

**CITY OF EYOTA
PLANNING COMMISSION MINUTES
SEPTEMBER 21, 2016**

Present: Members: Lief Hughes, Janet Hughes, Casey Johnson, Chad Ohl and John Chesney
Council Rep: Ray Schuchard Secretary: Marlis Knowlton

Absent: Council Rep: Bryan Cornell

Call to Order: Chair Lief Hughes called the meeting to order at 7:00 p.m.

Approve Agenda: Agenda was approved as presented.

Minutes: Motion was made by Ohl and seconded by Johnson to approve the August 17, 2016 regular meeting minutes. Ayes 5, Nays 0. Motion carried.

Variance Request – Brandon Schlueter, 580 Canyon Lane NW Fence – Public Hearing:

Mr. Schlueter is requesting a front yard fence height variance of two feet (2'). Being a corner lot, Schlueter has two front yards; the variance is to allow a six foot fence on the lot line adjacent to Whetstone Place NW. Front yards are limited to a maximum height of four foot per ordinance.

Motion was made by Ohl and seconded by Janet Hughes to close the regular meeting. Ayes 5, Nays 0. Motion carried. Motion was made by Ohl and seconded by Johnson to open the public hearing. Ayes 5, Nays 0. Motion carried.

Brandon Schlueter introduced himself and explained the request for a six foot fence.

Ohl: Confirmed that the request is a two foot variance in the height, not a setback.

Schlueter: Explained he has a dog (yellow lab) that would jump out of their previous home's yard that had a five foot chain link fence. Now being next to a highway he doesn't want the dog getting out on to the highway.

Janet Hughes: Expressed concern that it is hard to see around the corners (referring to traffic) and it is a safety issue for oncoming traffic.

Schlueter: Explained the fence posts he started to install will probably need to be moved about eight feet into his yard to meet the twenty five foot set back regulation; he will move them. And the southwest corner will be angled per the clear vision requirement.

Johnson and Schuchard: Both agreed that would help a lot.

Schlueter: Answered and verified Johnson's question regarding the fence from the house; which would be about five feet from the garage.

Schuchard: Explained a little bit about the utilities being in the easement adjacent to Whetstone Place. There is a ten foot utility easement on that lot line.

Ohl: Applauded the effort to try to go through this process (variance) versus letting the dog run loose, which is an ordinance violation.

Schlueter: Discussed his concern being next to a commercial district and looking out onto Dollar General's parking lot.

Ohl: There were similar arguments from residential neighbors when the grocery store (Eyota Market) was planned and it was built anyway. Are we improving the property value (Schlueter's) or is there a monetary impact of this decision? We have to justify a hardship to approve a variance. I have to justify a hardship and I am trying to understand a hardship and is there a monetary impact. Ohl specifically asked Chesney (a realtor) if there is a monetary impact of this decision.

Chesney: I don't think so.

Ohl: Is there a hardship? The owner is able to have a fence, so does anyone else see a hardship?

Lief Hughes: Questioned Ohl to verify if there is no hardship than the he would be required to build the fence at the required four foot height.

Ohl: Yes. A hardship has to detract in order to grant a variance.

Schlueter: What is detraction?

Ohl: For example, I wanted to build a garage and because of the way my neighbors built I could not qualify so requested a variance; and was still denied. In this case there can still be a fence, it just will not be to the homeowners liking.

Ohl: Asked Schuchard if he saw a hardship or if there have ever been any other height variances.

Schuchard: Could not see a hardship and could not remember any other fence height variance.

Ohl: Verified with Knowlton that there were no other public comments received and that Arbor Gardens did receive notification of the hearing.

Motion was made Janet Hughes and seconded by Ohl to close the public hearing. Ayes 5, Nays 0. Motion carried. Motion was made by Janet Hughes and seconded by Chesney to open the regular meeting. Ayes 5, Nays 0. Motion carried.

Ohl read the League of Minnesota Cities first two of three practical difficulty (previously hardships) key questions.

1. The property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance.
2. The landowner's situation is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property and economic considerations alone cannot create practical difficulties.

Ohl stated there is no property uniqueness.

Motion was made by Ohl and seconded by Janet Hughes to deny the variance request. First, there is no conceivable hardship to the property and second, the owner is allowed to construct a fence. Discussion: Ohl suggested Schlueter should discuss this with the Council as they have the final decision. Johnson stated the Commission needs to follow the zoning rules but does not view this fence as a visual problem. Schlueter questioned how it was decided to determine two front yards for corner lots. Lief Hughes, Janet Hughes, Ohl and Chesney voted in favor. Johnson voted opposed. Ayes 4, Nays 1. Motion carried.

Temporary Family Health Care Dwellings Ordinance #146 – Public Hearing:

A public hearing is required to approve an ordinance to opt-out of the new Minnesota law allowing temporary mobile residential dwellings to provide transitional housing for caregivers in specific defined situations. Ordinance #146 AN ORDINANCE OPTING-OUT OF THE REQUIREMENTS OF MINNESOTA STATUTES, SECTION 462.3593 TEMPORARY FAMILY HEALTH CARE DWELLINGS is submitted for approval.

