance. If the dog is found to be a nuisance, the judge will order the appropriate public official to kill and dispose of the dog. Costs must be paid by the complainant, but if the dog is adjudged a nuisance, and the owner is known, judgment will be entered against the owner.

Minn. Stat. § 157.175, subd. 5.

Minn. Stat. § 157.175, subd. 6.

Minn. Stat. § 256C.02. Minn. Stat. § 363A.19.

Section IV-D, *Animals at large*.

Minn. Stat. § 412.221, subd. 21. Minn. Stat. § 346.52. Minn. Stat. § 346.50.

Minn. Stat. § 346.53.

Minn. Stat. § 346.54.

Minn. Stat. §§ 347.04-.07.

LMC information memo, *Public Nuisances*.

## E. Dog parks

Dog parks are designated places where dog owners can take their dogs to exercise and socialize with other dogs. These parks vary widely, depending on the needs and wants of the community. Dog parks are often, but not always, enclosed and allow dogs to be off of their leashes while in the park. Some cities charge a fee for a permit or license to use the park; the money collected is then spent on maintaining the park.

If the city chooses to operate a dog park, the city can design the park to suit the available space and the needs of the community. Dog parks can have a wide variety of amenities, but some things to consider:

- Will barriers, either manmade or natural, be used to keep dogs inside of the park area?
- What rules should there be for using the park?
- Will trash containers and/or bags be provided to encourage owners to pick up animal waste?
- Where will the dog-park patrons park?
- Will there be water for the dogs to drink or to play in (e.g., lake, stream, etc.)?
- Will larger and smaller dogs be separated?
- What maintenance will have to be done? How often? Who will do it?
- Will there be areas for people to sit (e.g., benches, shelters, etc.) while at the park?

## F. Kennels

A kennel must receive a license from the Board of Animal Health. State law defines a kennel as any place where dogs or cats are kept, congregated, or confined, if the dogs or cats were obtained from municipalities, pounds, auctions, or by advertising for unwanted dogs or cats, or dogs or cats strayed, abandoned, or stolen. A kennel does not include a pound owned and operated by a city, a person's home where dogs and cats are kept as pets, or a licensed veterinarian who keeps, congregates, or confines dogs or cats in the normal pursuit of the practice of veterinary medicine.

In addition to state laws, the city may also regulate kennels by ordinance. Sometimes, cities will expand the definition of kennel to include places where more than a certain number of dogs are kept, regardless of where the dogs came from. This type of ordinance would include homes with many dogs, boarding facilities, etc.

[Minn. Stat. § 347.32.](#) [Minn. Stat. § 347.31, subd. 2.](#)  
"Kennels," Minnesota Board of Animal Health.  
[Minn. R. 1721.0520.](#)

[Minn. Stat. § 347.40.](#)

*Claesgens v. Animal Rescue League of Hennepin Cnty.*, 216 N.W. 535 (Minn. 1927).

A.G. Op. 477B7 (Oct. 15 1945).

Minn. Stat. §§ 347.50-.565.  
Minn. Stat. § 347.53.  
*Brunotte v. City of St. Paul Office Safety & Inspections*, No. A08-0173 (Minn. Ct. App. Feb. 10, 2009) (unpublished decision).  
*Hannan v. City of Minneapolis*, 623 N.W.2d 281 (Minn. Ct. App. 2001).  
*Am. Dog Owners Ass'n, Inc. v. City of Minneapolis*, 453 N.W.2d 69 (Minn. Ct. App. 1990).

Minn. Stat. § 347.53.

Minn. Stat. § 347.51, subd. 8.

Minn. Stat. § 347.50, subd. 2.

Unless the city can show that the kennel or pound would be a nuisance everywhere within the city, the city should not adopt an ordinance prohibiting all kennels or pounds.

The city should set the license fee in an amount that covers its costs. The attorney general has advised that in order to avoid a kennel fee from being considered a revenue-raising fee, the ordinance should be based on the costs incurred to provide policing, regulation, and inspection.

## G. Dangerous dogs

Cities have a legitimate interest in regulating and controlling dangerous dogs because the issue relates to the safety of city residents. The process for dealing with dangerous dogs is largely spelled out in state law. Cities do not need to have an ordinance in place in order to follow the process in state law. However, there is some room for cities to add stricter regulation through city ordinance, such as applying the same provisions to animals other than just dogs.

State laws do not regulate potentially dangerous dogs to the same degree as dangerous dogs, so cities may adopt an ordinance that covers requirements and procedures related to potentially dangerous dogs in addition to dangerous dogs.

Oftentimes, these requirements are similar to those required for dangerous dogs.

The city cannot adopt an ordinance regulating potentially dangerous or dangerous dogs based solely on the specific breed of the dog. If the city does have such an ordinance, it is considered void.

### 1. Definitions

A dangerous dog is defined as any dog that:

Minn. Stat. § 347.50, subd. 6.  
Minn. Stat. § 609.02, subd. 7a.

- Without provocation, inflicted substantial bodily harm on a human being on public or private property. (Substantial bodily harm means bodily injury that involves a temporary but substantial disfigurement, or that causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or that causes a fracture of any bodily member).
- Has killed a domestic animal without provocation while off the owner's property.
- Has been found to be potentially dangerous, 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.

Minn. Stat. § 347.50, subd. 3.

A potentially dangerous dog is defined as any dog that:

- When unprovoked, inflicts bites on a human or domestic animal on public or private property.
- 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.
- Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

Minn. Stat. § 347.50, subd. 8.

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

## 2. Exceptions

Minn. Stat. § 347.51, subd. 5.

A dog may not be declared dangerous if the threat, injury, or damage was sustained by a person who:

- Was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog.
- 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.
- Was committing or attempting to commit a crime.

