

CITY OF RICE LAKE

ORDINANCE NO. 51

THIS ORDINANCE SHALL BE KNOWN, CITED AND REFERRED TO AS THE “CITY OF RICE LAKE DOG ORDINANCE”. AN ORDINANCE ON LICENSING AND REGULATING THE KEEPING OF DOGS, PROVIDING FOR IMPOUNDMENT OF CERTAIN DOGS, PROVIDING FOR THE CLASSIFICATION OF DANGEROUS DOGS, PROVIDING FOR THE ABATEMENT OF NUISANCES, AND PROVIDING PENALTIES FOR VIOLATION OF SUCH ORDINANCE

The City Council of the City of Rice Lake does hereby ordain as follows:

SECTION 1. DEFINITIONS. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Animal Control Authority. The City of Rice Lake or any Law Enforcement Agent or other public official acting under its direction and control. Additionally, “Animal Control Authority” shall mean any individual, organization, partnership, or entity operating under contract to perform animal control operations pursuant to a written agreement authorized and approved by the City Council of the City of Rice Lake.

Animal-Domestic. Any animals normally kept within the home, but not exclusive of the home, such as fish, dogs, cats, potbelly pigs and household birds.

Animal-Non-Domestic. Any animals normally kept outside of the home for the purposes of food or pleasure, such as cattle, hogs, sheep, horses, bees, goats, birds such as fowl, pigeons, falcons, and similar animals.

City Council. The City Council of the City of Rice Lake.

Dangerous Dog. Any dog that has:

- 1) When Unprovoked, inflicted death, Great Bodily Harm, Substantial Bodily Harm, or permanent disfigurement to any person on public or private property; or
- 2) When Unprovoked, engaged in any attack on any person under circumstances which indicated danger to personal safety; or
- 3) Killed a domestic animal while off the Owner's property; or
- 4) When Unprovoked, has bitten one (1) or more persons on two (2) or more separate occasions; or

- 5) Been found to be Potentially Dangerous, and after the Owner received notice or personal knowledge that the dog is Potentially Dangerous, the dog aggressively bites, attacks, or endangers the safety of a human being or domestic animal; or
- 6) Been or will be used, trained, or encouraged to fight with another animal; or whose Owner has in custody or possession any training apparatus, paraphernalia or drugs used to prepare such dog for fighting with another animal.

Dog. Any canine animal, male or female, altered or unaltered.

Great bodily harm. Shall have the meaning given it under Minn. Stat. § 609.02, subd. 8.

Hearing. A proceeding conducted by a Hearing Officer in accordance with the requirements of this Ordinance.

Hearing Officer. A licensed Doctor of Veterinary Medicine, an Animal Control Authority official, or any otherwise qualified impartial hearing officer, appointed by the City Council.

Kennel-Commercial. A “commercial kennel” is a place where boarding and/or training is offered to any number of dogs not owned by the owner or occupant of the premises. Such boarding and/or training may also include but is not limited to related uses such as selling, breeding, showing, treating or grooming. Pet shops, veterinary clinics, and pet grooming facilities are considered commercial uses but shall not be defined as commercial kennels. A conditional use permit is required in any district where commercial dog kennels are not specifically identified as a permitted use.

Kennel-Private. A “private kennel” is a place where a dog owner keeps six (6) or more dogs over six (6) months of age on property occupied by the dog owner for residential purposes and where the keeping of such dogs is incidental to the occupancy of the premises, and may include breeding and selling of dogs as a hobby. A private kennel license must be secured from City staff.

Killed. A dog “Killed” or “Kills” a human being or domestic animal if there was a direct causal connection between the act of the attacking dog and the death of the person or other animal. For domestic animals which were euthanized following such an attack, “Killed” or “Kills” shall mean the death was the direct and inescapable consequence of the attack, extensive veterinarian assistance would be futile, and that euthanasia merely hastened the inevitable death of the victim animal.

Owner. Any person or persons, firm, corporation, association, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog. Any person keeping or harboring a dog for five (5) consecutive days shall, for the purposes of this Ordinance, be deemed to be an Owner thereof.

Potentially Dangerous Dog. Any dog that has:

- 1) When Unprovoked, bitten a human or domestic animal on public or private property; or

- 2) When Unprovoked, chased or approached a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than upon the dog Owner's property, in an apparent attitude of attack; or
- 3) A known history or propensity, tendency, or disposition to attack while Unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

Proper Enclosure. Shall mean securely confined indoors, or in a securely enclosed and locked pen or structure outdoors, suitable to prevent the animal from escaping and providing the dog protection from the elements. A Proper Enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the 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. Such enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel, in order to qualify as a Proper Enclosure, shall meet the following minimum specifications:

- 1) The overall floor size shall have a minimum area of thirty-two square feet (32 sq. ft.);
- 2) Sidewalls shall have a minimum height of five feet (5 ft.) and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches (2 in.), support posts shall be one and one-quarter-inch (1¼ in.) or larger steel pipe buried in the ground eighteen inches (18 in.) or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of eighteen inches (18 in.) into the ground;
- 3) A cover over the entire pen or kennel shall be provided, constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches (2 in.); and
- 4) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two (2) inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

Substantial Bodily Harm. Shall have the meaning given to it under Minn. Stat. § 609.02, subd. 7a.

