CITY OF
WINDOM

Special City Council Meeting
Budget Workshop
Monday, October 12th, 2015
5:30 p.m.
Windom Community Center

AGENDA

Call to Order

1. 2016 Proposed Budget – Meetings with Department Supervisors

2. New Business

3. Old Business
    - 7th Avenue Extension
    - Second Reading Ordinances
        - No 151, 2nd Series – Amending City Code Chapter 90
        - No 152, 2nd Series – Amending City Code Chapter 93
        - No 153, 2nd Series – Amending City Code Section 33.12
        - Approval of Title and Summary Publications

4. Adjourn

star city FOR ECONOMIC DEVELOPMENT
P.O. Box 38 • 444 Ninth Street • Windom, MN 56101 • Phone 507-831-6129 • FAX 507-831-6127

2016 Budget Meeting – City Council Review
Sign Up

October 12 – Monday

5:40	Joe - Liquor
6:00	Brad Wa[illegible]
6:20	Jim P&Z
6:40	Aaron - EDA
7:00	Dawn Aamot
7:20	Al Baloun Arena, Pool, + Rec
7:40	Al Baloun
8:00	Scott - Police
8:20	Jeff Dahna
8:40	Bruce - Streets / Parks
9:00	Mike - Water
9:20	Mike - Sewer
9:40	Brent - Electric
10:00	Don Ortmann
10:20	City Hall Building, City Office & Airport

Fire
Ambulance

City of Windom Staff Report

To: Windom City Council
From: Aaron Backman, EDA Executive Director
Council Meeting Date: October 12, 2015

Item Title/Subject: **RECOMMEND CITY COUNCIL ACCEPTANCE & APPROVAL OF THE APPARENT LOW BIDDER FOR 7TH AVENUE STREET IMPROVEMENTS PROJECT**

Background:

An additional street extension, which has been previously discussed by the Council, could be undertaken this Fall--extending Seventh Avenue in the Hoffmann-LaCanne Subdivision on the north side of Windom. The owners of this property have platted six lots and already installed sanitary sewer and water lines to this housing subdivision. In order to sell lots for constructing new homes, a public street needs to be installed. In 2013 the owners considered installing the road, however, costs for a standalone project were deemed too high.

On September 25th Dennis Johnson, Wenck Associates, and Steve Nasby, City Administrator reviewed the three quotes the City received for the 7th Avenue extension. The prices were as follows:

$170,476.04	GM Contracting
$128,745.57	M & R Paving, Inc
$128,253.25	SMC

These quotes were considerably higher than the bid the City received in 2013 (which was about $105,000). Holtmeier did not provide a quote because the deadline for project completion was stated as November 1st. If the deadline was extended to mid-November, Holtmeier was interested in quoting the project. Holtmeier has submitted a quote of $98,793.50 for the project. All three of the other contractors would not change their quotes with the later completion date.

The Engineer's estimate for the 7th Avenue Street Improvements Project is $88,000. The Holtmeier quote is 12.3 % above the Engineer's estimate.

The costs for the 7th Avenue Street Improvements Project would be assessed to the property owners in the Hoffmann-LaCanne Subdivision. The property owners have requested that any street assessments be deferred for five years or until the lots are sold, whichever comes first.

Requested Action:

1) Adopt a Resolution awarding the contract to Holtmeier Construction Inc. for the low quote of $98,793.50 for the 7th Avenue Street Improvement Project.
2) Approve a five-year deferral of any street assessments. This deferral would be for undeveloped lots and would be in place for five years or until the lots are sold, whichever comes first.

Respectfully submitted,

Aaron A. Backman

Aaron A. Backman
EDA Executive Director

Attachment

City of Windom
9/22/2015

WENCK ASSOCIATES

Responsive partner.
Exceptional outcomes.

2015 City of Windom 7th Avenue Street Improvements

WINDOM, MINNESOTA

SCHEDULE OF PRICES

ITEM	UNIT	UNIT PRICE	ESTIMATED QUANTITY	AMOUNT
2104.505 Remove Bituminous and Salvage Gravel	S.Y.	$ 10-	150	$ 1500-
2105.505 Common Excavation (CV)	C.Y.	$ 8-	3000	$ 24,000-
2105.535 Salvage Topsoil (CV)	C.Y.	$ 4 60	500	$ 2300-
2211.501 Aggregate Base Class 5	Ton	$ 14 65	650	$ 9522 50
2357.502 Bituminous Material for Tack	Gal	$ 2 40	130	$ 312-
2360.501 Type MV A Wearing Course Mixture (C)	Ton	$ 120 40	115	$ 13,846-
2360.502 Type MV A Non Wearing Course Mixture (C)	Ton	$ 128 50	115	$ 14,777 50
2503.541 4" Tile	L.F.	$ 10 50	660	$ 6930-
2503.541 12" Pipe Sewer, Design HDPE Dual Wall	L.F.	$ 22 30	535 ~~500~~	$ 11,930 50
2506.501 Catch Basin 48" d.	L.F.	$ NB	8	$ NB
2506.501 Manhole	L.F.	$ NB	5	$ NB
2506.501 Connect Manhole	Each	$ 500-	1	$ 500-
2506.516 Catch Basin Casting	Each	$ NB	2	$ NB
2506.516 Manhole Casting	Each	$ NB	1	$ NB
2506.522 Adjust Manhole Casting	Each	$ 250-	1	$ 250-
2506.522 Adjust Water Valve	Each	$ 250-	1	$ 250-
2531.501 Concrete Curb and Gutter B618	L.F.	$ 17 50	660	$ 11,550-

City of Windom
9/22/2015

WENCK ASSOCIATES
Responsive partner. Exceptional outcomes.

2015 City of Windom 7th Avenue Street Improvements

WINDOM, MINNESOTA

SCHEDULE OF PRICES - CONTINUED

ITEM	UNIT	UNIT PRICE	ESTIMATED QUANTITY	AMOUNT
2575.501 Seeding	Acre	$ 2500-	0.45	$ 1125-

Total Quotation $ 98,793.50

Rock Subfoundation is incidental.

CONTRACTOR

Firm Holtmeier Const. Inc.

Address

City State Zip

By [signature]

Title Proj Manager

Date 10/8/15

Telephone No. _____

Fax No. _____

OWNER

Name _____

Address

City State Zip

By _____

Title _____

Date _____

Completion Date Revised to 11/13/15

R:\Technical\0045 windom\42 7th St\Quote for 7th St 9-22-15.docx

MEMORANDUM

CITY OF WINDOM
444 9th Street
P. O. Box 38
Windom, MN 56101
Phone: 507-831-6129
Fax: 507-831-6127

TO: City Council
FROM: Steve Nasby, City Administrator
DATE: October 8, 2015
RE: Estimated Cost and Funding for Emergency Services Facility Discussion

Background

The City Council's number one priority has been established as the construction of a new Emergency Services Facility to house the fire department and ambulance service. Work on the pre-design and some schematic drawings have been completed and presented to the City Council. The Building Committee is still working on minor revisions to these plans, but feel the site plan and floor plans are generally set at 19,097 square feet (18,297 alternate without the 4th ambulance bay\wash bay).

Estimated Total Cost

The architect has provided cost estimates for construction cost ranging from $170/square foot to $250/square foot depending on building construction type (metal, pre-cast concrete or masonry). The preferred construction type is pre-cast concrete panels with an estimated cost of $190-215/square foot. The cost of the project would also have other costs included such as architectural, engineering, site prep, land value, relocation of utilities and recreational items. Below is a breakdown of these anticipated costs of the preferred construction type at 19,097 square feet:

Construction of the building	$3,628,430 to $4,105,855
Architect\Engineering	$254,990 to $287,409
Pre-design	$20,000
Soil Boring	$5,000
Relocation of Electric Service	$199,787
Relocation of Recreational Items	$150,000
Land Value (1.87 acres @ $50,000 per)	$93,500
Public Art (1% of Construction if State $)	$36,284 to $41,106
Total	**$4,387,991 to $4,902,657**

Some of the costs shown above have been discussed as in-kind or previously allocated City contributions to the project. These include the following:

Pre-design	$20,000
Soil Boring	$5,000
Relocation of Electric Service	$199,787
Land Value	$93,500
Total	**$318,287**

The Council should discuss whether or not the costs for the relocation of the recreational items (tennis courts, basketball court and playground equipment) be included in the Emergency Services Facility budget. Several Building Committee members have expressed that these should not be included.

Last, if the project does not receive State bonding funds the requirement for 1% of construction cost for public art could be eliminated saving $36,284 to $41,106.

Removing the public art and committed City contributions from the project total leaves an estimated cost range of $4,033,440 to $4,543,284 for the project as proposed.

Project Alternatives

The architect is working to provide a list of alternatives for the project that can be considered by the Building Committee and City Council. From this menu of options\alternatives the cost of the facility can be adjusted to fit budget parameters.

State Bonding Request

The bonding request for this project was initiated in the 2015 legislative session with legislation introduced (SF 1626 and HF 1690 – Exhibits A and B) requesting appropriation of $2,000,000. This bonding request was picked up by the Governor's office and included in his bonding bill. The 2015 bonding bill proposed by the Governor was not passed by the legislature. For 2016, which is a traditional bonding cycle year, our state bonding request identified $4,420,000 in project cost for this project with the State portion being $2,200,000. It will be important for the City to be actively involved in promoting the project in St. Paul and possibly consider engaging a lobbying firm to assist with this effort which would cost approximately $25,000. The State funds are in the form of a grant and are not required to be repaid unless the City were to be in non-compliance with the agreement terms.

Funding the Project and Timing

Legislative Action - The funding picture and timing for construction of the project is contingent on several key items, which include the receipt (or not) of State bonding funds and the City Council's decision to continue to pursue a local option sales tax. Both of these items will be decided by the legislature for the 2015-2016 session by May 2016; however, the legislature could adjourn in April due to a shortened session for the Capitol renovation work. The City may plan for a project start date of May\June 2016 if the funding decision on the State funds does not change the scope of the project and the Council were committed to moving ahead regardless of the outcome. If the project scope were to be revised after legislative action due to budget restraints then the project start date may be delayed.

If the local option sales tax authorization were approved by the legislature, the Council would not be able to take that measure to the voters until the general election in November 2016. Should this scenario arise there may be some options to explore with bond counsel regarding the City's ability to reimburse itself if the project had already started prior to the general election.