Minn. Stat. § 347.51, subd. 4.

The potentially dangerous and dangerous dog laws do not apply to dogs used by law enforcement officials for police work.

Minn. Stat. § 347.565.

Minn. Stat. § 347.50, subd. 7.

Minn. Stat. § 347.51, subd. 9.

*Hansen v. City of St. Paul*,  
214 N.W.2d 346 (Minn.  
1974).

Minn. Stat. § 347.541, subds.  
1, 2.

*Brunotte v. City of St. Paul*  
*Office Safety & Inspections*,  
No. A08-0173 (Minn. Ct.  
App. Feb. 10, 2009)  
(unpublished decision).

### 3. Enforcing dangerous dog laws

The dangerous dog laws must be enforced by the animal control authority or law enforcement agency whether or not there is a local ordinance on the subject. An “animal control authority” is defined as an agency of the state, county, municipality, or other governmental subdivision of the state, which is responsible for animal control operations in its jurisdiction.

The law is not clear on the city’s role in enforcing the dangerous and potentially dangerous dog provisions when it does not have an animal control operation or law enforcement agency. However, it seems that if the city already regulates animals it would likely also have some level of responsibility for enforcing the dangerous and potentially dangerous dog laws.

An animal control authority may contract with another political subdivision or other person to provide the services required by the dangerous dog laws. Regardless of any contract entered into, all fees collected under these laws must be paid to the animal control authority. Further, all certificates of registration must be issued in the name of the animal control authority.

### 4. Liability for not enforcing laws

The city should take care to follow up on complaints and enforce the dangerous dog laws. In one opinion, the Minnesota Supreme Court found the city liable for permitting vicious dogs to roam on city sidewalks after it received many complaints concerning the same dogs being involved in attacks on city sidewalks. The court held that the city breached its duty to maintain safe streets and sidewalks by not impounding these dogs. Further, the court held that there was not a failure to exercise a discretionary function, so the city was not immune from liability. It is important to note that cities must have actual or constructive notice of the condition.

### 5. Hearing to contest designation

The owner of any dog that is declared to be dangerous has the right to a hearing by an impartial hearing officer to contest the designation. If the dog has been seized, the person claiming an interest in the dog may prevent disposition of the dog by posting security in an amount sufficient to provide for the dog’s actual cost of care and keeping. The security must be posted within seven days of the seizure, counting the day of the seizure.

Minn. Stat. § 347.541, subd. 3.

The authority declaring the dog to be dangerous must give notice of the right to a hearing by delivering or mailing the notice 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 must include all of the following:

Minn. Stat. § 347.52(a), (c).

Minn. Stat. § 347.51. Minn. Stat. § 347.515. Minn. Stat. §347.52

- A description of the seized dog; the authority for and purpose of the dangerous dog declaration and seizure; the time, place, and circumstances under which the dog was declared dangerous; and the telephone number and contact person where the dog is kept.
- 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 request a hearing within 14 days of the date of the notice will terminate the owner's right to a hearing.
- A statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of the law regarding proper enclosures, muzzling, and restraint and notification to the animal control authority if the dog is moved or dies until such time as the hearing officer issues an opinion.
- 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 registration, microchipping, and other requirements.
- A form to request a hearing.
- 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.

Minn. Stat. § 347.541, subd. 4.

If requested, the hearing must be held within 14 days of the request. The hearing officer must be an impartial employee of the local government or an impartial person retained by the local government to conduct the hearing. In the event that the dangerous dog declaration is upheld by the hearing officer, the dog's owner will be responsible for the actual expenses of the hearing up to a maximum of \$1,000. The hearing officer must issue a decision on the matter within ten days after the hearing. The decision must be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy must be provided to the animal control authority.

*Sawh v. City of Lino Lakes*, 823 N.W.2d 627 (Minn. 2012). *Brunotte v. City of St. Paul Office Safety & Inspections*, No. A08-0173 (Minn. Ct. App. Feb. 10, 2009) (unpublished decision). *Minnegasco v. Minn. Pub. Utils. Comm'n*, 529 N.W.2d 413 (Minn. Ct. App. 1995). *rev'd on other grounds*, 549 N.W.2d 904 (Minn.1996).

Minn. Stat. § 347.51, subs. 1, 2.

Minn. Stat. § 347.50, subd. 5.

Minn. Stat. § 347.51, subd. 2.

Minn. Stat. § 347.50, subd. 4.

Minn. Stat. § 347.51, subd. 2.

Minn. Stat. § 347.51, subd. 2.  
Minn. Stat. § 347.515.

The decision to declare a dog to be dangerous must not be arbitrary and capricious. The decision is arbitrary and capricious only if 1) it relies on factors not intended by the ordinance; 2) it entirely fails to consider an important aspect of the issue; 3) it offers an explanation that conflicts with the evidence; or 4) it is so implausible that it could not be explained as a difference in view or the result of the city's expertise.

## 6. Registration of dangerous dogs

A person cannot own a dangerous dog unless the dog is registered in accordance with the law, which is done by the owner of the dog obtaining a certificate of registration from the animal control authority. (An owner is any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog).

The animal control authority must issue a certificate of registration to the owner if the owner presents sufficient evidence that all of the following conditions are met:

- A proper enclosure exists for the dangerous dog and a posting on the premises with a clearly visible warning sign that there is a dangerous dog on the property, including a warning symbol to inform children. (A proper enclosure means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal 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).
- A surety bond has been issued by a surety company authorized to conduct business in Minnesota in a form acceptable to the animal control authority in the sum of at least \$300,000, payable to any person injured by the dangerous dog, or a policy of liability insurance has been issued by an insurance company authorized to conduct business in Minnesota in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog.
- The owner has paid an annual fee of not more than \$500, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog.
- The owner has had microchip identification implanted in the dangerous dog.