Under Restraint. Shall have the definition as stated in the *New World Dictionary of American Language Second College Edition*:

- 1) to hold back from action; check; suppress; curb
- 2) to keep under control
- 3) to deprive of physical liberty, as by shackling, arresting, etc.
- 4) to limit; restrict.

Unprovoked. Shall mean the condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

SECTION 2. LICENSING REQUIREMENTS.

- A. No owner of a dog shall own, keep or harbor any dog within the City of Rice Lake unless such dog is licensed as herein provided. Written application for such license shall be made at the City offices and shall at a minimum state the name, breed, color, age, sex and marking of the dog for which the license is sought along with the address and phone number of the owner. The license fee shall be paid at the time of making the application, and City staff shall deliver the original receipt to the applicant.
- B. The license fee shall be as set by the City Council by resolution from time to time. There shall be no discount or prorating of license fees.
- C. In the event that the license tag issued for a dog shall be lost or stolen, the owner may obtain a duplicate tag from the City offices at a cost set by the City Council by resolution from time to time.
- D. No license shall be required for any dogs under the age of six months.
- E. Any owner, upon first becoming a resident of the City of Rice Lake, shall be allowed 30 days from such time within which to obtain a dog license. Any owner having a valid dog license from another municipality shall secure, within 30 days after becoming a resident of the City of Rice Lake, a City of Rice Lake dog license for which the owner shall pay the license fee as set by the City Council.
- F. If there is change of ownership of a dog, the new owner, must apply within 30 days for a new license and pay the fee as set by the City Council.

SECTION 3. TAGS.

- A. Upon the payment of the license fee, the owner of a licensed dog shall be furnished a receipt, together with a suitable tag. The owner shall cause the tag to be affixed by a permanent fastening to the collar of the dog so licensed in such a manner that the tag may easily be seen by City Staff, the Animal Control Authority, or Law Enforcement. The owner shall see that the tag is constantly worn by the dog. Tags are not transferable from one dog to another. No refund shall be made of any dog license fee to anyone who leaves the City or in the event the dog dies before expiration of the license.
- B. It shall be unlawful to counterfeit or attempt to counterfeit tags provided for in this section or take from any animal a tag legally placed upon by its owner, or to place such tag upon another animal.

SECTION 4. DOGS AND CATS IN MOTOR VEHICLES.

A person may not leave a dog or cat unattended in a standing or parked motor vehicle in a manner that endangers the dog's or cat's health or safety. A person who violates this section is guilty of a misdemeanor. The Animal Control Authority or a representative of the Animal Control Authority may use reasonable force to enter a motor vehicle and remove a dog or cat which has been left in a vehicle in violation of this section. A person removing a dog or cat under this section shall use reasonable means

to contact the owner of the dog or cat to arrange for its return home. If the person is unable to contact the owner, the person may take the dog or cat to an animal shelter.

SECTION 5. KENNEL LICENSE.

The maximum number of dogs over six (6) months of age allowed on parcels of two (2) acres or less is three (3). On parcels over two (2) acres up to five (5) dogs are allowed. For six (6) to ten (10) dogs a private kennel license is required. For over ten (10) dogs a commercial kennel license is required, and a Conditional Use Permit must be applied for and received.

A. Private Kennel License:

1. No person shall maintain a private kennel in the City without securing a license therefore from the City offices. The fee for the license shall be as established by resolution of the City Council.
2. Private kennel licenses do not confer any property rights upon the licensee, and the issuance of said licenses do not assume that future licenses will be granted. Licenses will be issued for a set number of dogs (maximum ten (10) dogs), which shall not be exceeded. Licensees who wish to add a dog/dogs shall need to obtain a new private kennel license. A licensee who relocates to another area of the City shall also need to obtain a corrected private kennel license. Licenses are not assignable to other parties.
3. The term for a private kennel license shall be one year.
4. Upon receipt of a complaint against the kennel licensee, the licensee authorizes City staff to perform an inspection of the kennel for the purpose of determining compliance with the conditions of their license.
5. No party, person, dwelling, or other entity will be allowed more than one (1) private kennel license.

B. Commercial Kennel License:

1. No person shall maintain a commercial kennel in the City without first securing a license from the City Council. The fee for the license shall be as established by resolution of the City Council.
2. Prior to the issuance of a commercial kennel license from the City Council, a hearing before the Planning Commission must be held. Notice must be given to all affected property owners within $\frac{1}{4}$ mile of the outside dimensions of the parcel where the kennel is contemplated. The Planning Commission will make a recommendation to the City Council on the request. The initial term for the kennel license shall be one (1) year; subsequent licenses, if so granted, will also be for a term of one (1) year if no nuisance complaints have been received at the City within the previous twelve (12) months relating to the dogs being kept on the property.

3. Outdoor animal exercise shall be conducted within the confines of the property under the direct supervision of their owners or commercial kennel staff.
4. Indoor housing facilities must be structurally sound with ample heat, light, ventilation and sound control suitable for the surrounding conditions.
5. Dogs kept outside must have continual access to a shelter to protect them from the elements. All dogs shall have access to indoor housing from the hours of 9:00 p.m. to 7:00 a.m.
6. Individual animal enclosures must be of a size to allow each dog to turn around fully, stand, sit and lie in a comfortable condition.
7. Licensees authorize City staff to perform periodic inspections of the kennel for the purpose of determining compliance with the conditions of their license.
8. As per *Minn. Stat. § 346.39, subd. 12* - Wastes must be disposed of properly; where applicable, flushing methods and a disinfectant must be used periodically. Disposal facilities are to be provided to minimize virus infestation, odors and disease hazards. Accumulations of feces shall be located at least two hundred (200) feet from any well. All accumulations of feces shall be removed at such periods as will ensure that no leaching or objectionable odors exist, and the premises shall not be allowed to become unsightly.
9. The City Council reserves the right to issue additional conditions on a case-by-case basis in order to maintain the public repose.
10. All applicable City, County and State laws pertaining to the operation of a commercial kennel business are hereby incorporated by reference.