Use of Reserve Funds – An assumption that funds will be used from various reserve accounts has been raised, but this will need to be confirmed by the City Council as to the source and amount. Due to the nature of the facility the first fund that should be used is the Ambulance Fund. Currently that fund has approximately $1.4 million in cash and reserves with some pending accounts payable\accounts receivable.

One way of determining how much the Ambulance Fund should contribute may be based on the percentage of the building which is estimated by the architect to be 35.8% (building floor area for ambulance use and 50% of the common area times the total estimated project cost). Using this formula the amount contributed from the Ambulance is $1,443,964 - $1,626,489. Staff's recommendation is to consider approximately $1,000,000 cash contribution from the Ambulance reserve fund and the balance of their project share repaid through debt service. The General Fund could also be considered for a cash contribution to the facility. At present the General Fund has a balance of $2,034,679 with some pending accounts payable\accounts receivable. The adopted City Council policy is to maintain 75 – 100% of reserve in the General Fund and if the reserve drops below the minimum of 75% the policy calls for a reimbursement within three years. The audit for 2014 showed a balance in this fund of $2,417,053 that was 79% of the general fund expenditures. Staff anticipates that the 2015 year end numbers for the General Fund may be below 2014 as the Council has approved self-funding the Street Department Loader purchase, additional expenditures for the security camera system and a couple other minor items. If our estimate of 2015 year-end is accurate, the reserve amount that could be used for contribution to the Emergency Services Facility while maintaining policy would be very small or nil. The City Council has the authority to change the General Fund reserve policy; however, that would have an impact on our financial strength\position depending on a lower reserve policy and could factor into our bond rating.

Existing Enterprise Fund Transfers and Reserve Funds – Both the City's Liquor Fund and Electric Fund already contribute an annual transfer to the City in an amount of $70,000 (Liquor) and $175,00 (Electric), which is used for property tax relief. The Liquor Fund does have a reserve balance of approximately $925,000 with some pending accounts payable\accounts receivable. The Electric Fund does have a reserve balance of approximately $5.68 million with some pending accounts payable\accounts receivable. These fund's purpose is to provide for the capital needs of these two enterprises and for future renovations or construction of new facilities. As these are City funds, the impact is only to Windom residents and City funds.

Please note the Utility Commission has an established goal of maintaining one year's operational reserve in the Electric Department which is about $5.44 million. In addition, the Electric Department has several large capital projects scheduled for the near-term and future Liquor Store renovations would rely on their reserve balance. Please also note that the Electric Fund has already contributed labor and incurred cost directly related to the Emergency Services Facility through the relocation of electric infrastructure amounting to $199,787. Should either the Liquor Fund or Electric Fund reserve be considered for a one-time contribution to the Emergency Services Facility project the amount should be well thought-out as to fully considering the short-term and long-term needs and plans for the Liquor Store and Electric Utility.

Debt Financing - Due to limits on municipal debt there are really only a few primary options to provide the capital needed to construct the facility which are General Obligation Bonds\Revenue Bonds or a USDA loan.

According to our bond counsel, the General Obligation Bond could be structured as a straight GO Bond issue (which would require an election) or would qualify under General Obligation Capital Improvement Plan funding (no election required, only public notice). A General Obligation Capital Improvement Bond for $3 million would be within the statutory limits for issue size and debt repayment. The cost to issue a $3 million General Obligation bond is estimated to be $140,000 for underwriters discount, cost of issuance and capitalized interest. These costs will vary somewhat by the amount of the bond to be issued, but the issuance expense of $43,000 is relatively static regardless of the bond size.

A Revenue Bond may also be used to fund the project through the Economic Development Authority or possibly the Ambulance Fund (not requiring an election). In this case, the revenue bonds would be issued and repayments would be made through revenues received (e.g. lease payments, service contracts, etc.). Disadvantages are that the interest rates on these bonds would likely be higher than the General Obligation Bond as the issue is not completely backed by the full faith, credit and taxing of the City and complicating the deal.

The USDA loan can be for a maximum of 40 years (most likely 30-35 years) with an interest rate that varies depending on the market and household income of the area served. The USDA representative for this area stated that the current interest rates are 3.25% to 4.5% and set at the time of obligation or loan closing. The City is eligible for a grant of up to $35,000 but was advised that any grant should be used for equipment versus a building due to regulatory concerns such as long-term reporting.

These debt options will require the City to enter into a repayment obligation that will likely span 20-40 years. The most likely debt types are the General Obligation Bond and USDA loan. As such, Exhibit C and Exhibit D show the anticipated annual debt service for these two options based on a $3 million issue. The annual debt service is most easily calculated or observed to be in a range of $52,667 to $69,000 per $1 million of debt issued depending on the type of debt.

Repaying Annual Debt Service - Where the City Council has the most flexibility is how to collect the revenue needed to pay the debt service. These options include property taxes, transfers, service fees, franchise fees, local option sales tax, repayment from other governmental entities in the fire and\or ambulance district and grants, gifts or sponsorships. A combination of repayment methods is staff's recommendation to minimize the impact on any one resource and spread the cost of the project to the parties benefitting from the services.

Property taxes - This is the most common repayment method as the City Council has control to set these levy rates (absent State levy limits, however, the limits do exempt debt service payments) and taxing authority of the City provides the best bond security. A downside of relying solely on property taxes only is that these taxes are only paid by the residents of Windom whereas the community only compromises about 47.5% of the fire service district based on the most recent formula. Other negative factors would include adding all of the debt on to Windom's financial statements which could limit our ability to bond for other City projects and increase the tax rate within the community which impacts economic development.

Annual Transfers - Transfers from City owned enterprise funds is another way the City could use to help make debt payments. As stated previously, the Liquor and Electric Funds already do provide transfers to the City's General Fund in the amounts of $70,000 and $175,000 annually as payment in lieu of taxes for property tax relief. The transfer levels have been largely in place for a number of years and could be revisited as the annual gross sales at each have grown, but once again these are funds derived only from City of Windom residents.

The annual Liquor Fund transfer of $70,000 has been in place since 2004 when the Liquor Store had about $1.1 million in gross sales. In 2015 it is anticipated that gross sales rise to $1.7 million. Due to the increased sales and current reserve, equal to about 50% of its operational cost, the amount of the Liquor Fund transfer could be increased to help off-set some of the debt service for the Emergency Services Building. Using the same transfer percentage as in 2004, the amount from the Liquor Store for debt service repayment could be approximately $30,000 -$35,000. There are pros and cons to increasing or dedicating any additional transfer monies which should be fully discussed.

At present the annual transfer from the Electric Fund is $175,000 and has fluctuated between $175,000 and $250,000 since 2004. The $250,000 level was incorporated to compensate for large cuts in local government aid from the State. Once City finances were stabilized the transfer dropped to $175,000 in 2008-present. Prior to 2004 the annual transfer had been $195,245 from 1990 to 2003. Due to the increased sales and current reserve, equal to about 100% of its operational cost, the amount of the Electric Fund transfer could be increased to help off-set some of the debt service for the Emergency Services Building. There are pros and cons to increasing or dedicating any additional transfer monies which should be fully discussed along with the Department's pending Capital Improvement Plan.

The City Council has also discussed the possibility of initiating a transfer from the City-owned hospital. Annual audits for the hospital has shown the financial health of the hospital and operations to be robust. Last year, the Windom Area Hospital had $15,770,000 in operational income and a net position of $22,500,000. Over the last three years the Hospital audit shows increases in net position of $900,000; $692,000 and $2,720,000. As a City-owned entity and a benefactor from the Ambulance service (that is housed within the new Emergency Service Facility) there is a reasonable and solid rationale for consideration of a transfer and dedication of the proceeds for debt service. There are pros and cons to initiating or dedicating any transfer monies which should be fully discussed with the Hospital Board including plans for implementation of their Master Plan.

Service Fees – Some communities have a fee added onto municipal utility bills for emergency services (City of Luverne) or equipment funds (City of Mt. Lake). This type of fee is what the City of Windom currently uses to cover the cost of the City-wide clean-up program where $1\month is added onto resident's utility bills. In Windom there are approximately 2,000 residential customers and 300 commercial customers. Should this revenue option be considered the fee may be flat or scaled to some formula to reflect fire or ambulance services (e.g. is a household the same cost as a non-profit, business or industrial customer?). The City Council would have sole discretion on setting the rate for these fees by resolution. A downside of this revenue source is that it is only paid by the residents of Windom and would be a long-term (life of the bonds or loan) commitment.

Franchise fees – These fees are used in communities (Jackson, Lakefield and Worthington) for a variety of purposes. These franchise fees are included on the gas provider's agreement with the community. Windom currently has a franchise agreement that runs through 2020 without any franchise fee, but that could be considered in the future as a revenue source for debt retirement or other things. A positive is that franchise fees are typically long-term (20 year) agreements so that fits well with debt repayments; however, once again, this revenue source is only paid by the residents of Windom.

Local Option Sales Tax – The City has been working with the State legislature for the last two sessions to obtain the authority to bring a local option sales tax to the voters, but this has met with resistance from some legislators. The City of Worthington has a local option sales tax and uses proceeds for its conference and events center. This revenue resource would be a good fit and arguably the fairest way to pay for Windom's Emergency Services Facility as it would collect funds from all users of Fire and Ambulance service including residents, visitors and those living outside of the community. The amount estimated to be raised from a 1% local option sales tax would cover the annual debt service for a $3 million issue and have a timeframe of 15-20 years to match repayment terms. A concern with instituting a local option sales tax is the perception that the community is higher cost than other comparable cities and the timing for an election would push back the preferred construction schedule for the project.

Repayment from Other Governmental Entities in the Fire and\or Ambulance Districts – The City and other participants in the Windom Fire District currently divide costs via a formula based on population, taxable value and incidences of fire calls; however, this formula does not cover the construction of a facility. The contractual agreements between the City and the other fire district participants can be reviewed and re-negotiated, but there is a strong sentiment from a number of the participants that feel the City should be solely responsible for the facility. Based on the current formula the City of Windom accounted for 47.5% of the fire operational costs with the remaining 52.5% divided among the other participants. If this formula were used, or a variation of it, there would be a considerable expense that would need to be contributed from the other members of the fire district. The City Council has limited ability to require a capital contribution up front; however, applicable and prorated costs such as a lease or depreciation are part of an operational budget and could be passed along to the user groups through that mechanism. Benefits of this repayment system through the operational expenses are that users pay for their fair share and the formula is flexible to adjust with future shifts in participants or share of expenses.