Minn. R. 7417.0400.

Minn. Stat. § 347.51, subd. 2a.  
“Dangerous Dog Warning Sign Application,”  
Minnesota Department of Public Safety (Oct. 2012).

Minn. Stat. § 347.51, subd. 7.  
Minn. R. 7417.0200. Minn. R. 7417.0300.  
“Dangerous Dog Warning Sign Application,”  
Minnesota Department of Public Safety (Oct. 2012).

Minn. Stat. § 347.51, subd. 7.  
Minn. R. 7417.0200.

Minn. R. 7417.0200.

Minn. Stat. § 347.52(b).  
Section V-G-12, *Transfer or death of dangerous dog.*

Minn. Stat. § 347.515.

## 7. Uniform warning symbol

The Commissioner of Public Safety has designed a uniform warning symbol that is intended to inform people that there is a dangerous dog on the property. The symbol looks like this:



If the animal control authority issues a certificate of registration, it must also provide a copy of the uniform warning symbol to inform children that there is a dangerous dog on the property. This symbol must be posted on the owner’s property. The Commissioner must provide the requested number of copies of the warning symbol to the animal control authority and must also charge the animal control authority the actual cost of the warning symbols. In turn, the animal control authority may charge the owner of the dangerous dog a reasonable fee to cover its administrative costs and the costs of the warning symbol.

In addition, a registered dangerous dog must have a standardized, easily identifiable tag identifying the dog as dangerous. State rules provide the specific standards that must be followed. One requirement is that the tag must include the uniform dangerous dog symbol.

This tag must be attached to the dog’s collar at all times. The tag must have the dangerous dog’s registration number inscribed on the back of the tag. The tag must also have the following inscribed or attached to the back:

“Minn. Stat. § 347.51, requires that this authorized warning symbol be posted on a dangerous dog tag and affixed to the dog’s collar at all times. Minnesota Department of Public Safety”

An owner of a dangerous dog must renew the registration of the dog annually until the dog is deceased. If the dog moves to a new jurisdiction, the dog must be registered as a dangerous dog in its new jurisdiction.

## 8. Microchip identification

The owner of a potentially dangerous or dangerous dog must have a microchip implanted in the dog for identification. The name of the microchip manufacturer and identification number of the microchip must be provided to the animal control authority.

If the owner does not have the microchip implanted in the dog, the animal control authority may have the microchip implanted. In either case, all costs related to the purchase and implantation of the microchip are the owner's responsibility.

## **9. Additional dangerous dog requirements**

In addition to the registration requirements, there are other requirements that must be met in order to own a dangerous dog.

[Minn. Stat. § 347.52\(a\).](#)

If a dangerous dog is outside of a 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 way that will prevent the dog from biting any person or animal but will not cause injury to the dog or interfere with its vision or breathing.

[Minn. Stat. § 347.52\(d\).](#)

A dangerous dog must be sterilized at the owner's expense. If the owner does not have the dog sterilized within 30 days, the animal control authority must seize the dog and have it sterilized at the owner's expense.

[Minn. Stat. § 347.52\(e\).](#)

If a person who owns a dangerous dog rents property from another person where the dog will reside, the dog owner must disclose to the property owner that he or she owns a dangerous dog that will live at the property. This disclosure must be made prior to entering a lease agreement and at the time of any lease renewal.

## **10. Fees**

[Minn. Stat. § 347.51, subd. 3.](#)

An animal control authority may charge the owner an annual fee of not more than \$500 to obtain a certificate of registration for a dangerous dog. This fee may be in addition to any regular dog licensing fee.

## **11. Review of dangerous dog designation**

[Minn. Stat. § 347.51, subd. 3a.](#)

Beginning six months after a dog is declared dangerous, an owner may make an annual request that the animal control authority review the designation. 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. If the animal control authority finds sufficient evidence that the dog's behavior has changed, it may rescind the dangerous dog designation.

## **12. Transfer or death of dangerous dog**

[Minn. Stat. § 347.52\(c\), \(f\).](#)

If the dangerous dog is moved to a new home, the owner must notify the animal control authority in writing of the transfer of the dog to a new location within 30 days of the transfer.

If the animal control authority requests it, the owner must execute an affidavit under oath that sets forth 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.

Minn. Stat. § 347.52(f).

A person who transfers ownership of a dangerous dog must notify the new owner that the animal control authority has identified the dog as dangerous.

Minn. Stat. § 347.52(c).

When a dangerous dog dies, the owner must notify the animal control authority in writing within 30 days. If the animal control authority requests it, the owner must execute an affidavit under oath setting forth the circumstances of the dog's death and the disposition of the animal.

### **13. Restrictions on ownership**

Minn. Stat. § 347.542, subds. 1, 2.

In the circumstances outlined by law, a person is prohibited from owning any dog if the person has been convicted of certain crimes. In addition, if any member of a household is prohibited from owning a dog, no person in the household is permitted to own a dog. The animal control authority may make an exception to this rule by approval with or without restrictions.

Minn. Stat. § 347.542, subd. 3.

The ban on ownership may be reviewed starting three years after the conviction that prohibits a person from owning a dog, and annually thereafter, at the request of the person. The law outlines the process for review, including factors that may be considered. These factors include the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the animal control authority deems appropriate. The animal control authority may rescind the prohibition on ownership completely or rescind it with limitations. The animal control authority may also establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the animal control authority rescinds a person's prohibition and that person later fails to comply with any limitations imposed by the animal control authority or if the person is convicted of any animal violation involving unprovoked bites or dog attacks, the animal control authority may permanently prohibit the person from owning a dog in Minnesota.