Motion was made by Ohl and seconded by Johnson to close the regular meeting and open the public hearing. Ayes 5, Nays 0. Motion carried.

There were no public comments submitted prior to the meeting and there were no comments made at the meeting.

Schuchard did make comments on why these structures are not called tiny houses. Ohl explained the opportunities for tax deductions with these dwellings labeled for health care use.

Motion was made by Ohl and seconded by Johnson to close the public hearing and open the regular meeting. Ayes 5, Nays 0. Motion carried.

Motion was made by Lief Hughes and seconded by Chesney to approve ORDINANCE #146 AN ORDINANCE OPTING-OUT OF THE REQUIREMENTS OF MINNESOTA STATUTES, SECTION 462.3593 TEMPORARY FAMILY HEALTH CARE DWELLINGS. Leif Hughes, Janet Hughes, Chesney and Johnson voted in favor. Ohl voted opposed. Ayes 4, Nays 1. Motion carried.

Discharge of Firearms Ordinance #147 – Public Hearing:

Motion was made by Ohl and seconded by Chesney to close the regular meeting and open the public hearing. Ayes 5, Nays 0. Motion carried.

There were no public comments submitted prior to the meeting and there were no comments made at the meeting.

Motion was made by Ohl and seconded by Janet Hughes to close the public hearing and open the regular meeting. Ayes 5, Nays 0. Motion carried.

Johnson questioned if the ordinance should be changed to allow for bow and arrows to be used in a qualified indoor shooting range. The Commission discussed and agreed this should be allowed. Section 2. Exceptions, c. will be changed to include “and/or bow and arrows”. The sentence will now read: c. A person discharging a firearm and/or bow and arrow in an approved indoor shooting range, built to current building code standards;

Motion was made by Ohl and seconded by Chesney to approve ORDINANCE #147 AN ORDINANCE REGULATING THE DISCHARGE OF FIREARMS WITHIN THE CITY LIMITS OF EYOTA AND PROVIDING PENALTY FOR VIOLATIONS with the noted change. Ayes 5, Nays 0. Motion carried. See “Exhibit A”

Amend Ordinance #53 Zoning via Ordinance #148 – Public Hearing: Now that the firearms ordinance has passed, the zoning ordinance will need to be changed to allow indoor shooting ranges in commercially zoned districts.

Motion was made by Ohl and seconded by Johnson to close the regular meeting and open the public hearing. Ayes 5, Nays 0. Motion carried.

There were no public comments submitted prior to the meeting and there were no comments made at the meeting.

Motion was made by Ohl and seconded by Janet Hughes to close the public hearing and open the regular meeting. Ayes 5, Nays 0. Motion carried.

Zoning Ordinance #53 - Section 4.01. Use Categories - 3. Servicing, Merchandising, Leisure Uses, Office Uses - a. Commercial Recreation: is amended to read:

a. Commercial Recreation: Facilities and activities which primarily provide a recreational service, including but not limited to indoor/outdoor private and public for profit sports/recreation clubs and facilities, camping facilities, and indoor shooting ranges, but excluding target ranges, shooting or gun clubs.

Motion was made by Lief Hughes and seconded by Ohl to approve ORDINANCE #148 AN ORDINANCE AMENDING ARTICLE IV, SECTION 4.01 OF ORDINANCE NO. 53 AND TITLED “ZONING ORDINANCE”. Ayes 5, Nays 0. Motion carried.

Animal Ordinance: The current Animal Ordinance #133 was reviewed again for additional changes. The Commission discussed specific references and some of the decisions made were:

- Article II, Section 1, Licensing or Registration title will be changed to just Regulations.
- Article II, Section 2, Tags – request to require the rabies vaccination tag and/or owner identification tag be on the animal at all times. Suggestion: add all tags shall be provided and attached by the owner, not by the city. And add that another option would be an implanted identification chip.
- Article II, Section 8, Reclaiming Animals from the City Designated Pound – add wording if an animal does not have proof of rabies vaccination the owner must make arrangements to have the animal appropriately vaccinated by the local veterinarian only and in the presence of an animal control officer prior to being released from the shelter.
- Article II, Section 11, Dangerous Dogs – although this is a vital part of the ordinance, most of it is wording from State Statute and yet confusing to delineate between dangerous and potentially dangerous definitions and regulations. Suggestion, simplify the entire section by saying something to the fact of refer to State Statute regulations.
- Article III, Chickens – The Commission agreed to leave the chicken regulations as is. Chickens need to be housed, banded and regulated closely.

It still needs to be researched how the fees can be removed from the ordinance so that changes could be easily made annually on the City’s fee schedule.