SECTION 6. DOG ENCLOSURES/SHELTERS.

It is the purpose of this Section to prevent nuisances created by site, odor, noise and sanitation due to construction and placement of dog enclosures on private property.

- A. Placement: A dog enclosure shall not be placed closer than forty (40) feet from an adjacent residential dwelling or principal structure and at least twenty (20) feet from the side and thirty-five (35) feet from the rear lot lines. No dog enclosure shall be placed closer to the centerline of the road than the nearest point of the main structure.
- B. Sanitation requirements: No person shall permit feces, urine, or food scraps to remain in an enclosure for a period that is longer than reasonable and consistent with health and sanitation and the prevention of odor.
- C. Applicability of Section: This Section shall be applicable to all dog enclosures constructed after the effective date of this Ordinance. Any pre-existing dog enclosure that the City Council receives a complaint on which is not kept in a clean and sanitary condition or is a nuisance to an adjacent property owner shall be required to comply with

this Section by notice of compliance being given by the City Council or their duly authorized agent. Failure to comply with such notice within thirty (30) days of issuance shall be violation of this ordinance.

- D. As per *Minn. Stat. § 346.39, subd. 4 - Shelter Size*: A confinement area must provide sufficient space to allow each animal to turn about freely and to easily stand, sit, and lie in a normal position. Each confined animal must be provided a minimum square footage of floor space as measured from the tip of its nose to the base of its tail, plus 25 percent, expressed in square feet. The formula for computing minimum square footage is: (length of animal plus 25 percent) times (length of animal plus 25 percent), divided by 144. A shaded area must be provided sufficient to protect the animal from the direct rays of the sun at all times during the months of May to October.

SECTION 7. NUISANCE.

The owner of any animal shall prevent it from committing any act which constitutes a public nuisance. It is a public nuisance for any animal to:

- A. Bark, bay, cry, howl or make any other noise repeatedly over at least a five-minute period of time, with a thirty second or less lapse of time between each animal noise during the five-minute period.
- B. Commit damage to the person or property of anyone other than the owner except as shall be committed in the defense of such owner, or in the defense of their family, or in the defense of their property.
- C. Snarl at persons, bite persons or other animals, or habitually exhibit vicious tendencies, molest or annoy any person away from the property of the owner, or to damage, defile or destroy public or private property.
- D. Run at large. An animal is considered to be at large if off the premises of the owner and is: (a) not on a leash held by a responsible person of sufficient age to adequately control the animal at all times, or (b) not accompanied by and under the direct control of such responsible person so as to be effectively restrained by command. A dog shall not be determined to be at large if: (a) lawfully engaged in wild game hunting and is under the control of its owner or other responsible person, (b) when engaged in obedience training and is under the control of its owner or other responsible person, (c) when confined in a shipping receptacle or a closed vehicle, (d) is actually participating in a bona fide field trial, show or exhibition and is under the control of its owner or other responsible person. Dogs that are on or directly adjacent to all athletic fields or parks must be leashed. Owners are required to clean up and dispose of their pet's excrement. If any animal is running loose on the owner's property and runs onto adjacent public or private properties and does not respond to a person, then the animal is considered "at large".
- E. Chase vehicles or interfere with persons walking, horseback riding, or persons driving automobiles, bicycles, motorcycles, motorbikes, snowmobiles, or other vehicles on public grounds, streets or highways.

- F. No person shall allow a dog owned by them or in their possession to deposit animal waste on public property or the property of other citizen of the City.

SECTION 8. INCORPORATION.

This Ordinance expressly adopts and incorporates the provisions of Minnesota Statutes Sections 347.50 – 347.565. When the provisions of this Ordinance impose greater restrictions than those of any other statute, ordinance, rule or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any other statute, ordinance, rule or regulation impose greater restrictions than this Ordinance, the provision of such statute, ordinance, rule or regulation shall be controlling.

SECTION 9. DANGEROUS DOGS, DESIGNATION.

- A. Designation. The Animal Control Authority or Hearing Officer shall designate any dog as a Dangerous Dog upon receiving evidence that the dog meets any of the criteria of applicable state law or the definition of Dangerous Dog in Section 1 of this Ordinance.
- B. Notice.
 - 1. Upon a designation that a dog is Dangerous, the Animal Control Authority shall provide a written Notice of Dangerous Dog to the Owner of record or, if none, to any Owner of such dog by personally serving the Owner or a person of suitable age and discretion at the residence of such Owner or by mailing said written notice to the Owner of such dog. Service upon any Owner shall be effective as to all Owners. The notice shall state the dates, times, places and facts of the incidents which form the basis for the determination, and include the following:
 - i) A description of the dog deemed to be Dangerous;
 - ii) The factual basis for that determination;
 - iii) The identity of the official who made the determination and the authority by which such determination was made; and
 - iv) If the dog was seized, the address and telephone number of the contact person where the dog is kept.
 - 2. The Notice shall also set forth the registration requirements and other restrictions imposed upon a Dangerous Dog under this Ordinance or Minnesota Statutes Chapter 347.
 - 3. The Notice shall also advise the Owner(s) that they have fourteen (14) days to appeal the determination by requesting a Hearing before the Hearing Officer and shall include a pre-printed form which the Owner can use to request a hearing. The request for a Hearing shall be made directly to the Animal Control Authority and must be submitted in writing.