Grants, Gifts and Sponsorships – The City has received some donations for the Emergency Services Facility over the last few years. Funds for gifts and sponsorships have been used in the past (Community Center) to help construct facilities. When opportunities arise, such as the FEMA grant, the City has submitted applications for the facility, but this was unsuccessful and buildings are no longer eligible. There are certainly other opportunities for grants; however, the staff time needed to pursue the grants and assemble what would be many small amounts may not be as productive as needed to move the project forward but focusing on a few of the most likely resources (Remmick, SWIF and USDA) would be the most productive. Sponsorships from local businesses and promoting endowments or gifts are avenues that need to be further developed.

Summary

The financing package for the proposed project and timing of construction will be complex and inter-dependent on financing, state legislative action and repayment resources. As such, multiple plans need to be discussed to provide direction to move the project ahead. A future work session by the City Council, Emergency Service Building Committee and architect would be beneficial in working through the project cost and timing.

Exhibit A

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 1626

(SENATE AUTHORS: WEBER)

DATE	D-PG	OFFICIAL STATUS
03/11/2015	682	Introduction and first reading Referred to Capital Investment

A bill for an act

relating to capital investment; appropriating money for construction of a regional emergency services facility in Windom; authorizing the sale and issuance of state bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **WINDOM REGIONAL EMERGENCY SERVICES FACILITY.**

Subdivision 1. **Appropriation.** $2,000,000 is appropriated from the bond proceeds fund to the commissioner of employment and economic development for a grant to the city of Windom to predesign, design, construct, furnish, and equip a regional emergency services (fire and ambulance) facility.

Subd. 2. **Bond sale.** To provide the money appropriated in this section from the bond proceeds fund, the commissioner of management and budget shall sell and issue bonds of the state in an amount up to $2,000,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.

EFFECTIVE DATE. This section is effective the day following final enactment.

Exhibit B

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1690

03/10/2015 Authored by Hamilton
The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance

A bill for an act

relating to capital investment; appropriating money for construction of a regional emergency services facility in Windom; authorizing the sale and issuance of state bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **WINDOM REGIONAL EMERGENCY SERVICES FACILITY.**

Subdivision 1. **Appropriation.** $2,000,000 is appropriated from the bond proceeds fund to the commissioner of employment and economic development for a grant to the city of Windom to predesign, design, construct, furnish, and equip a regional emergency services (fire and ambulance) facility.

Subd. 2. **Bond sale.** To provide the money appropriated in this section from the bond proceeds fund, the commissioner of management and budget shall sell and issue bonds of the state in an amount up to $2,000,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.

EFFECTIVE DATE. This section is effective the day following final enactment.

Exhibit C

City of Windom, Minnesota

$3,140,000 General Obligation CIP Bonds, Series 2016
Assumes Current Market BQ A+ Rates plus 50bps

Sources & Uses

Dated 05/01/2016 | Delivered 05/01/2016

Sources Of Funds	
Par Amount of Bonds	$3,140,000.00
Total Sources	**$3,140,000.00**

Uses Of Funds	
Total Underwriter's Discount (1.200%)	37,680.00
Costs of Issuance	43,000.00
Deposit to Capitalized Interest (CIF) Fund	57,301.88
Deposit to Project Construction Fund	3,000,000.00
Rounding Amount	2,018.12
Total Uses	**$3,140,000.00**

City of Windom, Minnesota

$3,140,000 General Obligation CIP Bonds, Series 2016
Assumes Current Market BQ A+ Rates plus 50bps

Debt Service Schedule

Date	Principal	Coupon	Interest	CIF	Total P+I	Net New D/S	Fiscal Total
05/01/2016	-	-	-	-	-	-	-
08/01/2016	-	-	19,100.63	(19,100.63)	19,100.63	-	-
02/01/2017	-	-	38,201.25	(38,201.25)	38,201.25	-	-
08/01/2017	-	-	38,201.25	-	38,201.25	38,201.25	-
02/01/2018	130,000.00	0.800%	38,201.25	-	168,201.25	168,201.25	206,402.50
08/01/2018	-	-	37,681.25	-	37,681.25	37,681.25	-
02/01/2019	130,000.00	1.000%	37,681.25	-	167,681.25	167,681.25	205,362.50
08/01/2019	-	-	37,031.25	-	37,031.25	37,031.25	-
02/01/2020	135,000.00	1.200%	37,031.25	-	172,031.25	172,031.25	209,062.50
08/01/2020	-	-	36,221.25	-	36,221.25	36,221.25	-
02/01/2021	135,000.00	1.450%	36,221.25	-	171,221.25	171,221.25	207,442.50
08/01/2021	-	-	35,242.50	-	35,242.50	35,242.50	-
02/01/2022	135,000.00	1.600%	35,242.50	-	170,242.50	170,242.50	205,485.00
08/01/2022	-	-	34,162.50	-	34,162.50	34,162.50	-
02/01/2023	140,000.00	1.800%	34,162.50	-	174,162.50	174,162.50	208,325.00
08/01/2023	-	-	32,902.50	-	32,902.50	32,902.50	-
02/01/2024	140,000.00	1.900%	32,902.50	-	172,902.50	172,902.50	205,805.00
08/01/2024	-	-	31,572.50	-	31,572.50	31,572.50	-
02/01/2025	145,000.00	2.050%	31,572.50	-	176,572.50	176,572.50	208,145.00
08/01/2025	-	-	30,086.25	-	30,086.25	30,086.25	-
02/01/2026	150,000.00	2.200%	30,086.25	-	180,086.25	180,086.25	210,172.50
08/01/2026	-	-	28,436.25	-	28,436.25	28,436.25	-
02/01/2027	150,000.00	2.350%	28,436.25	-	178,436.25	178,436.25	206,872.50
08/01/2027	-	-	26,673.75	-	26,673.75	26,673.75	-
02/01/2028	155,000.00	2.500%	26,673.75	-	181,673.75	181,673.75	208,347.50
08/01/2028	-	-	24,736.25	-	24,736.25	24,736.25	-
02/01/2029	160,000.00	2.700%	24,736.25	-	184,736.25	184,736.25	209,472.50
08/01/2029	-	-	22,576.25	-	22,576.25	22,576.25	-
02/01/2030	160,000.00	2.800%	22,576.25	-	182,576.25	182,576.25	205,152.50
08/01/2030	-	-	20,336.25	-	20,336.25	20,336.25	-
02/01/2031	165,000.00	2.900%	20,336.25	-	185,336.25	185,336.25	205,672.50
08/01/2031	-	-	17,943.75	-	17,943.75	17,943.75	-
02/01/2032	170,000.00	3.000%	17,943.75	-	187,943.75	187,943.75	205,887.50
08/01/2032	-	-	15,393.75	-	15,393.75	15,393.75	-
02/01/2033	175,000.00	3.100%	15,393.75	-	190,393.75	190,393.75	205,787.50
08/01/2033	-	-	12,681.25	-	12,681.25	12,681.25	-
02/01/2034	180,000.00	3.200%	12,681.25	-	192,681.25	192,681.25	205,362.50
08/01/2034	-	-	9,801.25	-	9,801.25	9,801.25	-
02/01/2035	190,000.00	3.300%	9,801.25	-	199,801.25	199,801.25	209,602.50
08/01/2035	-	-	6,666.25	-	6,666.25	6,666.25	-
02/01/2036	195,000.00	3.350%	6,666.25	-	201,666.25	201,666.25	208,332.50
08/01/2036	-	-	3,400.00	-	3,400.00	3,400.00	-
02/01/2037	200,000.00	3.400%	3,400.00	-	203,400.00	203,400.00	206,800.00
Total	**$3,140,000.00**	**-**	**$1,060,794.38**	**(57,301.88)**	**$4,200,794.38**	**$4,143,492.50**	**-**

Significant Dates

Dated	5/01/2016
First Coupon Date	8/01/2016

Yield Statistics

Bond Year Dollars	$37,745.00
Average Life	12.021 Years
Average Coupon	2.8104236%
Net Interest Cost (NIC)	2.9102514%
True Interest Cost (TIC)	2.8940960%
Bond Yield for Arbitrage Purposes	2.7725926%
All Inclusive Cost (AIC)	3.0352789%

IRS Form 8038

Net Interest Cost	2.8104236%
Weighted Average Maturity	12.021 Years

EHLERS
LEADERS IN PUBLIC FINANCE

Ethibit D

City of Windom, Minnesota

$3,140,000 General Obligation CIP Bonds, Series 2016 3.25% current
USDA Loan
40 Years

Sources & Uses

Dated 05/01/2016 | Delivered 05/01/2016

Sources Of Funds	
Par Amount of Bonds	$3,140,000.00
Total Sources	**$3,140,000.00**

Uses Of Funds	
Primary Purpose Fund	3,000,000.00
Temporary Bond Expenses	140,000.00
Total Uses	**$3,140,000.00**