Motion was made by Lief Hughes and seconded by Johnson to approve the ordinance with the noted changes and send it to the Council for review. Ayes 5, Nays 0. Motion carried.
See "Exhibit B"

Kwik Trip Expansion: Kwik Trip has submitted a partial plan to build a blending station on the parcel north of the existing operations. The project will require the parcel to be rezoned, a conditional use permit and a variance (as plans are now). All of these require public hearings. Kwik Trip is still planning on proceeding with this project this fall. The Commission agreed they would be willing and able to hold a special meeting if requested.

Ordinance Codification: The preliminary draft manuscript of the Code of Ordinances was distributed to all the members. Members were asked to start familiarizing themselves with the document in preparation for the review information to come from American Legal with specific instructions on how to proceed.

Other Business:

Janet Hughes inquired if more 'no motorized vehicle' signs are needed on the pedestrian trail along Highway 42 because golf carts are using the trail. This can be brought up to the Council. Johnson questioned if there are any plans to install more lights along the path adjacent to Highway 42; Knowlton noted not in the near future. Follow up; no research has been done yet regarding no jake brake signage.

Adjourn: Motion was made by Ohl and seconded by Janet Hughes to adjourn. Ayes 5, Nays 0. Motion carried. Meeting was declared adjourned at 8:15 p.m.



Marlis Knowlton
Clerk/Treasurer

NOTE: It should be noted that Chad Ohl submitted his resignation as a Planning Commission member, to Clerk Marlis Knowlton after the meeting, to be effective October 6, 2016. "I do here by resign from the Eyota Planning Commission October 6, 2016. I am leaving the City of Eyota and moving to Dover. Chad Ohl"

ORDINANCE # 147

FIREARMS ORDINANCE

AN ORDINANCE REGULATING THE DISCHARGE OF FIREARMS WITHIN THE CITY LIMITS OF EYOTA AND PROVIDING PENALTY FOR VIOLATIONS.

City Ordinance #75 is hereby repealed.

THE CITY OF EYOTA DOES ORDAIN:

Section 1. Discharge of Firearms Prohibited. No person shall fire, discharge, or explode any gun, pistol, BB/pellet gun or other weapon propelled by means of explosive or gas in any part of the City.

Section 2. Exception. Nothing herein shall be constructed to prohibit any firing of a gun, pistol, BB/pellet gun or other weapon when done by:

- a. Law enforcement or military personnel acting within the performance of their official duties;
- b. Any person lawfully defending persons or property;
- c. A person discharging a firearm and/or bow and arrow in an approved indoor shooting range, built to current building code standards;
- d. A person whose firearm is using blank ammunition in conjunction with a sporting event or ceremonial occasion.

Section 3. Bow and Arrow. No person shall fire or discharge any bow and arrow, cross bow or device designed to propel projectile from a cord connecting the two ends of a bow by pulling on the cord in any part of the City. It shall not mean devices of this type commonly interpreted to be toys.

Section 4. Repeal. Ordinance 75, FIREARMS ORDINANCE, AN ORDINANCE PROHIBITING THE DISCHARGE OF FIREARMS WITHIN THE CITY LIMITS OF EYOTA AND PROVIDING PENALTY FOR VIOLATIONS, adopted April 20, 1994 is hereby repealed.

Section 5. Penalties. Any person who violates any provision of this ordinance shall, upon conviction, shall be guilty of a petty misdemeanor and be punished by a fine of not more than \$300.

Section 6. Severability. If any provision of this ordinance is declared by any court of competent jurisdiction to be illegal and in conflict with any law, the validity of the remaining provisions and their application to other persons or circumstances shall not be affected.

Section 7. Effective Date. This ordinance becomes effective on October 1, 2016.

Passed and adopted by the Eyota City Council the 22 day of September 2016.

Tyrel Clark
Mayor

ATTEST:

Marlis Knowlton
Clerk/Treasurer

"Exhibit A"

ORDINANCE #133 ANIMAL ORDINANCE
Planning Commission's Proposed Ordinance as of Sept 21, 2016

AN ORDINANCE REGULATING THE LICENSING AND CONTROL OF DOGS, CATS, CHICKENS AND OTHER ANIMALS IN THE CITY, INCLUDING ADMINISTRATIVE PROCEDURES AND PROVIDING PENALTY FOR VIOLATION

Eyota City Ordinance No. 73, Ordinance No. 106 and Ordinance No. 115 are hereby repealed.

THE CITY COUNCIL OF EYOTA, MINNESOTA DOES ORDAIN:

ARTICLE I. DEFINITIONS

As used in this ordinance the terms defined in this section shall have the meaning as ascribed to them.