4. The Notice shall state that if the owner does request a hearing, the owner must immediately comply with Minn. Stat. § 347.52, subdivisions (a) through (c) until such time as the Hearing Officer issues an opinion. The notice shall further state that if the Hearing Officer confirms the dangerous dog declaration, the owner will have fourteen (14) days from receipt of the decision to comply with all other dangerous dog requirements found in Minn. Stat. § 347 or this Ordinance.
5. The Notice shall state that if the Owner does not request a Hearing within the allotted fourteen (14) days, the designation of Dangerous Dog as issued in the written Notice of Dangerous Dog will stand, and the Owner will be subject to all restrictions and requirements as set forth in the Notice by the Animal Control Authority.
6. The Notice shall also state that all actual costs of care, keeping and disposition of the dog as well as all actual costs related to any requested review or hearing are the responsibility of the person claiming an interest in the dog, except to the extent a court or hearing officer finds the seizure or impoundment was not substantially justified by law.

C. Hearing

1. If an Owner, within fourteen (14) days of the date of the Notice, requests a Hearing for determination as to the Dangerous nature of the dog, the Hearing shall be held before a Hearing Officer within fourteen (14) days after the Animal Control Authority is notified of the Owner's request for a Hearing. The Hearing Officer may allow the Hearing date to be extended beyond the fourteen (14) day period for good cause. Any dog Owner who requests such a Hearing is liable to the City for all costs and expenses related to the Hearing.
2. Pending the Hearing, the dog may be seized and kept at animal control unless the Owner shows proof that the dog is properly licensed, if required; has met the requirement for rabies vaccinations; keeps the dog only in a Proper Enclosure unless restrained on a leash with a muzzle; and otherwise demonstrates to the Animal Control Authority that the dog, under its present circumstances, does not present an unreasonable risk of harm to persons or other domestic animals.
3. The records of the Animal Control Authority, any police reports relating to an attack or bite, medical records, and all reliable hearsay shall be admissible for consideration by the Hearing Officer without further foundation.
4. The Animal Control Authority shall be represented by the Animal Control Authority or a representative appointed by the City Council. The Owner may be represented by private legal counsel of the Owner's choosing, although the Owner does not have the right to an attorney at public expense.
5. At the Hearing, both the Owner and the Animal Control Authority may present the testimony of live witnesses, cross-examine witnesses, and present documentary evidence. The Animal Control Authority, and the dog's Owner, may apply to the District Court for subpoenas for Hearings.

6. The burden of proof shall be upon the Animal Control Authority. The standard of proof shall be clear and convincing evidence if the Authority seeks to destroy the dog; in all other cases it shall be by a preponderance of the evidence.
 7. After considering all evidence pertaining to the dog, the Hearing Officer shall make such order as he/she deems proper, including ordering the Animal Control Authority to take the dog into custody, if the dog is not currently in custody. The Hearing Officer must issue his/her order within ten (10) days after the hearing.
 8. Any person who fails or refuses to release a dog to the Animal Control Authority or law enforcement agent upon demand, or after it has been found by a Hearing Officer to be Dangerous and ordered into custody, shall be guilty of a misdemeanor.
 9. *Authority to order destruction.* The Hearing Officer, upon finding that a dog is Dangerous hereunder, is authorized to order, as part of the disposition of the case, that the dog be destroyed based on a written order containing findings of fact establishing that each of the following criteria are present:
 - i) The dog is Dangerous, as demonstrated by a vicious attack, an unprovoked attack, an attack without warning, or multiple attacks; and
 - ii) The Owner of the dog has demonstrated an inability or unwillingness to sufficiently control the dog in order to prevent injury to persons or other animals; and
 - iii) The Owner cannot, will not, does not, or otherwise refuses to provide proof of the liability insurance for the dog as required by Section 10 (C) 3 of this Ordinance.
 10. The decision of the Hearing Officer is a quasi-judicial determination that is subject to review by writ of certiorari to the Minnesota Court of Appeals.
 11. The Owner or person claiming an interest in the dog is liable for all actual costs of care, keeping, and disposal of the dog as well as all actual costs related to any review or hearing as allowed by law, except to the extent that a 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 dog, before the dog is returned to the person.
- D. Exemption. A dog may not be declared Dangerous if the threat, injury, or damage was sustained by a person who:
1. Was committing, at the time, a willful trespass or other tort upon the premises occupied by the Owner of the dog; or
 2. Was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or

3. Was committing or attempting to commit a crime against the Owner or the Owner's property.
- E. Review of designation. Beginning one year after a dog is declared a Dangerous Dog; an Owner may request annually in writing that the Animal Control Authority or the Hearing Officer review the designation. The Owner must provide evidence that the dog's behavior has changed due to the dog's age, sterilization, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the Animal Control Authority or Hearing Officer finds sufficient evidence that the dog's behavior has changed, the Authority may rescind the Dangerous Dog designation. If a review of designation is conducted by the Hearing Officer, the burden of proof shall be upon the dog's Owner and the standard of proof is clear and convincing evidence. If a review is conducted the person requesting the review is responsible for all actual costs incurred by the City, the Animal Control Authority, or the Hearing Officer in performing the review.

