

CITY OF APPLE VALLEY
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF APPLE VALLEY, MINNESOTA, REVISING CHAPTER 91 OF THE CITY CODE REGULATING ANIMALS BY MODIFYING THE REQUIREMENTS AND REGULATIONS RELATED TO DANGEROUS DOGS AND POTENTIALLY DANGEROUS DOGS.

The City Council of Apple Valley ordains:

Section 1. Chapter 91 of the Apple Valley City Code is amended by revising Section 91.20(B)(1) to read as follows:

§ 91.20 DANGEROUS AND POTENTIALLY DANGEROUS DOGS.

(B) *Declaration of potentially dangerous or dangerous dog.*

(1) A city police officer, community service officer or animal control officer may declare a dog to be potentially dangerous or dangerous when the officer has probable cause to believe that the dog is potentially dangerous or dangerous as defined herein. When declaring a dog dangerous, a written notice declaring the dog potentially dangerous or dangerous shall be delivered or mailed to the owner of the dog, or a copy thereof posted at the place where the dog is kept, or delivered to a person residing on the property where the dog is kept, and telephoning, if possible. When declaring a dog potentially dangerous, a written notice shall be given to the owner of the dog in the same manner as notice for a dangerous dog, or the notice may be emailed to the owner and the same shall be deemed a sufficient method of service. The officer shall provide a copy of the notice served upon the dog owner, along with an affidavit of service, to the City Clerk.

Section 2. Chapter 91 of the Apple Valley City Code is amended by revising Section 91.20(C) to read as follows:

§ 91.20 DANGEROUS AND POTENTIALLY DANGEROUS DOGS.

(C) *Appeal.*

(1) Any owner of a dog declared potentially dangerous or dangerous may appeal the declaration by serving upon the City Clerk, within 14 business days of receipt of the notice declaring the dog potentially dangerous or dangerous, inclusive of the date the notice is received, a written notice of appeal and paying the non-refundable hearing fee established in the fee schedule adopted by City Council resolution.

(2) The appeal hearing shall be heard by the hearing officer within the following timelines following 14 days of the city's receipt of the dog owner's request to appeal the designation: 14 days for dangerous dog designations; and as soon as practical for potentially dangerous dog designations. The appeal hearing shall be conducted in an informal manner, and

the Minnesota Rules of Civil Procedure and Rules of Evidence shall not be strictly applied. The hearing need not be transcribed, but may be transcribed at the sole expense of the party who requests transcription.

(3) After considering all evidence submitted ~~and within ten days after the hearing~~, the hearing officer shall make written findings of fact and conclusion as to whether the dog is a potentially dangerous or dangerous dog. The hearing officer's decision related to a dangerous dog designation shall be made within ten days after the hearing and delivered to the dog's owner by hand delivery or registered mail as soon as practical. The hearing officer's decision related to a potentially dangerous dog designation shall be made within thirty days after the hearing and delivered to the dog's owner by hand delivery, mail, or email as soon as practical.

(4) An owner's right to appeal or otherwise contest a potentially dangerous or dangerous dog declaration shall be deemed waived if the owner fails to serve a written request for appeal, as required herein, or fails to appear at the scheduled appeal hearing date.

(5) If a dangerous dog or potentially dangerous dog designation is upheld by the hearing officer, the dog owner shall pay the city's actual expenses of the hearing after application of the non-refundable hearing fee to those expenses, not to exceed \$1,000.

Section 3. Chapter 91 of the Apple Valley City Code is amended by revising Section 91.20(D) to read as follows:

§ 91.20 DANGEROUS AND POTENTIALLY DANGEROUS DOGS.

(D) *Requirements for dangerous or potentially dangerous dogs.* Immediately upon receipt of the notice declaring the dog potentially dangerous or dangerous, the owner shall confine the dog in a proper enclosure as defined herein and shall notify the city in writing of the dog's subsequent death or relocation. If no timely appeal is received by the City Clerk within the time limits prescribed herein or the dog's owner is deemed to have otherwise waived his or her right to appeal the declaration, or the hearing officer has upheld the declaration, then the owner shall immediately comply with the requirements of this chapter, the provisions of M.S. §§347.50 to 347.565 and the following:

(1) Implant a microchip in the dog for identification, and provide to the city the name of the microchip manufacturer and identification number. All costs related to the purchase and implantation of the chip must be paid by the dog's owner;

(2) Continue to confine the dog in a proper enclosure;

(3) Muzzle and restrain the dog on a substantial leash not to extend more than six feet, whenever outside of the proper enclosure. The muzzle must be made in a manner that will prevent the dog from biting any person or animal, but that will not cause injury to the dog or interfere with its vision or respiration;

(4) Notify the Police Department, in writing, of the death, sale, relocation or transfer of the dog within 14 days of the death, transfer, relocation or sale. If requested by the

city, the dog's owner shall execute an affidavit under oath setting forth either the circumstances of the dog's death and disposition or the complete name, address, and telephone number of the person to whom the dog has been transferred and the address where the dog has been relocated or is being kept;

(5) Present a certificate of liability insurance issued by an insurance company authorized to conduct business in this state, which specifically states that the owner is insured for any personal injuries inflicted by the potentially dangerous or dangerous dog, in the amount of at least \$300,000;

(6) Provide written proof that the owner's insurance provider has been notified, in writing, of the declaration of the potentially dangerous or dangerous dog; and

(7) A dangerous dog shall be sterilized at the owner's expense. If the owner does not have the animal sterilized and provide the city verification thereof within 30 days, the city shall seize the dog and have it sterilized at the owner's expense.

The owners of all dogs found to be dangerous or potentially dangerous by another city or jurisdiction must notify the Police Department with 14 days of moving into the city, and must follow the requirements of § 91.20(D).

All dogs declared dangerous shall be housed or kept only on property zoned industrial (I-1 and I-2). The owner shall not allow the dog, whether muzzled or in its proper enclosure, to be found in any area not zoned industrial.

Section 4. Summary approved. The City Council hereby determines that the text of the summary marked "Official Summary of Ordinance No. ____" a copy of which is attached hereto clearly informs the public of the intent and effect of the ordinance. The City Council further determines that publication of the title and such summary will clearly inform the public of the intent and effect of the ordinance.

Section 5. Filing. A copy of the ordinance shall be filed in the office of the City Clerk. This copy shall be available for inspection by any persons during regular office hours.

Section 6. Publication. The City Clerk shall publish the title of this ordinance and the official summary in the official newspaper of the City with notice that a printed copy of the ordinance is available for inspection by any person during regular office hours at the Office of the City Clerk.

Section 7. Effective date. This ordinance shall take effect upon its passage and publication of its title and the official summary.

PASSED by the City Council this ____ day of _____, 2021.

Clint Hooppaw, Mayor

ATTEST:

Pamela J. Gackstetter, City Clerk

DRAFT

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The following is the official summary of Ordinance No. ____ passed by the City Council of Apple Valley on _____, 2021:

Chapter 72 of the City Code is revised to allow the City to notify by email a dog owner that his or her dog was declared potentially dangerous by the City. The time requirements for holding a hearing and filing a decision for the appeal of a potentially dog declaration are modified. The requirement for the payment of a non-refundable hearing fee is established for appealing the declaration of a dog as dangerous or potentially dangerous.

A printed copy of the ordinance is available for inspection by any person during regular office hours in the office of the City Clerk at the Apple Valley Municipal Center, 7100 147th Street W., Apple Valley, Minnesota 55124.