Animal: Any quadruped living creature which is required to be licensed by the City of Eyota;

Owner: Any person, groups, or organization owning, keeping, harboring, or maintaining a dog, cat, chicken, or other animal within the city for five (5) or more days or allowing the animal to be "At-Large" within the city;

Harborer: Any person, group, organization, who has custody of any dog, cat, chicken, or other animal that is kept or stays on or about the harborer's premises for five (5) or more days;

At-Large: Any animal or chicken shall be considered "At-Large" when it is off the premises of the owner and not under restraint, as defined herein;

Restraint: Means a dog or cat properly confined within a motor vehicle or properly confined within an enclosure, house, other building, by leash, by voice control or by an e-collar shall be considered properly restrained; or a chicken, properly confined within an enclosure or other building, shall be considered properly restrained;

Animal Control Officer: A person, firm, or agency hired or engaged by the City of Eyota to investigate animal complaints, and who shall have authority to seize dogs, cats, or chickens and otherwise carry out the provisions of this ordinance;

Kennels: Any place, building, tract of land, abode or vehicle wherein or whereupon four (4) or more domestic animals over two (2) months of age are kept, congregated, or confined, excluding municipal pounds.

Torture, Cruelty: Every act, omission, or neglect which causes or permits unnecessary or unjustifiable pain, suffering, or death.

Chicken: A domesticated bird that serves as a source of eggs or meat. Hen being a female chicken and rooster being a male chicken.

Coop: A structure that provides shelter from the elements for the keeping or housing of chickens permitted by this ordinance.

Run: A fully enclosed and covered area attached to a coop where chickens can roam unsupervised.

ARTICLE II. DOGS, CATS AND OTHER ANIMALS

SECTION 1. Regulations

Subdivision 1. It is unlawful for any person, group, or organization, to keep, harbor, or maintain a dog or cat over the age of six (6) months unless it has been vaccinated for rabies. The number of licensed dogs and/or cats shall not exceed a total of three (3), in any combination: 3 dogs, or 3 cats, 2 dogs and 1 cat, or 2 cats and 1 dog.

Subdivision 2. Registration; Possession of Other Animals. It is unlawful for any person to keep, harbor or maintain any animal of a mammalian species other than a dog, cat, or an animal which is a member of the order of lagamorpha (rabbit) or rodentia (rodent). Animal hybrids that are the offspring of wild animals bred with domestic dogs or cats are considered wild animals. They shall be maintained in a kennel with a perimeter fence of eight feet surrounding the kennel. They must be vaccinated.

Subdivision 3. Hoofed and agricultural animals shall be forbidden within the City limits, except on agriculturally zoned land, and except for chickens as regulated in Article III. Horses and other shod animals are allowable only in parades. Bees are considered an agricultural animal.

Subdivision 4. Exotic animals are required to be licensed and maintained under the provisions set forth for exotic animals under the United States Department of Agriculture.

Subdivision 5. Service Animals. Any properly identified service dog that aids persons who are totally or partially blind or deaf, or who have physical or sensory disabilities will require proof the dog has been certified as a service dog and has received a current rabies vaccination. Other service animals will also require proof of certification as a service animal; vaccinations will be dependent on type of animal.

SECTION 2. Tags All dogs and cats shall be harnessed or collared at all times. A metallic tag must be securely fastened to the animal's harness or collar at all times to indicate vaccination and/or owner information; or the animal must have an implanted identification chip. Tags shall be provided and attached by the owner, not by the City.

SECTION 3. Vaccination

Subdivision 1. Duty of Owner. Every animal over the age of six (6) months which is susceptible to rabies which is kept, harbored, or maintained by its owner in the city, or which is permitted by its owner to run at large in the city shall be vaccinated at least every three (3) years against rabies. Vaccination shall be performed only by a veterinarian, or trained employee of a licensed veterinary clinic. The veterinarian or duly trained employee of a licensed veterinary clinic, who vaccinated an animal to be kept, harbored, or maintained in the city, shall prepare and deliver to the owner, sufficient information to identify the animal vaccinated, the date of vaccination, and the type of vaccination, and the type and lot of vaccine used. In addition, the veterinarian or his/her employee shall issue to the owner of each animal so vaccinated a distinctive metal tag which sets forth the year of the vaccination, the owner shall forthwith cause such animal to wear this tag on a collar or harness.

Subdivision 2. Harboring Unvaccinated Animals. No person shall keep, harbor, or maintain an animal required to be vaccinated pursuant to this section which has not been vaccinated.

SECTION 4. Running at Large

Subdivision 1. No owner of any animal, whether kept, harbored, or maintained within or without the city, shall permit or suffer such animal to run or move at large at any time within the city. For the purpose of this section, every such animal at large shall be deemed at large with the permission and at the sufferance of its owner, and in the event of a violation of the provisions of this section, it shall be no defense that the offending animal escaped or is otherwise at large without the permission or sufferance of its owner.

Subdivision 2. Penalty. A first time violation of this section shall be fined \$50.00. Numerous violations of this section shall be deemed a petty misdemeanor.

SECTION 5. City Designated Pound The designated pound for the City of Eyota is the City maintenance garage located at 420 South Avenue SE or a contracted facility as designated by the City.

SECTION 6. Apprehension of Dogs and Cats An animal control officer or any police officer may apprehend and take possession of any animal in violation of this ordinance. Any animal apprehended by an animal control officer may be conveyed to the city animal pound to be there confined until release or disposal of as hereinafter provided.