City of Windom, Minnesota

$3,140,000 General Obligation CIP Bonds, Series 2016
USDA Loan
40 Years

Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I
01/01/2017	-	-	84,076.50	84,076.50
01/01/2018	33,000.00	4.000%	125,600.00	158,600.00
01/01/2019	34,000.00	4.000%	124,280.00	158,280.00
01/01/2020	36,000.00	4.000%	122,920.00	158,920.00
01/01/2021	37,000.00	4.000%	121,480.00	158,480.00
01/01/2022	39,000.00	4.000%	120,000.00	159,000.00
01/01/2023	40,000.00	4.000%	118,440.00	158,440.00
01/01/2024	42,000.00	4.000%	116,840.00	158,840.00
01/01/2025	44,000.00	4.000%	115,160.00	159,160.00
01/01/2026	45,000.00	4.000%	113,400.00	158,400.00
01/01/2027	47,000.00	4.000%	111,600.00	158,600.00
01/01/2028	49,000.00	4.000%	109,720.00	158,720.00
01/01/2029	51,000.00	4.000%	107,760.00	158,760.00
01/01/2030	53,000.00	4.000%	105,720.00	158,720.00
01/01/2031	55,000.00	4.000%	103,600.00	158,600.00
01/01/2032	57,000.00	4.000%	101,400.00	158,400.00
01/01/2033	60,000.00	4.000%	99,120.00	159,120.00
01/01/2034	62,000.00	4.000%	96,720.00	158,720.00
01/01/2035	64,000.00	4.000%	94,240.00	158,240.00
01/01/2036	67,000.00	4.000%	91,680.00	158,680.00
01/01/2037	70,000.00	4.000%	89,000.00	159,000.00
01/01/2038	72,000.00	4.000%	86,200.00	158,200.00
01/01/2039	75,000.00	4.000%	83,320.00	158,320.00
01/01/2040	78,000.00	4.000%	80,320.00	158,320.00
01/01/2041	81,000.00	4.000%	77,200.00	158,200.00
01/01/2042	85,000.00	4.000%	73,960.00	158,960.00
01/01/2043	88,000.00	4.000%	70,560.00	158,560.00
01/01/2044	92,000.00	4.000%	67,040.00	159,040.00
01/01/2045	95,000.00	4.000%	63,360.00	158,360.00
01/01/2046	99,000.00	4.000%	59,560.00	158,560.00
01/01/2047	103,000.00	4.000%	55,600.00	158,600.00
01/01/2048	107,000.00	4.000%	51,480.00	158,480.00
01/01/2049	111,000.00	4.000%	47,200.00	158,200.00
01/01/2050	116,000.00	4.000%	42,760.00	158,760.00
01/01/2051	121,000.00	4.000%	38,120.00	159,120.00
01/01/2052	125,000.00	4.000%	33,280.00	158,280.00
01/01/2053	130,000.00	4.000%	28,280.00	158,280.00
01/01/2054	136,000.00	4.000%	23,080.00	159,080.00
01/01/2055	141,000.00	4.000%	17,640.00	158,640.00
01/01/2056	147,000.00	4.000%	12,000.00	159,000.00
01/01/2057	153,000.00	4.000%	6,120.00	159,120.00
Total	**$3,140,000.00**	**-**	**$3,289,836.50**	**$6,429,836.50**

Yield Statistics

Bond Year Dollars	$82,237.33
Average Life	26.190 Years
Average Coupon	4.0004173%
Net Interest Cost (NIC)	4.0004173%
True Interest Cost (TIC)	3.9625730%
Bond Yield for Arbitrage Purposes	3.9625730%
All Inclusive Cost (AIC)	3.9625730%

IRS Form 8038

Net Interest Cost	4.0004173%
Weighted Average Maturity	26.190 Years

City of Windom, Minnesota

$3,140,000 General Obligation Temporary CIP Bonds, Series 2016
Assumes Current Market BQ A+ Rates

Sources & Uses

Dated 05/01/2016 | Delivered 05/01/2016

Sources Of Funds	
Par Amount of Bonds	$3,140,000.00
Total Sources	**$3,140,000.00**

Uses Of Funds	
Total Underwriter's Discount (0.800%)	25,120.00
Costs of Issuance	43,000.00
Deposit to Capitalized Interest (CIF) Fund	70,650.00
Deposit to Project Construction Fund	3,000,000.00
Rounding Amount	1,230.00
Total Uses	**$3,140,000.00**

City of Windom, Minnesota

$3,140,000 General Obligation Temporary CIP Bonds, Series 2016

Assumes Current Market BQ A+ Rates

Debt Service Schedule

Date	Principal	Coupon	Interest	CIF	Total P+I	Net New D/S	Fiscal Total
05/01/2016	-	-	-	-	-	-	-
08/01/2016	-	-	7,850.00	(7,850.00)	7,850.00	-	-
02/01/2017	-	-	15,700.00	(15,700.00)	15,700.00	-	-
08/01/2017	-	-	15,700.00	(15,700.00)	15,700.00	-	-
02/01/2018	-	-	15,700.00	(15,700.00)	15,700.00	-	-
08/01/2018	-	-	15,700.00	(15,700.00)	15,700.00	-	-
02/01/2019	3,140,000.00	1.000%	15,700.00	-	3,155,700.00	3,155,700.00	3,155,700.00
Total	**$3,140,000.00**	**-**	**$86,350.00**	**(70,650.00)**	**$3,226,350.00**	**$3,155,700.00**	**-**

Significant Dates

Dated	5/01/2016
First Coupon Date	8/01/2016

Yield Statistics

Bond Year Dollars	$8,635.00
Average Life	2.750 Years
Average Coupon	1.0000000%
Net Interest Cost (NIC)	1.2909091%
True Interest Cost (TIC)	1.2972207%
Bond Yield for Arbitrage Purposes	1.0001149%
All Inclusive Cost (AIC)	1.8124847%

IRS Form 8038

Net Interest Cost	1.0000000%
Weighted Average Maturity	2.750 Years

City of Windom, Minnesota

$3,140,000 General Obligation Temporary CIP Bonds, Series 2016
Assumes Current Market BQ A+ Rates

Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I	CIF	Net New D/S	105% of Total
02/01/2017	-	-	23,550.00	23,550.00	(23,550.00)	-	-
02/01/2018	-	-	31,400.00	31,400.00	(31,400.00)	-	-
02/01/2019	3,140,000.00	1.000%	31,400.00	3,171,400.00	(15,700.00)	3,155,700.00	3,313,485.00
Total	**$3,140,000.00**	**-**	**$86,350.00**	**$3,226,350.00**	**(70,650.00)**	**$3,155,700.00**	**$3,313,485.00**

Significant Dates

Dated	5/01/2016
First Coupon Date	8/01/2016

Yield Statistics

Bond Year Dollars	$8,635.00
Average Life	2.750 Years
Average Coupon	1.0000000%
Net Interest Cost (NIC)	1.2909091%
True Interest Cost (TIC)	1.2972207%
Bond Yield for Arbitrage Purposes	1.0001149%
All Inclusive Cost (AIC)	1.8124847%

ORDINANCE NO. 151, 2ND SERIES

AN ORDINANCE OF THE CITY OF WINDOM, MINNESOTA,
AMENDING CITY CODE CHAPTER 90

THE CITY COUNCIL OF THE CITY OF WINDOM ORDAINS:

WHEREAS, the City Council adopted Ordinance No. 118, 2ND Series on March 19, 2002, (effective date April 1, 2002) which Ordinance added "Chapter 13 Public Nuisance" to the City Code for the City of Windom; and

WHEREAS, thereafter the City Council adopted Ordinance No. 130, 2nd Series on April 1, 2008, (effective April 9, 2008) amending Chapter 13 and adopted Ordinance No. 138, 2nd Series on October 16, 2012, (effective October 24, 2012) which codified the City Code and renumbered the public nuisance ordinance as Chapter 90; and

WHEREAS, there are numerous updates to Chapter 90 which the Planning Commission has recommended to the City Council; and

WHEREAS, it is in the best interests of the citizens of Windom that Chapter 90 be amended as set forth herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WINDOM, MINNESOTA, ORDAINS:

THE CITY CODE OF THE CITY OF WINDOM IS HEREBY AMENDED BY DELETING CHAPTER 90 IN ITS ENTIRETY AND INSERTING THE FOLLOWING IN LIEU THEREOF:

GENERAL PROVISIONS

§ 90.01 DEFINITION.

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

PUBLIC NUISANCE. Any thing, act, occupation, condition, use or property which:

(1) Unreasonably annoys, injures or endangers the health, safety, comfort or repose of the public;

(2) In any way renders the public insecure in life or obstructs the free use of property;

(3) Greatly offends the public morals or is indecent;

(4) Is offensive to the senses; or

(5) Unlawfully and substantially interferes with, obstructs or tends to obstruct or render dangerous for passage any sidewalk, street, alley, highway, navigable body of water or other public way.
(Prior Code, § 13.01) (Ord. 118, 2nd Series, eff. 3-19-2002; Ord. 130, 2nd Series, passed 4-1-2008)

§ 90.02 PUBLIC NUISANCES AFFECTING HEALTH.

The following acts, commissions, places, conditions and things are hereby specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition of § 90.01:

(A) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;

(B) Unlawful acts relating to animals: SEE CHAPTER 93 "ANIMALS".

(C) Carcasses of animals, birds, fish and fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death;

(D) Accumulations of decayed animal or vegetable matter, unwholesome food, manure, trash, rubbish, debris, rotting lumber, bedding, packing material, cardboard, plastic bags and containers, bottles, cans, scrap metal, brush, or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed;

(E) All stagnant water in which mosquitoes, flies or other insects can multiply;

(F) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the city limits in quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property;

(G) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial waste or other substances;

(H) All noxious weeds, including all weeds defined by the State Commissioner of Agriculture to be injurious to public health, roads, crops, livestock and other property including obviously neglected lawns and/or yards, as determined by the city.

(1) It is the primary responsibility of any owner, occupant or agent of any lot or parcel of land to maintain any weeds or grass growing thereon at a height of not more than six inches; to remove all public health or safety hazards therefrom; to install or repair water service lines thereon; to treat or remove insect-infested or diseased trees thereon; and, when deciduous trees have seasonally lost their leaves, to clean up and remove the leaves from the premises.

(2) It is unlawful for any owner, occupant or agent of any lot or parcel of land to allow any weeds or grass growing upon any lot or parcel of land to grow to a greater height than six inches or to allow the weeds or grass to go to seed.

(3) It is unlawful for any owner, occupant or agent of any lot or parcel of land to fail to promptly remove leaves from the premises after deciduous trees have lost their leaves.

(4) It is unlawful for any owner, occupant or agent of any lot or parcel of land to fail to remove all public health or safety hazards thereon, to fail to install or repair water service lines thereon or to fail to treat or remove insect-infested or diseased trees thereon.

(5) If any owner, occupant or agent fails to comply with this division (H)(5), and after notice given by the city, has not within 48 hours of the notice complied, the city shall cause the weeds or grass to be cut, or leaves to be cleaned up and removed, or public health or safety hazards removed, or water service lines repaired, or diseased or insect-infested

trees treated or removed, and the expense thus incurred, including administrative costs, shall be the personal liability of the owner of the premises. A bill, indicating the cost, shall be sent to the owner, occupant or agent. If the total amount is not paid in accordance with the terms indicated on the bill, the amount of the costs and expenses incurred, plus accrued interest on the unpaid balance, shall be charged against the property involved as a special assessment as authorized by M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes.