### **14. Confiscating dangerous dogs**

Minn. Stat. § 347.54, subd. 1(a).

The animal control authority that has jurisdiction over a dangerous dog must immediately seize the dog if:

Minn. Stat. § 347.51.

- The dog is not validly registered under the law 14 days after the owner has notice that the dog is dangerous.

Minn. Stat. § 347.51, subd. 2.

Minn. Stat. § 347.52.

Minn. Stat. § 347.52(d).

Minn. Stat. § 347.54, subd. 1(b).

Minn. Stat. § 347.54, subd. 2.

Minn. Stat. § 347.51. Minn. Stat. § 347.52.

Minn. Stat. § 347.54, subd. 2. Section III-B, *Disposition of animals.*

Minn. Stat. § 347.54, subd. 3. Minn. Stat. § 347.51. Minn. Stat. § 347.515. Minn. Stat. § 347.52.

Section III-B, *Disposition of animals.*

Minn. Stat. § 347.56, subd. 2.

Minn. Stat. § 347.56, subd. 1.

- The owner does not secure the proper liability insurance or surety coverage as required under the law 14 days after the owner has notice that the dog is dangerous.
- The dog is not maintained in the proper enclosure.
- The dog is outside the proper enclosure and not under physical restraint of a responsible person as required under the law.
- The dog is not sterilized within 30 days.

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.

A dangerous dog that is seized may be reclaimed by the dog’s owner after the owner pays the impounding and boarding fees and presents proof to the animal control authority that the legal requirements for owning a dangerous dog will be met.

If a dog is not reclaimed within seven days, it may be disposed of in a manner permitted by law. The owner is liable to the animal control authority for costs incurred in confining and disposing of the dog.

If a person has been convicted for violating certain provisions of the dangerous dog laws, and the person is charged with a subsequent violation relating to the same dog, the dog must be seized by the animal control authority having jurisdiction. If the owner is convicted of the crime for which the dog was seized, the court must order that the dog be destroyed in a proper and humane manner and the owner pay the cost of confining and destroying the animal. 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 manner permitted by law.

## 15. Destruction of dangerous dogs

The animal control authority may not destroy the dog until the dog owner has had the opportunity for a hearing before an impartial decision maker.

Notwithstanding other sections of the dangerous dog laws, a dog may be destroyed in a proper and humane manner by the animal control authority if the dog:

Minn. Stat. § 347.50, subd. 6.  
Minn. Stat. § 609.02, subd. 7a.

Minn. Stat. § 347.50, subd. 6a.  
Minn. Stat. § 609.02, subd. 8.

Minn. Stat. § 347.50, subd. 8.

Section V-G-5, *Hearing to contest designation*. *Sawh v. City of Lino Lakes*, 823 N.W.2d 627 (Minn. 2012).

Minn. Stat. § 347.55.

Section IV, *Animal regulation – general information*.

“Feral Cats: Frequently Asked Questions,” Humane Society of the United States (April 27, 2010).

- Inflicted substantial or great bodily harm on a human on public or private property without provocation. (Substantial bodily harm means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member. Great bodily harm means bodily injury that creates a high probability of death, or which causes serious 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).
- Inflicted multiple bites on a human on public or private property without provocation.
- Bit multiple human victims on public or private property in the same attack without provocation.
- Bit a human on public or private property without provocation in an attack where more than one dog participated in the attack.

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

Just as the city’s decision to declare a dog to be dangerous must not be arbitrary or capricious, the city’s decision to destroy a dangerous dog must not be arbitrary or capricious.

## 16. Penalties

A violation of the dangerous dog laws may be a misdemeanor or gross misdemeanor, depending on the situation.

## VI. Regulation of cats

In addition to the general requirements already discussed earlier in this memo, cities may impose requirements for care of cats by ordinance.

Often the most problematic cats in the city are feral cats. Feral cats are from the offspring of lost or abandoned pet cats or other feral cats who are not spayed or neutered. These cats were never pets and do not have owners. (In comparison, stray cats are pet cats that have wandered off or gotten loose.) Feral cats are not tame like pet cats and can be difficult to handle.

Feral cats can threaten the health, safety, and general welfare of the city. Some of the more common concerns include:

- Noise from fighting or mating cats.
- Foul odors from cats marking their territory.
- Flea infestations.

“Feral Cats: Frequently Asked Questions,” Humane Society of the United States (April 27, 2010).

- Multiplying numbers of feral cats.
- Visible suffering and death of kittens and cats.

Cities may take action to deal with feral cats.

## **A. Feral cat trapping programs**

If cities choose to take action on the feral cat issue, it is often done by adopting a program. A “Trap-Neuter-Return” program is recommended by the Humane Society of the United States (HSUS). At a minimum, this program includes spaying or neutering, giving rabies vaccinations, and surgically ear-tipping. (Ear-tipping is the universally recognized sign of a cat that has gone through this sort of program).

The positive results from this program include:

- Reduced mating-related fighting and other related noises.
- Neutered or spayed feral cats roam much less and are less visible and less prone to injury from cars.
- Reduced foul odors (neutered male cats are no longer able to produce the stinky spray used to mark territory).
- Reduced reproduction activity leads to fewer feral cats being born, resulting in a lower population over time.

Some cities will have city employees trap cats. Other cities will enlist the assistance of the residents in trapping cats. Cities may provide the traps for residents to pick up. Cities can accept feral cats that were trapped by residents and brought to designated spots, such as the animal control authority.