SECTION 7. Notice of Apprehension

Subdivision 1. Tagged Animals. Within 48 hours after apprehending any tagged dog or cat the City of Eyota shall make reasonable efforts to contact the owner via the information listed on the tags.

Subdivision 2. Animals with no Tags. The City of Eyota shall post notices at City Hall and the Eyota Post Office alerting the public to contact the City if they are missing an animal.

SECTION 8. Reclaiming Animals from the City Designated Pound Within the time hereinafter limited, the owner of any animal apprehended may retrieve or recover the same from the City designated Pound by paying the impound fee of \$50.00, plus boarding fees of \$50.00 per day, to cover the cost of sheltering the animal and fees to cover the cost of veterinary care for the animal, if any. Animals that do not have proof of rabies vaccination at the time of apprehension shall be required to be vaccinated before being released from the pound. The owner must make arrangements to the animal appropriately vaccinated by the local veterinarian only; and done so in the presence of an animal control officer prior to being released from the shelter. The City Clerk shall give an official city pre-numbered, written receipt, to each person paying such fees and penalties.

No person shall break open the City Pound or attempt to do so, or take or attempt to take from an animal control officer or any police officer or any other authorized representative of the city, any animal taken up or apprehended in compliance with this ordinance or in any manner intentionally interfere with or hinder such persons in the discharge of his/her duties under this ordinance.

SECTION 9. Disposing of Unclaimed Animals

Subdivision 1. If any animal apprehended by the city animal control officer is not claimed by its owner within five (5) days after the date of apprehension, excluding holidays or other days the City Pound is closed, the City of Eyota shall cause the animal to be destroyed in a humane way or may allow the animal to be adopted.

Subdivision 2. Adoptions. Any person wishing to adopt an animal from the City pound

after the five (5) day waiting period must pay the fees for a complete veterinary examination and vaccinations as it applies to Eyota City residents.

SECTION 10. Barking Dogs

Subdivision 1. It shall constitute a nuisance and be unlawful if any dog barks, whines, howls, bays, cries or makes other noise excessively so as to cause annoyance, disturbance or discomfort to any individual provided that such noise continues for a period of more than three (3) minutes or intermittent barking that continues for more than one (1) hour and is plainly audible from a distance of one hundred (100) feet from the premises whereupon the dog is kept. It shall not be a violation of this section if the dog is barking, crying or making other noise due to harassment or injury to the dog or a trespass upon the premises whereupon the dog is located.

Subdivision 2. Penalty. A first time violation of this section shall be deemed a petty misdemeanor.

SECTION 11. Dangerous Dogs **THIS SECTION WAS SUGGESTED TO BE SIMPLIFIED**

Subdivision 1. Definitions. For the purposes of this ordinance, the terms defined in this section shall have the meaning given them.

(a) Potentially Dangerous Dog: Any dog that:

- (1) when unprovoked, inflicts bites on a human or domestic animal on public or private property; or
- (2) when unprovoked, chases or approaches a person or domestic animal upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
- (3) has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

(b) Dangerous Dog: Any dog that has:

- (1) without provocation, inflicted substantial bodily harm on a human being on public or private property; or
- (2) killed a domestic animal without provocation while off the owner's property; or
- (3) has been found to be potentially dangerous, and after the owner has been served notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of human beings or domestic animals.

(c) Proper Enclosure: A securely confined area indoors or in an enclosure which has flooring that prevents digging, sides which prevent chewing or exit through them, secured with a covering which prevents escape and provides protection from the elements. This enclosure must be locked. A porch, patio, house, garage, or other structure that cannot be locked or has walls, windows or doors that are not substantial enough to prevent the escape of the dog shall not be considered a proper enclosure.

(d) Owner: Any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody or control of a dog.

Subdivision 2. Notice of Potentially Dangerous or Dangerous Dogs. If after an investigation conducted by an animal control officer or police officer, it is determined that a dog is potentially dangerous or dangerous according to the criteria described in Section 11 (a) or (b), the City of Eyota will serve a notice of intent to declare the dog as potentially dangerous or

dangerous on the owner of the dog in question. This notice shall inform the owner of this designation, the basis for the determination, the procedures for contesting the designation as described in Subd. 3 and the result of the failure to contest the designation as described in Subd. 4.

Subdivision 3. Contesting Declaration of Dangerous or Potentially Dangerous Dogs. If the owner of a dog has received a notice of intent to declare a dog potentially dangerous or a dangerous dog, the owner may request a hearing be conducted to determine whether or not such a determination is justified. This request must be made in writing and delivered to the City Clerk within 14 calendar days of receipt of the notice of the intent to declare a dog as potentially dangerous or dangerous. The City Clerk will schedule the hearing with the City Council. Witnesses may be called and documents reviewed to make a determination on the issue. Owners shall have the right to present evidence on their behalf and to cross-examine any witnesses. A simple majority of the Council is necessary for a finding that the dog is either dangerous or potentially dangerous. The decision shall be in writing and shall indicate the reasons for the findings.