SECTION 10. DANGEROUS DOGS, REGISTRATION.

- A. Requirements. For any dog determined or declared to be Dangerous by operation of this Ordinance, state statute, court order, ordinance or regulation from another jurisdiction, or valid declaration from an Animal Control Authority, the dog shall, at all times during the dog's life, be registered as a Dangerous Dog pursuant to this Ordinance or state law.
- B. Registration. No person may own or possess a Dangerous Dog in this City unless the dog is registered as provided in this Ordinance or applicable state law. All dogs deemed Dangerous by the Animal Control Authority or Hearing Officer, as applicable, shall be registered as a Dangerous Dog with the Animal Control Authority within thirty (30) days after the date the dog was so deemed.
- C. Registration requirements. The Animal Control Authority shall issue a Certificate of Registration to the Owner of a Dangerous Dog only if the Owner presents sufficient evidence that all of the following are met:
 1. The Owner provides and maintains a Proper Enclosure for the Dangerous Dog, as defined in Section 1 of this Ordinance; and
 2. The Owner posts clearly visible warning signs, understandable to children, that there is a Dangerous Dog on the property. These warning signs must be posted on the front and the rear of all buildings on the property and upon the Proper Enclosure for the dog. The warning signs must meet the requirements set forth in Minn. Stat. § 347.51, and Section 11 of this Ordinance; and
 3. The Owner provides, and annually shows proof of, public liability insurance pre-paid in full in the minimum amount of five-hundred thousand dollars (\$500,000.00) per person and one-million dollars (\$1,000,000.00) per incident, payable to any person or persons injured by the Dangerous Dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least five-hundred thousand dollars (\$500,000.00) per person and one-million dollars

(\$1,000,000.00) per incident insuring the Owner for any personal injuries inflicted by the Dangerous Dog; and

4. The Owner pays the annual registration fee set by Council pursuant to Subsection E of this Section; and
 5. An identification microchip was implanted in the dog as required under Minn. Stat. § 347.515 and Section 14 of this Ordinance; and
 6. The dog must have a lifetime license, if required, and must be up to date on all vaccinations including rabies; and
 7. The dog must be sterilized. If not done within 30 days, Animal Control Authority shall seize the dog and have it sterilized at the owner's expense.
- D. Release. If a Dangerous Dog was impounded by the Animal Control Authority, or upon order of a Hearing Officer, the dog shall not be released until the Owner demonstrates to the Animal Control Authority that all applicable requirements of this Ordinance, including all registration requirements imposed by this Section or applicable state law, have been complied with. The Owner shall have a maximum of thirty (30) days to comply with all requirements. The Owner must pay the City for all costs incurred in the seizure and boarding of the dog prior to its return.
- E. Fee. The City will charge the Owner of a Dangerous Dog an annual fee, in addition to any regular dog licensing fees, to obtain a Certificate of Registration for a Dangerous Dog under this Section. This annual fee will be set by a Resolution of the City Council in an amount not to exceed five-hundred dollars (\$500.00) pursuant to Minn. Stat. § 347.51, subd. 2.
- F. Revocation.
1. Any Certificate of Registration for a Dangerous Dog may be revoked, following Hearing, if the Owner fails to maintain compliance with any registration requirement, or fails to keep or maintain the Dangerous Dog as required by any provision of this Ordinance or applicable state law. The provisions of Sections 15 and 16 of this Ordinance, applicable to the seizure and disposition of dogs, shall apply.
 2. The Animal Control Authority shall serve upon the Owner a written Notice setting forth the alleged reasons why the dog is not being kept in conformance with this Ordinance, and shall also notify the Owner of the date, time, and location of the Hearing. Any Hearing to revoke a Certificate of Registration shall be held before a Hearing Officer within twenty (20) days of the date of the Notice, and shall comply with all the requirements as set forth in Section 9, Subsection C. The Hearing Officer may allow the Hearing date to be extended beyond the twenty (20) day period for good cause.
 3. If a Dangerous Dog Certificate of Registration is revoked following Hearing, the Hearing Officer shall order the dog disposed of immediately or, in the alternative,

permit the Owner a reasonable time period, not to exceed thirty (30) days, to obtain the dog if the Owner is in compliance with all registration requirements.

- G. Registration renewal. An Owner of a Dangerous Dog shall renew the registration of the dog annually until the dog is deceased.
- H. Death or relocation of Dangerous Dog. An Owner of a Dangerous Dog shall notify the Animal Control Authority, in writing, of the death of the dog, or if the dog relocates or transfers out of the City to a new location or new jurisdiction, within thirty (30) days of the death or relocation. An Owner shall, if requested by the Animal Control Authority, execute an affidavit, under oath and penalty of perjury, setting forth either the circumstances of the dog's death and disposition; or the complete name, address, and telephone number of the person to whom the dog was transferred.
- I. Sale or transfer of Dangerous Dogs. A person who sells or otherwise transfers ownership or control of a Dangerous Dog must notify any potential purchaser or transferee, prior to the consummation of the transaction, that the dog was previously designated as Dangerous. The seller must also notify the Animal Control Authority, in writing, of the sale and provide the Animal Control Authority with the new Owner's name, address, and telephone number.