(I) Tree diseases.

(1) *Trees constituting nuisance declared.* The following are public nuisances whenever they may be found within the city:

(a) Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus Ceratocystis Ulmi (Buisman) Moreau or which harbors any of the elm bark beetles Scolytus Multistriatus (Eichh.) or Hylungopinus Rufipes (Marsh);

(b) Any living or standing ash tree or part thereof infected to any degree with the Emerald Ash Borer [Agrilus Planipennis Fairmaire (Coleoptera: Bupretidae)] Beetle or which harbors any of the Emerald Ash Borer Beetle.

(c) Any dead ash or elm tree or part thereof, including branches, stumps, firewood or other material from which the bark has not been removed and burned or sprayed with an effective insecticide;

(d) Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt Fungus (Ceratocystis Fagacearum);

(e) Any dead oak tree or part thereof which in the opinion of the designated officer constitutes a hazard, including, but not limited to, logs, branches, stumps, roots, firewood or other oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide; and/or

(f) Any other shade tree with an epidemic disease.

(2) *Abatement of nuisance.* It is unlawful for any person to permit any public nuisance as defined in division (I)(1) above to remain on any premises the person owns or controls within the city. The City Council may, by resolution, order the nuisance abated. Before action is taken on that resolution, the City Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to the affected property owner and published once no less than one week prior to the meeting. The notice shall state the time and place of the meeting, the property affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At the hearing or adjournment thereof, the City Council shall hear any property owner with reference to the scope and desirability of the proposed project. The City Council shall thereafter adopt a resolution confirming the original resolution with modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

(3) *Record of costs.* The City Administrator shall keep a record of the costs of abatement done under this section for all work done for which assessments are to be made, stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.

(4) *Unpaid charges.* On or before September 1 of each year, the City Administrator shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges or any portion thereof against the property involved as a special assessment as authorized by M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes.

(J) Any use of property, substances or things within the city emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the city.

(K) Storage restrictions.

(1) *Firewood.* Firewood shall be stored in a compact and orderly fashion so as not to constitute a hazard to adjacent buildings or property or to endanger the public health. All firewood shall be stored or stacked up off the surface of the ground. Stacks of wood in the open shall not exceed six feet in height and without consent of adjacent property owners shall not be located less than five feet from a boundary line. There shall be no front yard or front lot storage of firewood in the city; provided that, this division (K)(1) shall not prevent businesses that sell firewood from displaying firewood to the public in a manner that is deemed necessary for the business purposes, as long as the storage and display does not violate any other of the provisions of this section.

(2) *Pipe, lumber and the like.* The storage of pipe, lumber, forms, steel, machinery or similar materials shall not be allowed on residential property.

(3) *Solid fuel.* For the purpose of this division (K)(3), ***SOLID FUEL*** includes, but is not limited to, corn, shelled or unshelled, and wood pellets. Outdoor storage requirements for solid fuel shall be as follows.

(a) The storage container shall be painted and designed to blend in with the structure it serves or be screened from view of neighboring properties.

(b) The container shall be permanently attached to the ground.

(c) The container shall be of sturdy leak-proof construction with a leak-proof lid.

(d) Storage of grain shall not be allowed in Zoning Districts R-1, R-2, R-3, B-1 or B-3 except as provided in this section.

(4) *Junk yards.* For the purpose of this division (K)(4), the words ***JUNK YARDS*** shall be defined as: land or buildings where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled or handled, including, but not limited to, scrap metal, rags, paper, hides, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other vehicles. All junk yard storage shall be hidden from view from any public right-of-way and adjacent properties. This shall be accomplished by fencing and/or screening as specified in Ch. 152 of this code of ordinances. This division (K)(4) shall not prevent businesses that sell salvaged material from displaying material to the public in a manner that is deemed necessary for the business purposes, as long as the storage and display does not violate any other of the provisions of this chapter.

(Prior Code, § 13.02) (Ord. 118, 2nd Series, eff. 3-19-2002; Ord. 130, 2nd Series, passed 4-1-2008) Penalty, see § 90.99

Cross-reference:
Animals, SEE Chapter 93

§ 90.03 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

The following acts, commissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but the enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of § 90.01:

(A) All illegal gambling devices; and

(B) Any place or premises where the ordinances or state laws relating to public health, safety, peace, morals or welfare are continuously, repeatedly and intentionally violated.
(Prior Code, § 13.03) (Ord. 118, 2nd Series, eff. 3-19-2002) Penalty, see § 90.99

§ 90.04 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but the enumerations shall not be construed to exclude other nuisances affecting public peace and safety coming within the provisions of § 90.01:

(A) All trees, fences, hedges, signs, billboards, vehicles, recreational vehicles, items of personal property or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk. All limbs of trees which project over a public sidewalk less than eight feet above the surface thereon or 13 feet above the road surface of a public street;

(B) All use or display of fireworks, except as provided by the laws of the state and ordinances of the city;

(C) Reflected glare or light from private exterior lighting exceeding one-half footcandles, as measured on the property line of the property where the lighting is located, when the property abuts any residential parcel and one footcandle when the property abuts any commercial or industrial parcel;

(D) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;

(E) Any fence that is not constructed in a substantial workmanlike manner and of substantial material reasonably suitable for the purpose for which the fence is proposed to be used; any fence that has been constructed of improper materials for the district in which it is located, such as the use of barbed wire or electric fencing in a residential district or as a boundary fence; any fence that has not been maintained and is in a condition of disrepair or has become a danger to public safety, health or welfare;

(F) All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface of the street or ground;

(G) All hanging signs, awnings and other similar structures over streets and sidewalks so situated as to endanger public safety, or not constructed and maintained as provided by ordinance;

(H) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by ordinance;

(I) All open and unguarded pits, wells, in-ground pools, excavations or unused basements freely accessible from any public street, alley or sidewalk;

(J) Accumulations in the open of discarded or disused items including, but not limited to, machinery, household appliances, household furniture and flooring, consumer electronics (i.e. computer equipment, cell phones, TVs, other audio and/or visual equipment), any materials not designed for outdoor use, motor vehicle bodies or parts, tires, batteries, unused and/or discarded construction materials; accumulations of any materials in a manner conducive to the harboring of rats, mice, snakes or vermin; or the rank growth of vegetation among the items so accumulated; or accumulations in a manner creating fire, health or safety hazards;

(K) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks;

(L) Any abandoned above or underground tank whose capacity is in excess of 1,100 gallons;

(M) All loud or discordant noises or vibrations of any kind;

(N) Radio aerials or television antennas erected or maintained in a dangerous manner;

(O) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials;

(P) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, metal scraps, garbage, leaves, tin cans, grass or tree limbs, shreds or rubbish, or to empty any water containing salt or other injurious chemical thereon, which may injure any person or animal or damage any pneumatic tire when passing over the substance. It is a violation of this section to haul any soil or material, not adequately enclosed or covered, thereby permitting the same to fall upon the streets;

(Q) All other conditions or things which are likely to cause injury to the person or property of another; and/or

(R) Fire and explosion danger. It is unlawful for any person to deposit or dispose of any refuse which is in flames, or heated to the point that it could cause danger of fire, or any other material which is flammable or so volatile as to create a danger of fire or explosion. If ashes are to be disposed of as part of the refuse collection system, the ashes must be placed in a separate container and not commingled with any other garbage or refuse to be collected. The ashes must be contained in a way that the refuse collectors are able to distinguish same as ashes and be able to observe that they are safe to be deposited in the refuse collection vehicle.
(Prior Code, § 13.04) (Ord. 118, 2nd Series, eff. 3-19-2002; Ord. 130, 2nd Series, passed 4-1-2008) Penalty, see § 90.99

§ 90.05 STATE DEFINED NUISANCES.

Any nuisance so defined by M.S. § 561.01, as amended from time to time, supplemented or replaced, or by the common law of the state, is also a nuisance under this chapter.
(Prior Code, § 13.05) (Ord. 118, 2nd Series, eff. 3-19-2002)

§ 90.06 PROHIBITED ACTS.

No owner or occupant of any premises shall permit any nuisance to be or remain in or upon the premises; nor shall he, she or they allow for the storage of firewood or junk vehicles in violation of the terms of this chapter.
(Prior Code, § 13.08) (Ord. 118, 2nd Series, eff. 3-19-2002; Ord. 130, 2nd Series, passed 4-1-2008) Penalty, see § 90.99

§ 90.07 ABATEMENT PROCEDURE.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

NUISANCE. Public nuisances affecting health in § 90.02(A)-(G), (J), and (K); public nuisances affecting morals and decencies as codified in § 90.03; public nuisances affecting peace and safety as codified in § 90.04; state defined nuisances as codified in § 90.05; and inoperable, unlicensed or junk vehicles as codified in § 90.55.

(B) *Report of nuisance.*

(1) Whenever the Building and Zoning Department receives a signed written complaint form which alleges that a nuisance exists, an official from the Building and Zoning Department shall conduct an inspection of the real estate where the nuisance is alleged to exist.

(2) If the official determines that a nuisance exists, the official shall notify the owner of the real estate in writing that a nuisance exists and order that the nuisance be abated. The notice shall also specify the time the owner has to either abate the nuisance or request a hearing before the Nuisance Board.

(C) *Property owner's response:* If the owner of the real estate where the nuisance exists fails to either abate the nuisance or request a hearing within the time specified in the notice, the city at the city's sole and exclusive discretion may or may not abate the nuisance. The city shall have the right to recover all costs, including administrative costs, to abate the nuisance in the manner provided in Section 90.07 (D).

(1) If the owner requests a hearing, the request must be in writing and made within the time specified in the notice received from the Building and Zoning Department.

(2) Upon receipt of a timely written request for a hearing, the Building and Zoning Department shall notify the owner in writing of the time, date, and place of the hearing. The owner may appear in person at the hearing and/or present a written statement in time for consideration at the hearing.

(3) If the Nuisance Board determines that a nuisance exists, the Board shall inform the owner in writing of the amount of time the owner has to abate the nuisance. If the owner fails to abate the nuisance within said time, the city may abate the nuisance. The city shall have the right to recover all costs, including administrative costs, to abate the nuisance in the manner provided in § 90.07 (D).