If the Council finds there is sufficient basis to declare a dog as potentially dangerous or dangerous, that finding will serve as notice to the owner that the dog is in fact a potentially dangerous or dangerous dog and the owner must immediately comply with all applicable requirements of this ordinance or immediately cause the animal to be humanely destroyed or removed from the City limits.

If the owner of the dog disputes the finding of the City Council, the owner may appeal to the Olmsted County District Court.

Subdivision 4. Failure to Contest Notice of Intent to Declare. If the owner of a dog receives a notice from the City of Eyota of the intent to declare the dog as potentially dangerous or dangerous, and the owner fails to contest that notice within fourteen (14) calendar days, the owner shall be considered as having forfeited the right to the hearing described in Subd. 3 and as having consented to the designation of the dog as potentially dangerous or dangerous by default. The City of Eyota will then issue a declaration of dangerous or potentially dangerous to the owner and the owner must immediately comply with all applicable requirements of this ordinance or cause the dog to be humanely destroyed or removed from the City.

Subdivision 5. Registration. No person may own, possess, keep, harbor, maintain or otherwise have a dangerous dog in this City unless the dog is registered as provided in this section. The City of Eyota shall issue a certificate of registration to the owner of the dangerous dog if the owner presents sufficient evidence that:

- (a) a proper enclosure exists for the dangerous dog and the premises shall be posted with clearly visible warning signs issued or approved by the City of Eyota, that there is a dangerous dog on the property; and
- (b) a surety bond has been issued by a surety company authorized to conduct business in this state in a form acceptable to the City of Eyota or the City Attorney 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 this state in the amount of at least \$300,000 insuring the owner for any personal injuries inflicted by the dangerous dog; and
- (c) a microchip identification has been implanted in the dangerous dog.

Subdivision 6. Fees. The City may charge the owner an annual fee of \$300 to obtain a certificate of registration for a dangerous dog under this section. A fee of \$50 each may be charged for signs that are designated as the official symbols for posting.

Subdivision 7. Seizure of Dangerous Dogs and Violations. An animal control officer shall or any police officer may immediately seize any dangerous dog and/or issue a citation to the owner of any dangerous dog if:

- (a) fourteen (14) calendar days after the owner has received notice that the dog is dangerous, the dog is not validly registered under Subd. 5; or
- (b) the dog is not maintained in a proper enclosure; or
- (c) the dog is outside the proper enclosure and is not muzzled and restrained by a substantial chain or cable and under the physical restraint of a responsible person; or
- (d) fourteen (14) calendar days after the owner has received notice that the dog is dangerous, the owner does not secure the proper liability insurance or surety bond as required in Section 11, Subd. 5 (b); or
- (e) after the owner has been notified that the dog is dangerous or potentially dangerous, the dog bites or attacks a person or domestic animal; or
- (f) the owner has not had the dog sterilized within 30 days; the dog shall be sterilized at the owner's expense.

Subdivision 8. Confiscation and Destruction of Dangerous Dogs. If the owner of a dangerous dog is convicted of a crime for which the dog was originally seized, the court may order the dog be confiscated and destroyed in a proper and humane manner, and that the owner pay the costs incurred in the confiscating, confining, and destroying of the dog.

Subdivision 9. Exemptions. Dogs may not be declared dangerous if the threat, injury or damage was sustained by a person;

- (a) who was at the time of injury committing or attempting to commit willful trespass or other tort or crime upon the premises occupied by the dog; or
- (b) who was provoking, tormenting, teasing, abusing or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, teased, abused or assaulted the dog.
- (c) Dogs used by law enforcement personnel within the scope of duty are exempt from this section.

SECTION 12. Animal Bites Whenever any animal shall have bitten a person or there is good reason to believe that such animal has bitten a person, such fact shall be reported within twenty four (24) hours to the county health department and thereafter the owner of such animal shall comply with the instructions of said department concerning such animal.

SECTION 13. Kennels Kennels, as defined in ARTICLE 1 of this ordinance, are not allowed in R-1 or R-2 zoned districts.

SECTION 14. Abuse/Neglect of Animals

Subdivision 1. Food. Animals must be provided food with sufficient quantity to allow for normal growth and maintenance of body weight.

Subdivision 2. Water. Animals must be provided with clean, fresh water in sufficient quantity to satisfy the animal's needs or supplied by free choice.

Subdivision 3. Transportation. Animals must be contained within the passenger section of any vehicle or placed in crates or carriers of sufficient size to accommodate the animal. Animals carried in open vehicles, including trucks, boats, motorcycles, dirt bikes, trailers, etc., must be restrained in a crate or carrier or restrained by a chain or cable to prevent the animal from leaving the vehicle or being tossed out.