SECTION 11. DANGEROUS DOGS, REQUIREMENTS.

- A. Requirements. For any dog declared Dangerous by operation of this Ordinance, state statute, court order, an ordinance or regulation from another jurisdiction, or by operation of a declaration by an Animal Control Authority, the Owner, in addition to complying with all the registration requirements set forth under Section 9 of this Ordinance, shall keep and maintain the dog pursuant to all requirements of this Section, all other provisions of this Ordinance, and all requirements of any applicable state statute.
- B. Restraint. An Owner of a Dangerous Dog shall keep the dog, while on the Owner's property, in a Proper Enclosure as defined by Section 1 of this Ordinance. The dog shall, at all times, be kept in such Proper Enclosure unless the dog is, at any and all times the dog is outside a Proper Enclosure, muzzled and restrained by a substantial chain or leash not to exceed six feet (6 ft.) in length and under the physical restraint of a responsible person eighteen (18) years of age or older. The muzzle, chain, and leash must all be of such a design, manufacture, and maintained in a condition that will prevent the dog from biting any person or animal, but that will not cause injury to the dog or interfere with its vision or respiration.
- C. Leased premises. A person who owns a Dangerous Dog and who rents property from another where the dog will reside shall disclose to the property owner prior to when the dog begins to reside on the property, or prior to entering the lease agreement, and at the time of any lease renewal, that the person owns a Dangerous Dog that will reside at the property.
- D. Warning symbol. If the City issues a Certificate of Registration to the Owner of a Dangerous Dog pursuant to this Ordinance, the City must provide, for posting on the

Owner's property, an adequate number of a warning symbol to inform all persons, including children, that there is a Dangerous Dog on the property. The design of the warning symbol must be uniform with any specifications for such a sign as issued by the Minnesota Commissioner of Public Safety, if any, and shall otherwise be obtained by the City from the Commissioner of Public Safety. The City will charge the Owner a reasonable fee to cover its administrative costs and the cost of the warning symbol.

- E. Tag. A Dangerous Dog registered under this section shall have a standardized, easily identifiable tag identifying the dog as Dangerous and containing the uniform Dangerous Dog symbol, as developed by the Commissioner of Public Safety or the Animal Control Authority, affixed to the dog's collar at all times.
- F. Property inspection. The Owner of a Dangerous Dog shall permit the Animal Control Authority and/or Law Enforcement to enter the property where a Dangerous Dog is kept or located, at all hours reasonable under the circumstances, without a warrant or other advance judicial process, to inspect the premises so as to ensure compliance with the provisions of this Ordinance, applicable state statutes, order from a hearing officer, or directive from the Animal Control Authority. The failure of an Owner to permit such inspection is, by itself, a ground to immediately seize the dog pursuant to Section 14 of this Ordinance and revoke the Dangerous Dog registration pursuant to Section 9, Subsection F of this Ordinance.
- G. Review. If, in reviewing the conditions for keeping a Dangerous Dog there have been no ordinance violations for a period of two (2) years, the Animal Control Authority or Hearing Officer may use discretion in determining whether the conditions set forth above are still required.

SECTION 12. POTENTIALLY DANGEROUS DOGS, DESIGNATION.

- A. Designation. The Animal Control Authority or Hearing Officer shall designate any dog as a Potentially Dangerous Dog upon receiving evidence that the animal meets any of the criteria in the Definition of Potentially Dangerous Dogs found in Section 1 of this Ordinance.
- B. Notice. Upon determination that a dog is Potentially Dangerous, the Animal Control Authority shall provide a written Notice of Potentially Dangerous Dog by mailing said Notice to the Owner of record or if none by mailing said Notice to the property where the dog is located. Service upon any Owner shall be effective as to all Owners. The Notice shall state the following:
 - 1. A factual basis for the determination including dates, times, places and facts of the incidents which are the basis for the determination;
 - 2. A description of the dog deemed potentially dangerous;
 - 3. If the dog was seized, the address and telephone number of the contact person where the dog is kept; and

4. Any requirements the Animal Control Authority deems necessary under Section 13.
- C. Exemption. A dog may not be declared Potentially Dangerous if the threat, injury, or damage was sustained by a person who:
1. Was committing, at the time, a willful trespass or other tort upon the premises occupied by the Owner of the dog; or
 2. Was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
 3. Who was committing or attempting to commit a crime against the Owner or the Owner's property.
- D. Review of designation. The Animal Control Authority, or Hearing Officer, may, upon the written request of the Owner, review the status of a dog which has been determined to be Potentially Dangerous if a period of two (2) years has passed without any further incidents or violations of this Ordinance, and may use discretion in determining whether any conditions which have been ordered are still required. If the review is conducted by the Hearing Officer, the burden of proof shall be upon the dog's Owner and the standard of proof shall be by clear and convincing evidence. If a review is conducted the person requesting the review is responsible for all actual costs incurred by the City, the Animal Control Authority, or the Hearing Officer in performing the review.

SECTION 13. POTENTIALLY DANGEROUS DOGS, REQUIREMENTS.