## **B. Feeding bans**

Sometimes cities will impose “feeding bans” that prohibit residents from feeding feral cats with the idea that if the cats are not fed, they will go away. While this seems like it would work, it often does not. One reason relates to enforcement. Feeding of feral cats is not easily observed behavior so it is not easy to enforce a ban. Further, some people do not like to see animals suffering and will feed the cats despite the ban. Even if people are not intentionally feeding them, feral cats can still find food from other sources like dumpsters and garbage cans.

Feral cats can often survive for weeks without food and, since they are territorial animals, they will not quickly or easily leave their territory to look for new food sources. Instead, they tend to move closer to human activities as they grow hungrier and more desperate. Malnutrition makes them more likely to succumb to parasites, like fleas, that can spread into houses, garages, and businesses.

“Feral Cats: Frequently Asked Questions,” Humane Society of the United States (April 27, 2010).

“Feral Cats: Frequently Asked Questions,” Humane Society of the United States (April 27, 2010).

Section III-B, *Disposition of animals.*

Finally, malnourished cats are likely to continue to reproduce, resulting in malnourished kittens, causing this cycle to continue.

## C. Disposition

Some cities will choose to dispose of feral cats that have been captured instead of spaying or neutering and returning them. If the city chooses this method, it should dispose of these cats in a humane manner.

## VII. Regulation of other animals

While dogs and cats are perhaps the most commonly regulated animals in cities, there are many other types of animals that the city may want to consider regulating. This section discusses some of these other animals.

### A. Other pet animals

Other common pet animals that the city may consider regulating include birds, fish, rodents, reptiles, and amphibians. Generally, cities do not regulate these types of pets but may do so based on the health, safety, and welfare of the community. If the city would like to regulate these types of animals, it is very important to work with the city attorney.

State and federal law prohibit ownership of certain animals as pets based on health and safety concerns related to those particular animals. Small turtles, skunks, and exotic animals are a few examples of animals that generally cannot be owned as pets.

Turtles - [21 CFR § 1240.62](#).  
“CPG Sec. 170.100 Turtles -  
Ban on Interstate and  
Intrastate Sales and  
Distribution,” U.S. Food and  
Drug Administration (Sept.  
16, 2009). [Minn. Stat. §  
145.365](#). [Minn. Stat. §  
346.155](#). Section VII-E,  
*Exotic or regulated animals.*

### B. Police dogs and service animals

Police dogs and service animals bear special consideration when the city is drafting ordinances. State law regularly exempts these two special categories of animals from regulation based on the work they do. Cities should also exclude these animals from ordinances where appropriate.

#### 1. Police dogs

State laws often explicitly exempt police dogs from state requirements. For example, state statutes regulating dangerous dogs do not apply to dogs used by law enforcement for police work. It makes sense for cities to also consider when it might be appropriate to exempt police dogs from city ordinances, such as ordinances regulating dangerous animals. Exempting police dogs from certain requirements reflect the unique nature and use of police dogs.

[Minn. Stat. § 347.51, subd. 4.](#)

Minn. Stat. § 343.20, subd. 7.  
Minn. Stat. § 256C.02.

Minn. Stat. § 363A.19.  
Minn. Stat. § 363A.09.  
Minn. Stat. § 256C.02.  
“ADA Guide for Small  
Towns,” U.S. Department of  
Justice.

Minn. Stat. § 343.21, subd.  
8a.

Section III-A, *Minnesota Pet  
and Companion Animal  
Welfare Act.*

Minn. Stat. § 346.16. Minn.  
Stat. § 61.09.

*Stewart v. Frisch*, 381  
N.W.2d 1 (Minn. Ct. App.  
1986).

## 2. Service animals

A service animal is an animal that has been trained to assist a person with a disability. A city cannot prohibit a person who is blind or deaf or has a different physical or sensory disability from taking a service animal into a public place or conveyance. The animal must be properly harnessed or leashed so that the person can maintain control of the animal. A blind, physically disabled, or deaf person cannot be required to pay an additional charge when taking a service animal into a public place.

Under state law, a person must not intentionally and without justification do either of the following to a service animal while it is providing service to or while it is in the custody of the person it serves:

- Cause bodily harm to the service animal.
- Otherwise render the animal unable to perform its duties.

## C. Farm animals

Farm animals generally include animals that live on farms, such as cattle, sheep, goats, pigs, and horses. A city can define “farm animals” in its ordinance to include whatever animals it wishes.

In addition to the Animal Welfare Act requirements, cities take different approaches in how they regulate farm animals in their communities. Some cities will only allow farm animals in certain zoning districts, such as land zoned for agricultural uses. Other cities allow some farm animals anywhere in the city as long as the requirements in the ordinances are met, such as having a lot over a specified size. It is important to be clear what animals the ordinance covers and to provide clear definitions.

### 1. Farm animals at large

If any person herds cattle, horses, asses, mules, sheep, swine, or goats on land over the protest of the land owner, the animals are considered to be running at large. Court opinions have determined that “at large” means when animals are not restrained or confined. Any person who knowingly allows animals to run at large is liable for damage caused.

### 2. Chickens

Like other animals, cities take different approaches for regulating chickens. Some cities include chickens in the same regulations that apply to other farm animals or livestock. Other cities have ordinances that allow chickens in the city under certain circumstances. However the city decides to regulate chickens, it is important to be clear about the regulations.

*State v. Nelson*, 499 N.W.2d 512 (Minn. Ct. App. 1993).

“[Keeping Backyard Poultry](#),” Centers for Disease Control and Prevention (April 23, 2012).

Contact the [LMC Research Department](#) for sample ordinances.

A Minnesota court has found that, unless specifically included in the definition, chickens and roosters do not fall under the regulation of ordinances that reference livestock. If the city would like to include chickens in this category, it may do so by defining the term to include chickens, poultry, fowl, or other similar descriptions. The bottom line here is that if the city wants to regulate chickens, it should make sure that chickens are covered by the ordinance.