(D) *Recovery of costs:*

(1) *Personal liability.* The owner of the real estate where a nuisance has been abated by the city shall be personally liable for all costs the city incurred to abate the nuisance, including administrative costs. As soon as the work has been completed and the costs determined, the City shall prepare an invoice for the costs and mail it to the owner. Thereupon the amount shall immediately be due and payable at the Office of the City Clerk.

(2) *Assessment.* If the owner of the real estate fails to pay the costs of the abatement and/or the administrative costs, then after notice and hearing as provided by M. S. § 429.061, as it may be amended from time to time, the City Administrator shall, on or before December 31 next following abatement of the nuisance, list the total unpaid charges to abate the nuisance, including administrative costs, against each separate lot or parcel to which the charges are attributable. The special assessments levied under this ordinance shall be payable in installment(s) as the City Council may determine.

(E) *Immediate Abatement.*

(1) Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

If the city abates a nuisance that posed an imminent and serious hazard to human life or safety, the city shall have the right to recover all costs, including administrative costs, to abate the nuisance in the manner provided in division (D).

(F) *Notice.* For the purpose of giving written or mailed notice under this section, the notice shall be mailed by first class U. S. mail to the owner of the real estate where the nuisance is alleged to exist. The owner shall be those individual(s) shown to be such in the records of the County Auditor/Treasurer of Cottonwood County, Minnesota, but other appropriate records may also be used for this purpose.

(1) The notice shall be mailed to the address of the owner as it appears in the records located in the County Auditor/Treasurer's Office of Cottonwood County, Minnesota, unless the city is reasonably aware of a different address for the owner, in which case the notice shall be sent to the known address of the owner.

If the address of the owner is not on file in the Auditor/Treasurer's Office of Cottonwood County, Minnesota, and is unknown, service on the owner may be accomplished by posting a copy of the notice on the premises.

(G) *Violation a misdemeanor:* Any violation of Chapter 90 which is not corrected, as set forth herein, shall be considered a misdemeanor.

(Ord. 143, 2nd Series, passed 8-20-2013)

EXCESSIVE NOISE

§ 90.20 GENERAL PROHIBITION.

(A) No person shall make or cause to be made, any distinct and loud audible noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of any person, or precludes their enjoyment or diminishes their property value.

(B) This general prohibition includes, but is not limited to, the specific restrictions of the following sections.
(Prior Code, § 13.07) (Ord. 118, 2nd Series, eff. 3-19-2002) Penalty, see § 90.99

§ 90.21 HORNS, AUDIBLE SIGNALING DEVICES AND THE LIKE.

No person shall sound any audible signaling device, except as a warning of danger, or as permitted in M.S. § 169.68, as amended from time to time.
(Prior Code, § 13.07) (Ord. 118, 2nd Series, eff. 3-19-2002) Penalty, see § 90.99

§ 90.22 MUFFLERS FOR MOTOR VEHICLES.

Every motor vehicle shall at all times be equipped with a muffler in working order which blends the exhaust noise into the overall vehicle noise and is in constant operation to prevent excessive or unusual noise; and no person shall use a dynamic engine or transmission brake, muffler cutout, bypass or similar device upon a motor vehicle on a street or highway.
(Prior Code, § 13.07) (Ord. 118, 2nd Series, eff. 3-19-2002) Penalty, see § 90.99

§ 90.23 RADIOS, TAPE AND DISC PLAYERS.

No person shall use, operate or play any radio receiving set, tape or disc player, musical instrument, phonograph, loudspeaker, sound amplifier or other device in a manner as to disturb the peace, quiet and repose of a person or persons of ordinary sensibilities, except as allowed by city license or permit for civic and/or charitable activities and events.

(A) The play, use or operation of any radio, tape or disc players, musical instrument, phonograph or other machine or device for the production or reproduction of sound in a manner as to be plainly audible at a distance of one city block from the machine or device or for the purpose of commercial advertising, or attracting the attention of the public to any building structure, shall be prima facie evidence of a violation of this section; and/or

(B) When sound violating this subchapter is produced or reproduced by a machine or device that is located in or on a vehicle, the vehicle's owner(s) is guilty of the violation; provided, however, that, if the vehicle's owner is not present at the time of the violation, the person in charge or control of the vehicle at the time of the violation is guilty of the violation.
(Prior Code, § 13.07) (Ord. 118, 2nd Series, eff. 3-19-2002) Penalty, see § 90.99

§ 90.24 BUILDINGS.

(A) No person shall engage in construction (including excavation), demolition, alteration or repair of any building between the hours of 9:00 p.m. and 6:00 a.m.; except that, individuals or families may work on single-family residences for their own occupancy.

(B) City officials may, in case of emergency, grant permission to repair at any time when they find repair work will not affect the health and safety of the persons in the vicinity.
(Prior Code, § 13.07) (Ord. 118, 2nd Series, eff. 3-19-2002) Penalty, see § 90.99

§ 90.25 PILE DRIVERS, HAMMERS AND THE LIKE.

No person shall use or operate, between the hours of 9:00 p.m. and 6:00 a.m., any pile driver, power shovel, pneumatic hammer, derrick power, electrical hoist or other machine or appliance, the use of which is accompanied by loud or unusual noise.
(Prior Code, § 13.07) (Ord. 118, 2nd Series, eff. 3-19-2002) Penalty, see § 90.99

§ 90.26 PARTIES AND GATHERINGS.

(A) *Prohibition.* No person shall congregate at or participate in any party or gathering from which noise emanates of a sufficient volume so as to disturb the peace, quiet or repose of another person. No person shall knowingly remain at a noisy party or gathering.

(B) *Evidence.* The following is prima facie evidence of violation of this section:

(1) Noise of a volume as to be clearly heard at a distance of one city block from the structure or building in which the party or gathering is occurring, or in the case of an apartment building, in the adjacent hallway or apartment; and

(2) Any complaint from a person that is verified by an officer.

(C) *Duty to disperse.* When an officer determines that a party or gathering is in violation of this section, the officer may order all persons present at the premises where the violation is occurring, other than the owner or tenants of the premises, to disperse immediately. No persons ordered to leave shall remain at or return to the party or gathering.

(D) *Exemption.* The following are exempt from violation of this section:

(1) Activities which are duly authorized, sponsored or licensed by the city so long as the activity is conducted pursuant to the conditions of the license, permit or contract;

(2) Person(s) who have gone to a party for the sole purpose of abating the violation;

(3) Church bells, chimes or carillons;

(4) School bells;

(5) Anti-theft devices; and

(6) Machines or devices for the production of sound on or in authorized emergency vehicles.
(Prior Code, § 13.07) (Ord. 118, 2nd Series, eff. 3-19-2002) Penalty, see § 90.99

§ 90.27 ANIMALS, BIRDS AND THE LIKE.

No person shall keep, or allow to be kept, any animal which is causing long continued noise which disturbs the comfort or repose of any person(s) in the vicinity.
(Prior Code, § 13.07) (Ord. 118, 2nd Series, eff. 3-19-2002) Penalty, see § 90.99

Cross-reference:
Animals, SEE Chapter 93

AIR POLLUTION

§ 90.40 UNAUTHORIZED, UNLAWFUL BURNING.

(A) It is unlawful for any person to burn or permit burning of any grass, weeds, leaves, rubbish or other substance upon premises owned or occupied by him or her, except as otherwise provided by this code and as identified in M.S. §88.16, Starting and Reporting Fires, M.S.§88.17, Permission to Start Fires; Prosecution for Unlawfully Starting Fires, and M.S. and M.S. §88.171, Open Burning Prohibitions, as they may be amended from time to time.
(Prior Code, § 10.42)

(1) Exceptions allowed for open burning for permitted materials include:

(a) A fire started when the ground is snow-covered. "Snow-covered" means that the ground has a continuous unbroken cover of snow, to a depth of three (3) inches or more, surrounding the immediate area of the fire sufficient to keep the fire from spreading. Between 24 and 48 hours prior to starting a fire permitted pursuant to this Section 90.40 (A) (1) (a), the owner or occupant of the premises where the fire is going to occur shall notify the Cottonwood County Sheriff's Department or the Windom fire chief of the exact location where the fire will occur and the time the fire will start.

(b) A campfire.

(c) A fire contained in a charcoal grill, camp stove, or other device designed for the purpose of cooking or heating.

(d) A fire to burn dried vegetative materials and other materials allowed by Minnesota Statutes or official state rules and regulations in a burner of a design which has been approved by the Commissioner of Natural Resources and with which there is no combustible material within five feet of the base of the burner and is in use only between the hours of 6:00 p.m. and 8:00 a.m. of the following day, when the ground is not snow-covered.

(2) Written permission required. Excluding the previous exceptions allowed for open burning, it shall be unlawful to start or have any open fire without written permission.

(3) Burning of the following materials is prohibited:

(a) Rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke;

(b) Hazardous wastes;

(c) Industrial solid waste;

(d) Demolition debris;

(e) Salvage operations;

(f) Motor vehicles; and

(g) Garbage

(B) (1) *Burning permitted.* Pursuant to the provisions of M.S. § 116.082, as amended from time to time, the open burning of dried leaves between September 15 and December 1 is hereby allowed in the city, subject to the limits and conditions specified in this division (B).

(2) *Limits and conditions.* The burning of leaves will only be permitted under the following limits and conditions:

(a) The open burning of leaves will only be permitted between September 15 and December 1;

(b) The Police Department must be notified by the property owner prior to each burning;

(c) Burning shall be limited only to the areas of the city zoned residential;

(d) A fire shall not be less than five feet from any property line and not less than 25 feet from any building, lumber pile, wood yard, haystack or other comparable hazard;

(e) A responsible person shall be in constant attendance until the fire is completely extinguished;

(f) Burning will only be allowed during daylight hours;

(g) The burning of leaves is prohibited on city streets, alleys, sidewalks, boulevards or any public parking areas;

(h) No burning shall take place during an air pollution alert, high fire danger alert, warning or other emergency declared by the city, the State Pollution Control Agency (MPCA) or the State Department of Natural Resources (DNR); and

(i) The Fire Chief, or other local fire authority designee, will have the authority to discontinue a burn when:

1. A fire hazard exists or develops during the course of the burn;

2. Any of the conditions of the permit are violated during the course of the burn; and

3. It is determined that the smoke emissions are offensive to occupants of the surrounding property.

(3) *Permits.*

(a) Upon determination that all necessary precautions have been taken to protect life and property, the Fire Chief, City Administrator or other authorized agent may issue a leaf-burning permit.