- A. Microchipping. Any dog that has been determined to be Potentially Dangerous shall be microchipped in accordance with Minn. Stat. § 347.515 and Section 14 of this Ordinance.
- B. Other restrictions. Any dog determined to be Potentially Dangerous may be subject to any or all of the following restrictions, as determined by the Animal Control Authority or the Hearing Officer:
1. The Owner of a dog may be required to complete an approved dog obedience class within a designated period of time, and provide proof of completion to the Animal Control Authority;
 2. The dog may be required to be kept in a Proper Enclosure, or restrained by chain or leash not to exceed six feet (6 ft.) in length, and/or muzzled, and under the control of a responsible person eighteen (18) years of age or older at all times it is outdoors and not inside a Proper Enclosure;
 3. The Owner may be required to post the property where the dog resides with warning signs, readable to children, containing a written notice and warning that a Potentially Dangerous Dog is present on the property. Such signs shall conform to the requirements set forth in Section 10, Subsection D;

4. The Owner may be required to show proof of up-to-date rabies vaccination and, if required, licensing;
 5. The dog may be required to wear, at all times, a tag or marker identifying it as a Potentially Dangerous Dog;
 6. The dog may be required to be sterilized within 30 days of the owner receiving notice; and
 7. Any other restriction the Animal Control Authority or Hearing Officer deems necessary to protect the public.
- C. Leased premises. A person who owns a Potentially Dangerous Dog and who rents property from another where the dog will reside shall disclose to the property owner prior to when the dog begins to reside on the property, or prior to entering the lease agreement, and at the time of any lease renewal, that the person owns a Potentially Dangerous Dog that will reside at the property.

SECTION 14. MICROCHIP IDENTIFICATION.

Pursuant to Minn. Stat. § 347.515, it shall be the responsibility of each Owner of any dog kept or harbored within the City and determined to be a Dangerous or Potentially Dangerous Dog under this Ordinance, court order, state statute, designation from the Animal Control Authority, or a substantially similar ordinance from another jurisdiction, to ensure that a microchip is 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 microchip is not implanted by the Owner, it must be implanted by a qualified veterinarian or clinic or shelter staff under the direction and control of the Animal Control Authority. In either case, all costs related to purchase and implantation of the microchip must be borne by the dog's Owner.

SECTION 15. CONFISCATION.

- A. Seizure. The Animal Control Authority shall immediately seize any Dangerous Dog or Potentially Dangerous Dog if:
1. After thirty (30) days after the Owner has notice that the dog is Dangerous or Potentially Dangerous, the dog is not validly registered under this Ordinance or applicable state law;
 2. After thirty (30) days after the Owner has notice that the dog is Dangerous, the Owner does not secure the proper liability insurance or surety coverage as required under this Ordinance;
 3. The dog is not maintained in a Proper Enclosure, as defined in Section 1 of this Ordinance;
 4. The dog is outside the Proper Enclosure and not under the proper physical restraint of a responsible person as required under this Ordinance or any applicable state law; or

5. The Owner is served with written notice, by certified mail to the Owner's last known address, that the Owner is in violation of any of the requirements of this Ordinance or any applicable state statute, or is in violation of any directive issued by the Animal Control Authority or order from a Hearing Officer; and, within thirty (30) days of service of such written notice, has refused or failed to achieve satisfactory compliance; or
6. The Animal Control Authority has reason to believe the dog is a Dangerous or Potentially Dangerous Dog, and is kept or maintained under conditions or circumstances creating an unacceptable risk of harm to physical persons or other domesticated animals; or
7. For any other reason authorized by law.

B. Additional dogs subject to seizure

1. Any dog found to be in circumstances which to a reasonable person indicate that the dog has been or will be used, trained or encouraged to fight with another animal, or any animal whose owner has in custody or possession any training apparatus, paraphernalia or drugs used to prepare such dog to be fought with another animal, is hereby declared to be a public nuisance and shall be immediately seized and taken to the designated animal control center.
2. Any dog may be seized and held to determine if rabid.
3. Any dog may be seized and held if suspected of being feral.
4. Any dog which meets the definitions found in Section 1 either Dangerous or Potentially Dangerous may be seized and held at animal control pending a determination whether the animal is Dangerous or Potentially Dangerous.

C. Reclaiming dogs. A dog seized under this Ordinance may be released to the Owner of the dog upon payment of impounding and boarding fees and presenting proof to the Animal Control Authority that all requirements of this Ordinance and state law have or will be met. A dog not reclaimed under this subdivision within seven (7) days may be disposed of as provided under Minn. Stat. § 347.54, subd. 2, and the Owner is liable to the Animal Control Authority for costs incurred in confining and disposing of the dog.

D. Subsequent offenses. If a person has been convicted of a misdemeanor for violating a provision of this Ordinance, and the person is charged with a subsequent violation relating to the same dog, the dog shall be seized by the Animal Control Authority. If the Owner is convicted of the crime for which the dog was seized, the Court shall order that the dog be destroyed in a proper and humane manner and the Owner pay the cost of confining and destroying the dog. If the person is not convicted of the crime for which the dog was seized, the Owner may reclaim the dog upon payment to the Animal Control Authority of a fee for the care and boarding of the dog. If the dog is not reclaimed by the Owner within seven (7) days after the Owner has been notified that the dog may be

reclaimed, the dog may be disposed of as provided under Minn. Stat. § 347.54, subd. 3. The Owner is liable to the Animal Control Authority for the costs incurred in confining, impounding, and disposing of the dog.