“Urban chickens,” also called “city chickens,” are becoming a more common issue in cities across the state and country. The urban chicken “movement” is often linked to the increased desire for people to be closer to their food sources. Urban chickens allow people to raise chickens at their homes to have access to fresh eggs on a regular basis.

This small-scale keeping of chickens is different than a business that raises hens for eggs and meat. Those businesses are regulated differently than residents who want to keep a few chickens in their backyards.

There are no state laws that address urban chickens or keeping of chickens in cities, so it is up to the city council to decide if it wants to regulate the keeping of chickens. The city may choose to allow, allow if a permit is obtained from the city, or prohibit urban chickens. The city can do this in a number of ways, including regulation under the general animal or farm-animal ordinance or by passing an ordinance specific to keeping chickens.

If the city chooses to regulate the keeping of urban chickens, some common requirements include:

- Allowing only hens (no roosters).
- Limiting the number of hens allowed.
- Maintaining coops or runs in a sanitary and humane condition.
- Keeping chickens contained or under control at all times.
- Locating coops a certain distance from property lines and other structures like houses.

### **3. Farm animals as pets**

It is not uncommon for a resident to want to keep a farm animal, such as a miniature horse or potbelly pig, as a pet. Some city ordinances would not allow for these animals as pets because the ordinance includes them as farm animals and prohibits them in residentially-zoned areas. Other cities may allow for these types of animals by specific ordinance provisions, sometimes requiring a permit from the city. Given that these animals have been gaining in popularity, it is a good idea for the city to consider the issue and have an ordinance in place.

“Apiary Program Information,” Minnesota Department of Agriculture. Minn. Stat. § 17.445.

Minn. Stat. § 18G.14.

Minn. Stat. § 346.155, subd. 1(e).

## **D. Insects and bugs**

Insects and bugs are a part of life in Minnesota. While cities cannot regulate where insects and bugs choose to live, there are some things a city can do, such as regulating beekeeping or abating mosquitoes.

### **1. Beekeeping**

Since 2006, beekeeping is no longer regulated by state law, except for apiary inspection services related to the transportation of bees to other states. Cities may choose to regulate beekeeping within city limits. Some cities prohibit the practice while others allow it after obtaining a permit or allow it outright.

### **2. Mosquitoes**

The abatement or suppression of mosquitoes is advisable and necessary for the maintenance and improvement of the health, welfare, and prosperity of the people. Areas where mosquitoes incubate or hatch are considered public nuisances and may be abated under state law. Cities have the direct authority to participate in mosquito abatement efforts. The city may establish a mosquito abatement board to oversee abatement efforts. The city may also levy a tax or issue certificates of indebtedness to pay for the program.

### **3. Local pest control**

A city may establish and fund a program to control native or exotic pests that are likely to cause economic or environmental harm or harm to human health. The city may levy a tax or issue certificates of indebtedness to pay for the programs. This sort of program may be useful in dealing with tree pests, such as the emerald ash borer.

## **E. Exotic or regulated animals**

State law governs the owning and possessing of exotic animals, called “regulated animals” in the statutes. With very limited exceptions, a person may not own or possess a regulated animal.

Regulated animals are defined as:

- All members of the Felidae family including, but not limited to, lions, tigers, cougars, leopards, cheetahs, ocelots, and servals, but not including domestic cats or cats recognized as a domestic breed, registered as a domestic breed, and shown as a domestic breed by a national or international multibreed cat registry association.
- Bears.
- All nonhuman primates, including, but not limited to, lemurs, monkeys, chimpanzees, gorillas, orangutans, marmosets, lorises, and tamarins.

Minn. Stat. § 346.155, subd. 1(e).

Further, the term “regulated animal” includes any hybrids or crosses between an animal listed above and a domestic animal and offspring from all later generations of the hybrids or crosses.

Minn. Stat. § 346.155, subds. 2, 3, 4.

If a person owned or possessed a regulated animal on January 1, 2005, and meets all of the requirements of the law, the person is allowed to keep that animal. There are provisions governing replacement of an animal that is lawfully possessed. The law also outlines a process that a city is required to follow if it needs to seize or dispose of a regulated animal.

Minn. Stat. § 346.155, subds. 5, 6.

Minn. Stat. § 346.155, subd. 7.

The laws on regulated animals do not apply to certain institutions enumerated by law, such as certain wildlife sanctuaries, zoos, licensed game farms, fairs, and others.

## VIII. Hunting and fishing

Minn. Stat. ch. 97A. Minn. Stat. ch. 97B. Minn. Stat. ch. 97C.

Issues related to wild animals, including hunting and fishing, are regulated by state laws. This means that cities have a limited role in regulating wild animals, hunting, or fishing. However, all peace officers are required by law to enforce the game and fish laws. County attorneys are also required to enforce these laws.

Minn. Stat. § 97A.201.

“Hunting & Trapping,” Minnesota Department of Natural Resources. Minn. Stat. §§ 624.711-717.

Cities with large populations of wild animals, such as deer, are often faced with questions about hunting within city limits. Because state law regulates firearms in addition to hunting, the city is limited in how it can regulate hunting within the city.

Minn. Stat. § 471.633.

While cities cannot regulate firearms or hunting, the city may regulate, by ordinance, the discharge of firearms. (The city may also adopt an ordinance that includes regulations identical to state law). By regulating the discharge of firearms, the city can have some control over hunting within its jurisdiction.

Minn. Stat. § 97A.401, subd. 4.

Cities may also work with the Minnesota Department of Natural Resources to hold a special hunt for certain animals, such as deer, within the city. This is often done when there is an overabundance of a particular animal in the area. The city may charge an administrative fee in connection with special hunts under their jurisdiction. Fees to be collected must be based upon the estimated cost of conducting the special season or administering the special restrictions.