(b) The cost of obtaining a permit to burn dried leaves shall be at a rate as approved from time to time by the City Council. The fee will be paid by the applicant upon receipt of permit.

(c) Beginning on the date of issuance, the permit shall be valid until December 1 of the year it was issued.

(4) *Copy to state agencies.* A copy of this division (B), or any amendment thereof, shall be submitted to the MPCA and the DNR.

(5) *Penalty.* Any person violating the provisions of this division (B) shall be guilty of a misdemeanor.

(6) *Application.* The provisions of this division (B) shall only apply to the burning of leaves. It is unlawful for any person to burn any materials prohibited under the city ordinances or state statute.

(7) *Effective date.* This division (B) becomes effective on the date of its publication or upon the publication of a summary of the ordinance as provided by M.S. § 412.191, Subd. 4, as it may be amended from time to time, which meets the requirements of M.S. § 331A.01, Subd. 10, as it may be amended from time to time.
(Ord. 16, 2nd Series, eff. 9-20-1984; Ord. 132, 2nd Series, passed 2-3-2009; Ord. 140 2nd Series, passed 3-5-2013) Penalty, see § 90.99

§ 90.41 RULES ADOPTED BY REFERENCE.

(A) The Air Pollution Control Rules, 1976, APC 1 through 32, 6 MCAR 4.0033, 6 MCAR 4.0039 and 6 MCAR 4.0041, updated through 1983, promulgated by the State Pollution Control Agency, are hereby adopted by reference as though set forth verbatim herein. One copy of the rules shall be marked "CITY OF WINDOM - OFFICIAL COPY" and kept on file in the office of the City Administrator and open to inspection and use by the public.

(B) It is unlawful to violate a provision of this section or of the Air Pollution Control Rules hereby adopted by reference.
(Prior Code, § 10.42) (Ord. 16, 2nd Series, eff. 9-20-1984) Penalty, see § 90.99

OTHER NUISANCES

§ 90.55 INOPERABLE, UNLICENSED, JUNK VEHICLES.

In the interest of promoting public health, safety and welfare, the city does hereby enact this section governing the parking and storing of junk vehicles as follows.

(A) No person shall leave any partially dismantled, non-operating wrecked or junked vehicle on any street or highway within the city.

(B) (1) All vehicles on property within the city limits shall be currently licensed and in running order (operable condition) or properly licensed and stored as a collector vehicle. No person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, non-operating, wrecked, junked or discarded vehicle to remain on the property longer than 96 hours.

(2) Except that, this section shall not apply to:
(a) A vehicle in an enclosed building;

(b) A vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of the business enterprise; provided that, the vehicle is located on the premises for a period of not longer than one year; or

(c) A vehicle which has been placed by the city in an appropriate storage place or depository maintained in a lawful place and manner.

(C) Vehicles, trailers and truck and/or van boxes are not approved accessory buildings as defined in Ch. 152 of this code of ordinances and shall not be used for storage of items that would typically be stored in an accessory building and also shall not be used for storage of garbage, trash or junk items.
(Prior Code, § 13.06) (Ord. 118, 2nd Series, eff. 3-19-2002; Ord. 130, 2nd Series, passed 4-1-2008) Penalty, see § 90.99

§ 90.56 OPEN PITS, BASEMENTS AND OTHER EXCAVATIONS.

(A) It is unlawful for any person owning or in control of real estate to have any pit, basement, well, septic tank, cesspool or other excavation on the premises open and without protection for the public.

(B) If the excavation is open for 72 hours or less, it shall be protected by use of flares or lights at night and a railing or other temporary protection during the day.

(C) If it shall be permanently installed, it shall be protected with a chain link fence at least 48 inches high, night and day.
(Prior Code, § 10.49) Penalty, see § 90.99

§ 90.57 OPEN STAIRWAYS AND BALCONIES.

It is unlawful for the owner of any premises to construct or maintain thereon, or permit the construction or maintenance thereon, of a stairway opening to a public sidewalk without adequately protecting the opening with a gate, fence, bars or other barrier adequately protecting the same. It is unlawful for the owner of any premises to construct or maintain thereon, or permit the construction or maintenance thereon, of a balcony unless it is protected with a solid wall or screened with a firm material with openings no larger than eight inches in diameter, if round, or eight inches by eight inches, if square, and to a height of at least three feet.
(Prior Code, § 10.50) Penalty, see § 90.99

§ 90.58 RADIO AND TELEVISION INTERFERENCE.

It is unlawful for any person to maintain, use or operate any apparatus or device whether electrical, mechanical or of any other type, so as to cause interference with radio or television reception. This section shall not apply to electro-medical devices; provided that, they are equipped so far as reasonably possible with apparatus tending to reduce the interference.
(Prior Code, § 10.51) Penalty, see § 90.99

§ 90.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Every person violates §§ 90.01 through 90.07, 90.20 through 90.27 and 90.55 when he or she performs an act thereby prohibited or declared unlawful, or fails to act when

the failure is thereby prohibited or declared unlawful or fails to act when the failure is prohibited or declared unlawful by a code adopted by reference by these sections and, upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof.
(Prior Code, § 13.99)

(C) Every person violates §§ 90.40, 90.41 and 90.56 through 90.58 when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when the failure is prohibited or declared unlawful by a code adopted by reference by these sections and, upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof.
(Prior Code, § 10.99)
(Ord. 118, 2nd Series. eff. 3-19-2002)

* *

THE CITY COUNCIL OF THE CITY OF WINDOM, MINNESOTA, FURTHER ORDAINS:

This ordinance, or an approved Title and Summary of this ordinance, shall be published in the COTTONWOOD COUNTY CITIZEN and this ordinance shall be effective immediately upon publication.

ADOPTED AND PASSED by the City Council of the City of Windom, Minnesota, this 12th day of October, 2015.

_____
Corey Maricle, Mayor

ATTEST:

_____
Steven Nasby, City Administrator/Clerk-Treasurer

1st Reading: September 15, 2015
2nd Reading: October 12, 2015
Adoption: October 12, 2015
Published: October 21, 2015

ORDINANCE NO. 152, 2ND SERIES

AN ORDINANCE OF THE CITY OF WINDOM, MINNESOTA,
AMENDING CITY CODE CHAPTER 93

THE CITY COUNCIL OF THE CITY OF WINDOM ORDAINS:

WHEREAS, the City Council previously adopted ordinances setting forth regulations concerning animals within city limits and these regulations were contained in several chapters of the City Code, including "Chapter 13 Public Nuisance"; and

WHEREAS, thereafter the City Council adopted Ordinance No. 138, 2nd Series on October 16, 2012, (effective October 24, 2012) which codified the City Code and renumbered the chapters of the City Code, including the public nuisance chapter which was renumbered as Chapter 90 and the existing chapter on animals which was renumbered as Chapter 93; and

WHEREAS, there are numerous updates to Chapter 90 which the Planning Commission has recommended to the City Council; and

WHEREAS, one of the updates recommended by the Planning Commission was to transfer the animal regulations previously contained in Chapter 90 to Chapter 93 thereby consolidating the animal sections into Chapter 93; and

WHEREAS, it is in the best interests of the citizens of Windom that Chapter 93 be updated and amended as set forth herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WINDOM, MINNESOTA, ORDAINS:

THE CITY CODE OF THE CITY OF WINDOM IS HEREBY AMENDED BY DELETING CHAPTER 93 IN ITS ENTIRETY AND INSERTING THE FOLLOWING IN LIEU THEREOF:

GENERAL PROVISIONS; DOG AND CAT LICENSING AND REGULATIONS

§ 93.01 DEFINITIONS.

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

ANIMAL. Cattle, horses, ponies, mules, sheep, goats, swine, feathered fowl such as ducks, geese, turkeys, chickens, guinea hens; dogs, cats and other animals; and honey bees.

ANIMAL CONTROL AUTHORITY. See Section 93.35(A) for definition.

DANGEROUS ANIMAL. See Section 93.35(A) for definition.

OWNER. Any person who owns, harbors, feeds, boards, keeps or otherwise possesses an animal, and who is the head of the household of the residence, or the owner or manager in charge of the establishment or premises at which an animal remains, or to which it returns.
(Prior Code, § 10.12)

POTENTIALLY DANGEROUS ANIMAL. See Section 93.35(A) for definition.

PROPER ENCLOSURE. See Section 93.35(A) for definition.

UNPROVOKED. See Section 93.35(A) for definition.

WILD OR EXOTIC ANIMALS. Any wild mammal, reptile or fowl which is not naturally tame or gentle, but is of a wild nature or disposition and which, because of its size, vicious nature or other characteristics would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters. Examples of wild or exotic animals include, but are not limited to, skunks, foxes, coyotes, raccoons, minks, weasels, ostriches, emus, snakes, reptiles, lizards, lions, tigers, cougars, leopards, cheetahs, bears, lemurs, monkeys, chimpanzees, gorillas, etc.

§ 93.02 *(formerly 93.32)* **LICENSING REQUIRED.**

It is unlawful for any person to keep a dog over six months or a cat over three months of age without a license therefor from the city. Application for a dog or cat license shall be on a form supplied by the city and will contain certificate from a veterinarian, who is duly licensed to practice veterinary medicine in the state. The certificate shall state that the dog or cat, for which application for a license is made, has been inoculated against rabies for at least the period for which a license is applied.
(Prior Code, § 10.11) Penalty, see § 93.99

§ 93.03 *(formerly 93.33)* **LICENSE FEE.**

All dog and cat licenses shall expire on December 31 of each year. The fee for these licenses shall be prescribed by the Council, but shall not be less than $3. All licenses applied for and issued in the last three months of the calendar year shall be issued to cover those months as well as the following calendar year.
(Prior Code, § 10.11)

§ 93.04 *(formerly 93.34)* **COLLAR TAGS.**

The City Administrator issuing a license, shall, at the same time, deliver to the licensee a metal tag which shall bear the same serial number as the license. The licensee shall securely attach the tag to a collar (or harness) which shall at all times be kept on the dog or cat for which the license is issued. A duplicate for a lost tag may be issued by the City Administrator upon presentation of the receipt showing the payment of the license fee for the current year and upon payment of a reissue fee for the duplicate. Dog and cat tags shall not be transferable and no refunds shall be made on any dog or cat license fee because of leaving the city or death of the dog or cat before expiration of the license.
(Prior Code, § 10.11) (Ord. 83, 2nd Series, eff. 8-25-1994)

§ 93.05 *(formerly 93.36)* **VIOLATIONS, FINES AND PENALTIES.**

Any person who shall not have obtained a license for any dog or cat as required by this section shall be liable for a fine as set forth in § 93.99, together with the cost of the license fee.
(Prior Code, § 10.11) (Ord. 93, 2nd Series, eff. 11-9-1995)

§ 93.06 *(formerly 93.10)* **LIMITATION ON OWNERSHIP.**

(A) (1) It is unlawful for any person to own, keep, care for, have custody of or knowingly permit at any time more than three dogs and/or three cats in or about his or her residence or any other location under the person's control within the city.