SECTION 16. DESTRUCTION OF DOGS IN CERTAIN CIRCUMSTANCES.

- A. Upon infliction of death or bodily harm. A dog that, when Unprovoked, inflicted death or Substantial or Great Bodily Harm on a human being on public or private property, or, when Unprovoked, bit multiple human victims on public or private property in the same attack may be destroyed in a proper and humane manner by the Animal Control Authority. The Animal Control Authority may not destroy the dog until the dog Owner is provided the opportunity for a Hearing before a Hearing Officer, as set forth in this Ordinance.
- B. Suffering beyond cure. Notwithstanding any other provision of this Ordinance, any dog taken into custody may be immediately disposed of when the dog is suffering and is beyond cure through reasonable care and treatment, upon a proper determination by a licensed Doctor of Veterinary Medicine. The City shall recover from the dog's Owner all costs incurred under this section.
- C. Unclaimed dogs. At the expiration of the time a dog is impounded as provided for in this Ordinance, if the dog has not been reclaimed in accordance with the provisions hereof, it shall be the duty of the Animal Control Authority to cause such dog to be destroyed according to the most humane and approved methods, or otherwise disposed of.

SECTION 17. IMPOUNDING.

It shall be the duty of the Animal Control Authority appointed by the City to seize, impound or restrain any animal which causes an annoyance to individuals as described in Section 7 of this Ordinance. All animals seized or restrained pursuant to this Section shall be impounded and the owner assessed a per diem charge determined from time to time by resolution of the City Council for the boarding of such animal. Any animal so impounded shall be held until claimed by such animal's owner or until it is destroyed. All animals shall be held for not less than seven (7) days after which time such animal *may* be destroyed; provided however, that any mad or hopelessly crippled dog found in the City may be forthwith killed, and provided, further, that any dog known to be a potentially dangerous or dangerous dog shall be impounded as provided for in this Ordinance at the owner's expense.

SECTION 18. INTERFERENCE.

It shall be unlawful for any unauthorized person to take or attempt to take from any Animal Control Authority any dog taken up under this Ordinance. It shall be unlawful for any person to interfere in any manner with or hinder any Animal Control Authority in the discharge of their duties under this ordinance.

SECTION 19. PENALTY.

- A. Any person who violates any provision of this Ordinance is guilty of a misdemeanor.

- B. It is a misdemeanor to remove a microchip from a Dangerous or Potentially Dangerous Dog; to fail to renew the registration of a Dangerous Dog; to fail to account for a Dangerous Dog's death, transfer of ownership, or removal from the jurisdiction; to sign a false affidavit with respect to a Dangerous Dog's death, transfer of ownership, or removal from the jurisdiction; or to fail to disclose ownership of a Dangerous or Potentially Dangerous Dog to a property owner from whom the person rents property.
- C. Any costs incurred by the City enforcing the terms of this Ordinance including, but not limited to, taking the dog into custody, costs related to impounding said dog (housing, feeding, veterinary bills, etc.) shall be invoiced to the dog's owner for payment which shall be paid within 30 days of the date of the invoice, should the owner not reimburse the City within said time, the City shall be authorized to certify said unreimbursed costs to the County Auditor for payment with the owner's property taxes pursuant to Minn. Stat. §§ 366.012, 429.101 or other relevant statute.
- D. Further, each day of violation of this Ordinance shall be deemed a misdemeanor for which the City may bring prosecution. In the event of a successful prosecution, then the prosecution costs may be added to any fines or penalties imposed by the Court, all as provided by statute. The maximum penalty shall be the same as the maximum penalty provided by Minnesota law for misdemeanor violations.

SECTION 20. RESTRICTIONS.

- A. Dog ownership prohibited. Except as provided in subdivision 3, no person may own a dog if the person has:
 - 1. Been convicted of a third or subsequent violation of Section 10, Section 11, Section 13, or Section 14;
 - 2. Been convicted of a violation under Minn. Stat. § 609.205, clause (4);
 - 3. Been convicted of a gross misdemeanor under Minn. Stat. § 609.226, Subd. 1;
 - 4. Been convicted of a violation under Minn. Stat. § 609.226, Subd. 2; or
 - 5. Has a dog ordered destroyed under Section 16 and been convicted of one or more violations of Section 10, 11, 13, or 14, or Minn. Stat. § 609.226, Subd. 2.
- B. Household members. If any member of a household is prohibited from owning a dog in subdivision A, unless specifically approved with or without restriction by an Animal Control Authority, no person in the household is permitted to own a dog.
- C. Dog ownership prohibition review. Beginning three years after a conviction under subsection A that prohibits a person from owning a dog, and annually thereafter, the person may request that the Animal Control Authority review the prohibition. The Animal Control Authority may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the

Animal Control Authority deem appropriate. The Animal Control Authority may rescind the prohibition entirely or rescind it with limitations. The Animal Control Authority also may 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 the person subsequently fails to comply with any limitation imposed by the Animal Control Authority or 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 this City.

SECTION 21. DATE OF EFFECT.

This Ordinance will be in force upon passage and publication in summary due to its length as required by law.

SECTION 22. REPEALER.

Ordinance Number 21 entitled "Town of Rice Lake Animal Control Ordinance" is hereby repealed and replaced by this Ordinance.

Passed by the Rice Lake City Council this 22nd day of April 2019.

John Werner, Mayor

ATTEST:

Toni Blomdahl, Clerk-Treasurer