Minn. Stat. § 97A.137, subd. 4.

Certain wildlife management areas in cities are exempt from local ordinances that limit the taking of game and fish or vegetation management. The size of the management area will determine if and what restrictions are in place.

## IX. Animal health and safety laws

### A. Animal cruelty provisions

Minn. Stat. § 343.20.

The state animal cruelty laws apply to all living creatures except people. Torture or cruelty is defined by state law as every act, omission, or neglect which causes or permits unnecessary or unjustifiable pain, suffering, or death. For purposes of these laws, an animal control officer is an officer employed by or under contract with an agency of the state, county, municipality, or other governmental subdivision of the state, which is responsible for animal control operations in its jurisdiction.

Minn. Stat. ch. 343.

The state law provisions on animal cruelty cover a broad range of subjects and types of animals. This memo focuses on the more common areas applicable to cities. If the city is dealing with a different type of animal or situation, it should look at the state law chapter on animal cruelty.

#### 1. General prohibitions

Minn. Stat. § 343.21.

Among other things prohibited by laws, a person must not:

*State v. Utech*, No. A09-1766 (Minn. Ct. App. Sept. 28, 2010) (unpublished decision).

- Overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when it is unfit for labor.
- Abandon any animal.
- Willfully instigate or in any way further any act of cruelty to any animal, or any act tending to produce cruelty to animals.
- Unjustifiably administer, or permit to be administered, any poisonous or noxious drug or substance to any animal, or unjustifiably expose that drug or substance with intent for the drug to be taken by any animal.

Minn. Stat. § 343.27.

Minn. Stat. § 343.21, subd. 9.

The penalties for violating this law vary, depending on the nature and severity of the situation. A violation may result in imprisonment or a fine. The court must also order the person violating the law to pay restitution for the cost and expenses resulting from the incident.

Minn. Stat. § 343.21, subd. 10.

Upon conviction, the court must require that if the animal was not seized by a peace officer or agent and is in the custody or control of the person, the animal must be turned over to a peace officer or other appropriate person unless the court determines that the person is able and fit to provide adequately for the animal. The court may limit the person's further possession or custody of an animal and may impose conditions on possession or custody.

Minn. Stat. § 343.29.

Section II-A-2, *Lawfully entering onto private property.*

## **2. Food and shelter**

Any peace officer, animal control officer, or other authorized person may remove, shelter, and care for any animal that is not properly sheltered from cold, hot, or inclement weather, or any animal not properly fed and watered. The authorized person may deliver the animal to another person to be sheltered and cared for. The owner, if known, must be immediately notified, and the city or entity having possession of the animal must have a lien for its actual costs of care, keeping, and the expenses of the notice. If the owner or custodian is unknown and cannot be determined by reasonable effort, or does not, within ten days after notice, redeem the animal by paying the expenses, the animal may be disposed of.

Minn. Stat. § 343.235, subd. 3.

Minn. Stat. § 343.235.  
Section IX-A-7, *Disposal of cruelly treated animals.*

## **3. Animal cruelty transportation provisions**

An animal cannot be transported without suitable racks, cars, crates, or cages that allow the animal to both stand and lie down. An animal generally cannot be transported with its feet or legs tied together or in any other cruel or inhumane manner.

Minn. Stat. § 343.24.

Minn. Stat. § 343.40.

#### **4. Doghouses**

A person who is in charge or control of any dog that is kept outdoors must provide a shelter for the dog that meets the minimum standards prescribed by law for doghouses. A violation of these laws is a petty misdemeanor.

The shelter must be a moisture-proof and windproof structure of suitable size to accommodate the dog and allow retention of body heat. It must be made of durable material with a solid, moisture-proof floor or a floor raised at least two inches from the ground. Between November 1 and March 31, the structure must have a windbreak at the entrance. The structure must be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, blankets, or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat. If the dog lives on a farm, the dog may instead be provided with access to a barn with a sufficient quantity of loose hay or bedding to protect against cold and dampness. Shade from the direct rays of the sun must be provided during the months of May to October.

All shelters are subject to city building or zoning regulations.

Minn. Stat. § 343.28.

#### **5. Infectious or contagious diseases**

If an owner or person having charge of any animal knows the animal has, or has recently been exposed to, any infectious or contagious disease, the person must not sell or barter the animal, or knowingly permit the animal to run at large or come into contact with any other animal, or with another person without that person's knowledge and permission.

Minn. Stat. § 343.12.

#### **6. Investigating cruelty complaints**

It is the duty of law enforcement to investigate any alleged violation of the animal cruelty laws. An officer must arrest any person found violating those laws, take possession of any animals that have been cruelly treated, and deliver them to the proper officers of the county or district for custody and care.

Minn. Stat. §§ 343.22-.235.

State law provides a detailed process, including notice and hearing requirements, for investigating cruelty complaints. A person may make a complaint to a court. If appropriate, the court issues a search warrant and an order for investigation to a peace officer in the county. The situation is then investigated. The expense of the investigation must be paid by the county.

#### **7. Disposal of cruelly-treated animals**

Minn. Stat. § 343.235.  
Minn. Stat. § 343.12. Minn.  
Stat. § 343.22. Minn. Stat. §  
343.29. Minn. Stat. § 343.31.

Minn. Stat. § 343.235, subd.  
3 (a).

An animal taken into custody under certain animal cruelty provisions may be humanely disposed of at the discretion of the jurisdiction having custody of the animal ten days after the animal is taken into custody.