Subdivision 4. Shelter. Animals must be provided shelter at all times during inclement weather. The shelter must be large enough to comfortably accommodate the animal, be windproof and waterproof and contain enough bedding to provide the animal with insulation against the elements. Shade must be provided at all times during the months of May through October.

Subdivision 5. Sanitation. It shall be unlawful for any person to allow food or water receptacles, kennels, yards or the premises where the animal is kept to be or to remain in an unhealthy, unsanitary, or obnoxious condition or to permit the premises to be in such condition that obnoxious odors can be plainly detected on adjacent public or private property.

Subdivision 6. Enforcement. An animal control officer or a police officer may issue a citation to the owner of any animal and/or remove any such animal from any premises if the welfare of that animal is threatened due to a violation of this section. Written notice will be left upon the premises by the officer.

Subdivision 7. Reclaiming Neglected Animals. Any animal removed from any premises pursuant to subdivision 6, may be reclaimed by the owner within five (5) working days from the time the animal was taken, provided that all conditions for which the animal was removed have been corrected. The owner shall also be liable for payment of all boarding fees to the City, amounting to \$25 per day. Any animal not reclaimed within the time allowed may be disposed of pursuant to Section 9.

Subdivision 8. Abandonment. No person shall abandon any animal beyond five (5) working days after being notified as required in Section 7. Any animal being abandoned may be disposed of according to Section 9. The owner shall be liable for payment of all fees and expenses incurred by the City for the care and/or disposal of the animal in addition to a criminal fine. Boarding for abandonment is \$25 per day.

Subdivision 9. Health Care. Every companion animal shall be provided with adequate health care, including parasite and pest control and vaccination for contagious disease between animals. Proof must be provided to the City of Eyota upon request.

Subdivision 10. Cruelty and Abuse. No person shall overdrive, overload, torture, cruelly beat, neglect or unjustifiably injure, maim, or kill any animal, or cruelly work any animal when it is unfit for labor, whether it belongs to that person or another person. No person shall willfully instigate or in any way further any act of cruelty to any animals, or any act tending to produce cruelty to animals.

SECTION 15. Condition of Premises: Excrement

Subdivision 1. Dog and Cat Excrement. It is unlawful for any person who owns or has custody of a dog or cat to cause or permit such animal to defecate on any private property without the consent of the property owner or on any public property, unless such person immediately removes the excrement and places it in a proper receptacle. The provisions of this subdivision shall not apply to seeing-eye dogs under the control of a blind person or dogs while being used in police activity.

Subdivision 2. Penalty. Violation of this section shall be a petty misdemeanor.

SECTION 16. Apprehension Any animal control officer or any police officer is authorized and empowered to kill any animal which because of disease or viciousness constitutes an immediate threat to human life or safety or the life or safety of another domestic animal and cannot be safely taken up and impounded by other reasonable means. In such case, the owner shall be liable for any and/or all penalties provided by law.

ARTICLE III. CHICKENS

SECTION 1. Permitting

Subdivision 1. It is unlawful for any person, group, or organization, to keep, harbor, or maintain chickens on any premises unless issued a permit to do so within R-1 zoned districts as hereinafter provided. No more than six (6) hen chickens shall be allowed. No permit shall be issued for the keeping of any rooster. Permits shall be issued by the City Clerk. Applications for permits shall be made on forms provided by the Clerk.

Subdivision 2. Permits.

- (a) A chicken permit shall be valid for one (1) year beginning January 1 of each year. Application for a permit may be made thirty (30) days prior to January 1, however, a permit must be obtained by December 31 of each year, or a ten (10) dollar late payment fee will be assessed. No reduction of permit fee shall be made because of expiration of a portion of the permit period time and no refund of any portion of the permit fee shall be made at any time for any purpose. Submission of a building plan or sketch shall be required with the permit.
- (b) The annual chicken permit fee shall be thirty (30) dollars. The permit fee shall be paid at the time of application. A permit renewal obtained after December 31 of each year will be assessed a ten (10) dollar late payment fee.
- (c) Chickens shall be banded. Bands will be issued by the City with the approved permit.
- (d) All chicken coops and runs must meet the requirements of the building and zoning codes; including electrical permits if applicable.
- (e) All permits must pass a mandatory inspection of the coop and run prior to harboring any chickens.
- (f) Permits may be revoked due to cruelty to the chickens, if the chickens become a nuisance, or any violation or non-compliance of this ordinance.

SECTION 2. Confinement. Chickens shall be confined at all times while in the city in a chicken coop or chicken run. It is unlawful to allow free range chickens, mobile coops, or to keep chickens inside a family dwelling.

- (a) Coops. Coops shall be no larger than twenty-four (24) square feet; which is four (4) square feet per chicken.
- (b) Runs. Runs shall be no larger than sixty (60) square feet; which is ten (10) square feet per chicken.