The entity taking custody of the animal must give notice of the provisions of this law by delivering or mailing it to a person claiming an interest in the animal, by posting a copy of it at the place where the animal is taken into custody, or by delivering it to a person residing on the property, and telephoning, if possible. The notice must include all of the following:

- A description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, telephone number, and contact person where the animal is kept.
- A statement that a person claiming an interest in the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure or impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal.
- A statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the person claiming an interest in the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

The notice must also include a form that a person claiming an interest in the animal can use for requesting a hearing.

Minn. Stat. § 343.235, subd.  
2.

A person claiming an interest in the animal may prevent disposition of the animal by posting security in an amount sufficient to provide for the animal's actual costs of care and keeping. The security must be posted within ten days of the seizure, inclusive of the date of the seizure.

Minn. Stat. § 343.235, subd.  
3(b).

A person claiming an interest in the animal may request a hearing to determine the validity of the seizure and impoundment. The request must be made within ten days of the seizure, and the hearing must be held within five business days of the request.

Minn. Stat. § 343.235, subd.  
3(b). Minn. Stat. § 343.22.  
Minn. Stat. § 343.12. Minn.  
Stat. § 343.29. Minn. Stat. §  
343.31.

If the seizure was done pursuant to a warrant, the hearing must be conducted by the judge who issued the warrant. If the seizure was done pursuant to other statutes, the city taking custody of the animal may either 1) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party to conduct the hearing, or 2) use a hearing officer to conduct the hearing. If a person claiming an interest in the animal is aggrieved by a decision of a hearing officer, the person may seek a court order governing the seizure or impoundment within five days of notice of the order.

Minn. Stat. § 343.235, subd. 3 (c).

The judge or hearing officer may authorize the return of the animal, if the judge or hearing officer finds both of the following:

- The animal is physically fit.
- The person claiming an interest in the animal can and will provide the care required by law for the animal.

Minn. Stat. § 343.235, subd. 3 (d).

The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, unless the court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the city and the person claiming an interest in the animal before the animal is returned to the person.

Minn. Stat. § 343.235, subd. 1.

If the provisions of the law have been followed, and the city still has custody of the animal, the city may humanely dispose of the animal at its discretion.

## B. Animal fighting

7 U.S.C. § 2156. Minn. Stat. § 343.31, subd. 1.

Animal fighting is a type of cruelty specifically prohibited by both federal and state law. Under state law, anyone who does any of the following is guilty of a felony:

- Promotes, engages in, or is employed in the activity of cockfighting, dog fighting, or violent pitting of one pet or companion animal against another of the same or a different kind.
- Receives money for the admission of a person to a place used, or about to be used, for that activity.
- Willfully permits a person to enter or use for that activity premises of which the permitter is the owner, agent, or occupant.
- Uses, trains, or possesses an animal for the purpose of participating in, engaging in, or promoting that activity.

Minn. Stat. § 343.31, subds. 2, 3.

There is a rebuttable presumption that a dog or bird has been trained or is being trained to fight if:

- The animal exhibits fresh wounds, scarring, or other indications that the animal has been or will be used for fighting.
- The person possesses training apparatus, paraphernalia, or drugs known to be used to prepare animals for fighting.

Minn. Stat. § 343.31, subd. 1.

Any person that purchases a ticket of admission or otherwise gains admission to an animal fighting activity is guilty of a gross misdemeanor.

Minn. Stat. § 343.31, subd. 1.

The provisions regarding animal fighting do not apply to the taking of a wild animal by hunting.

Minn. Stat. § 343.31, subd. 4.  
Section II-A-1, *Due Process rights*.

Fighting dogs and birds are considered dangerous weapons and constitute an immediate danger to human safety. A peace officer or animal control authority may remove, shelter, and care for an animal found in the circumstances where an animal has been trained or is being trained for fighting. If necessary, they may deliver the animal to another person to be sheltered and cared for. The peace officer or animal control authority must immediately notify the owner, if known.

The person assuming care of the animal must have a lien on it for the actual cost of care and keeping of the animal. If the owner or custodian is unknown and cannot be determined by reasonable effort, or does not, within ten days after notice, redeem the animal by paying these expenses, the animal may be disposed of.

Minn. Stat. § 343.31, subd. 5.

An animal taken into custody may be humanely disposed of at the discretion of the jurisdiction having custody of the animal ten days after the animal is taken into custody, if the statutory process is followed and due process is provided. The owner or person claiming an interest in the animal is liable for all actual costs.

## C. Board of Animal Health

Minn. Stat. § 35.03.  
Minnesota Board of Animal Health, 625 Robert Street  
North, St. Paul, MN 55155;  
651-296-2942.  
Minn. Stat. § 35.05.

The state Board of Animal Health is set up to protect the health of domestic animals in the state. The board has many powers and duties spelled out by law to carry out this mission.

Minn. Stat. §§ 35.06-.0661.

One of its responsibilities is to deal with animals with contagious or infectious diseases. A person who knows or reasonably suspects that a domestic animal has a contagious or infectious disease must immediately notify the board. The board, or any member or authorized agent of the board, may investigate the matter. The board may establish and maintain, at the owner's expense, a quarantine of domestic animals imported into the state when, in its judgment, that is necessary to protect the health of Minnesota domestic animals. In some cases, the governor may declare an emergency to allow the board to establish quarantine zones of control to protect the health of domestic animals from animal diseases of potentially disastrous proportions.

## X. Conclusion

Cities have broad authority to regulate many types of animals in many types of situations. When coupled with applicable federal and state laws, cities can effectively regulate and control animals in the city to make it a safer, healthier, and happier place to live.

Contact the [LMC Research Department](#) at 800-925-1122.

The League has samples ordinances available on all of the topics discussed in this memo. Please contact the research department to request sample ordinances.