SECTION 3. Running at Large

Subdivision 1. No owner of any chicken, whether kept, harbored, or maintained within or without the city, shall permit or suffer such chicken to run or move at large at any time within the city. For the purpose of this section, every such chicken at large shall be deemed at large with the permission and at the sufferance of its owner, and in the event of a violation of the provisions of this section, it shall be no defense that the offending chicken escaped or is otherwise at large without the permission or sufferance of its owner.

Subdivision 2. Penalty. A first time violation of this section shall be fined \$50.00. Numerous violations of this section shall be deemed a petty misdemeanor.

SECTION 4. Notice of Apprehension. Within 48 hours after apprehending any chicken, the City of Eyota shall make reasonable efforts to contact the owner at the address/telephone number listed on permits.

SECTION 5. Disposal

- (a) The outdoor slaughtering of chickens on any premise within the city is prohibited.
- (b) Dead chickens must be disposed of offsite within twenty-four (24) hours after death.
- (c) If any animal apprehended by the city animal control officer is not claimed by its owner within twenty-four (24) hours after the time of apprehension, the City of Eyota shall cause the chicken to be destroyed in a humane way or may allow the animal to be adopted.

SECTION 6. Abuse/Neglect of Chickens

- (a) Food. Chickens must be provided food with sufficient quantity to allow for normal growth and maintenance of body weight.
- (b) Water. Chickens must be provided with clean, fresh water in sufficient quantity to satisfy the animal's needs or supplied by free choice.
- (c) Sanitation. It shall be unlawful for any person to allow food or water receptacles, coops or runs to be or to remain in an unhealthy, unsanitary, or obnoxious condition or to permit the premises to be in such condition that obnoxious odors can be plainly detected on adjacent public or private property.
- (d) Enforcement. An animal control officer or a police officer may issue a citation to the owner of any chicken and/or remove any such chicken from any premises if the welfare of that chicken is threatened due to a violation of this section. Written notice will be left upon the premises by the officer.
- (e) Reclaiming Neglected Animals. Any animal removed from any premises pursuant to (d) Enforcement, may be reclaimed by the owner within five (5) days from the time the animal was taken, provided that all conditions for which the animal was removed have been corrected. The owner shall also be liable for payment of all boarding fees to the City, amounting to \$25 per day. Any animal not reclaimed within the time allowed may be disposed of pursuant to Section 5.
- (f) Abandonment. No person shall abandon any animal beyond five (5) days. Any animal being abandoned may be disposed of according to Section 5. The owner shall be liable for payment of all fees and expenses incurred by the City for the care and/or disposal of the animal in addition to a criminal fine. Boarding for abandonment is \$25 per day.
- (g) Health Care. Chickens shall be provided with adequate health care, including parasite and pest control and vaccination for contagious disease between animals. Veterinarian certification must be provided to the City of Eyota upon request.
- (h) Cruelty and Abuse. No person shall overdrive, overload, torture, cruelly beat, neglect or unjustifiably injure, maim, or kill any chicken, whether it belongs to that person or another person. No person shall willfully instigate or in any way further any act of cruelty to any chicken, or any act tending to produce cruelty to chickens.

SECTION 7. Condition of Premises

Subdivision 1. It is unlawful for any person who owns or harbors chickens to allow the coop or run to be kept in an unhealthy, unsanitary or noxious condition or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property.

Subdivision 2. Chicken feed and manure must be kept in rodent and raccoon proof containers.

Subdivision 3. Penalty. Any coop and run permitted by the city may be inspected at any reasonable time by the city animal control officer or other agent of the city. Violation of this section shall be a petty misdemeanor.

ARTICLE IV. ENFORCEMENT

SECTION 1. Warning of Violation The animal control officer, police officer, or other official of the City, is authorized to issue a written notice of violation of any provisions(s) of this section, therein stating that a citation may be issued if the violation continues.

SECTION 2. Issuance of Citations The City of Eyota may authorize any police officer or any other authorized representative of the law to issue a citation to any person, firm, or entity for any alleged violations of this ordinance and any other ordinance or statute which provides the basis for prosecution of violations of this ordinance. Nothing within this ordinance shall be construed to limit the authority of police officers to enforce any provisions of this ordinance or related statutes or ordinances. The animal control officer, police officer, or other official of the City, is authorized to issue a citation to any person, group, or organization for any alleged violation of this ordinance as often as each day the violation persists.

SECTION 3. Penalties Unless otherwise specified, violations of this ordinance are declared to be misdemeanor offenses and are punishable by fine of up to \$1,000 and/or ninety (90) days in jail.

SECTION 4. Severability If any provision of this ordinance or the application of any provision to a particular situation is held to be invalid by a court of competent jurisdiction, the remaining portions of this ordinance and the application of the ordinance to any other situation shall not be invalidated.

Effective Date This ordinance shall be effective _____; from and after its passage and publication in the Post Bulletin on _____ in summary form.

Passed and adopted by the Eyota City Council the ____ day of _____

Tyrel Clark
Mayor

ATTEST:

Marlis Knowlton
Clerk/Treasurer