(2) A residence or other location may contain up to three dogs and/or three cats. Impoundment procedures shall be implemented as described in this subchapter.

(B) This section shall not apply to the following:

(1) One litter of pups or kittens under 90 days of age born to a licensed dog or cat;

(2) Residents of newly-annexed areas; provided that, the owners have the animals licensed within 90 days after annexation occurs, and until the time as one or more of the illegal animals dies or for some other reason is not owned or possessed by the resident;

(3) A kennel licensed by the State Board of Animal Health that is located in an appropriately-zoned area;

(4) A licensed veterinarian; or

(5) An animal shelter owned and operated by a city or a humane society.
(Prior Code, § 10.12) (Ord. 112, 2nd Series, eff. 9-17-2002)

§ 93.07 *(formerly 93.09)* **SEEING-EYE DOGS PERMITTED IN PUBLIC PLACES.**

Wherever a blind person accompanied by a "seeing-eye" or guide dog presents himself or herself for accommodation or service at any public conveyance, vehicle or to any café or restaurant, store or other place of business open to the public, it is unlawful for any owner, or his or her agent, to refuse admission to the dog or service to the blind person.
(Prior Code, § 10.12) Penalty, see § 93.99

§ 93.08 *(formerly 93.37)* **ANIMAL RESTRAINT.**

(A) The license holder, owner or keeper of any dog or cat shall be responsible for the effective restraint of the dog or cat and shall not permit the dog or cat to run at large.

(B) It is unlawful for the owner or the keeper of any dog or cat to fail to properly and effectively restrain the dog or cat.

(C) Any dog or cat which is not effectively contained within a fenced area, or any dog or cat which is on any unfenced area or lot abutting a street, alley, public park, public place or upon any other private land, without being effectively controlled or restrained from moving beyond the unfenced area or lot, or any dog or cat on any street, public work, school ground or public place without being effectively restrained by chain or leash, shall be deemed "not effectively restrained", and in violation of this subchapter.
(Prior Code, § 10.11) Penalty, see § 93.99

§ 93.09 (formerly 93.25) **RUNNING AT LARGE.**

It is unlawful for any owner, or any person having control of a dog or cat, to permit the dog or cat to run at large in the city. Any dog or cat upon public property, or upon private property over the protest and against the will of the property owner, not on a leash or otherwise under the control of an accompanying person, shall be deemed as running at

large. The term ***OWNER***, as used in this section, means any person who owns, harbors or keeps the dog or cat.
(Prior Code, § 10.11) Penalty, see § 93.99

§ 93.10 *(formerly 93.26)* **SEIZURE AND IMPOUNDMENT.**

(A) Any dog or cat running at large in the city may be seized and placed in the pound by any police officer, city official or other person designated by the Council for the purpose of enforcing this subchapter. An accurate record of the time of the placement shall be kept on each dog or cat. Each dog or cat so placed in the pound shall be held for redemption by the owner for a period of not less than five regular business days. A ***REGULAR BUSINESS DAY*** is one during which the pound is open for business to the public for at least four hours between the hours of 8:00 a.m. and 7:00 p.m.

(B) Impoundment records shall be preserved for a minimum of at least six months and shall show:

(1) The description of the animal by species, breed, sex, approximate age and other distinguishing traits;

(2) The location at which the animal was seized;

(3) The date of seizure;

(4) The name and address of the person from whom any dog over six months of age or cat over three months of age was received; and

(5) The name and address of the person to whom any dog over six months of age or cat over three months of age was transferred.
(Prior Code, § 10.11)

§ 93.11 *(formerly 93.27)* **NOTICE OF IMPOUNDMENT.**

(A) Upon the impoundment of any dog or cat, the officer to whom the dog or cat is delivered shall notify the owner personally, or by U.S. mail. If the owner of the dog or cat is unknown, written notice shall be posted in three public places within the city for five days, describing the dog or cat, and stating where the dog or cat is impounded, and the condition of release.

(B) If unclaimed, the dog or cat shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under M.S. § 35.71, as amended from time to time; provided, however, that, if a tag is affixed to the dog or cat, or a statement by its owner after seizure specifies that the animal should not be used for research, the animal shall not be made available to any institution, but may be destroyed after expiration of the five-day notice period.
(Prior Code, § 10.11) (Ord. 83, 2nd Series, eff. 8-25-1994)

§ 93.12 *(formerly 93.28)* **EXCEPTION.**

Any dog or other animal seized under M.S. §§ 343.22 or 343.29, as amended from time to time, shall be held for ten regular business days. For the purposes of this section, the term ***REGULAR BUSINESS DAY*** means any day during which the establishment having custody of the animal is open to the public for not less than four consecutive hours

between 8:00 a.m. and 7:00 p.m. A person claiming an interest in an animal in custody under this subchapter may prevent disposition of the animal by posting security in an amount sufficient to provide for the animal's actual costs of care and keeping. The security must be posted within ten days of the seizure inclusive of the date of the seizure.
(Prior Code, § 10.11)

§ 93.13 *(formerly 93.29)* **NOTICE OF IMPOUNDING; CLAIMING INTEREST.**

(A) Upon impounding an animal under § 93.10, notice shall be given the owner or person claiming interest in the animal by delivering or mailing it to a person claiming an interest in the animal, by posting a copy of it at the place where the animal is taken into custody or by delivering it to a person residing on the property, and telephoning, if possible.

(B) The notice shall include:

(1) A description of the animal seized; the authority and purpose for the seizure, the time, place and circumstances under which the animal was seized; and the location, address, telephone number and contact person where the animal is kept;

(2) A statement that a person claiming an interest in the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure or impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal;

(3) A statement that all actual costs of the care, keeping and disposal of the animal are the responsibility of the person claiming an interest in the animal, except to the extent that a court or Hearing Officer finds that the seizure or impoundment was not substantially justified by law; and

(4) A form that can be used by a person claiming an interest in the animal for requesting a hearing under this subchapter.
(Prior Code, § 10.11)

§ 93.14 *(formerly 93.30)* **RIGHT TO HEARING AND RELEASE FROM ANIMAL POUND.**

(A) (1) Upon request of a person claiming interest in the animal, which request must be made within ten days of the date of seizure, a hearing shall be held within five business days of the request to determine the validity of the seizure and impoundment. If the seizure was done pursuant to a warrant under M.S. § 343.22, as amended from time to time, the hearing must be conducted by the judge who issued the warrant.

(2) If the seizure was done under M.S. § 343.29, as amended from time to time, the city may either:

(a) Authorize a licensed veterinarian with no financial interest in the matter or professional association with either party; or

(b) Use the services of a Hearing Officer to conduct the hearing.

(B) A person claiming interest in the animal who is aggrieved by a decision of a Hearing Officer under this subchapter may seek a court order governing the seizure or impoundment within five days of the notice of the order.

(C) The judge or Hearing Officer may authorize the return of the animal, if the judge or Hearing Officer finds that:

(1) The animal is physically fit; and

(2) The person claiming an interest in the animal can and will provide the care required by law for the animal.

(D) The person claiming an interest in the animal is liable for all actual costs of the care, keeping and disposal of the animal, except if a court or Hearing Officer finds that the seizure or impoundment was not substantially justified by law. The costs shall be paid in full or a mutually satisfactory arrangement for payment must be made between the city and the person claiming an interest in the animal before return of the animal to the person.

(1) If an animal is owned by a resident of the city, the cost shall include the purchase of a license, if unlicensed, payment for the animal's maintenance while in custody, and may include an immunization fee of any animal for rabies.

(2) If an animal is owned by a person not a resident of the city, the cost shall include payment for the animal's maintenance while in custody, and may include an immunization fee of any animal for rabies.
(Prior Code, § 10.11) (Ord. 107, 2nd Series, eff. 7-29-1998)

§ 93.15 *(formerly 93.31)* **RELEASE FROM IMPOUNDMENT.**

Dogs or cats shall be released to their owners or persons previously in possession of the dog or cat as follows:

(A) *Resident owner.* After showing proof of purchase of city dog or cat license, proof of inoculation for rabies and payment of all impounding fees, costs, charges and any fines which have occurred up to the time of release; or

(B) *Non-resident owner.* After proof of inoculation for rabies, and payment of all impounding fees, costs, charges and any fines which have occurred up to the time of release.
(Prior Code, § 10.11)

§ 93.16 HABITUAL BARKING AND NOISE.

(A) It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises. A barking dog shall not constitute a violation of this division if, at the time that the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon the private property upon which the dog is situated or when the dog is teased or provoked. An owner shall be advised in writing or verbally by a city enforcement official that a complaint has been filed charging a violation of this division and ordering that the violation be abated immediately. If the animal continues to disturb the peace and quiet of the city beyond the five days provided in the notice or if there is a reoccurrence of the noise complained of at any time within six months of the date of notice, a citation shall be issued charging the owner of the animal with a violation of this division. No person shall be convicted under the provision, except upon the evidence of two or more persons, each of a different household or upon the evidence of an

enforcement official from the city. If the owner of the animal cannot be located, the enforcement official shall have the right to remove the animal at his or her discretion.

§ 93.17 *(formerly 93.35)* REMOVAL OF NUISANCE WHEN OWNER NOT FOUND.

A peace officer or Animal Control Authority who witnesses a continual nuisance of a barking dog or excessively noisy cat, and the owner cannot be located within a reasonable time, may remove and temporarily shelter and care for the dog or cat in order to abate the nuisance. The peace officer or Animal Control Authority may remove only cats and dogs that are kept outside the owner's residence and, in doing so, the peace officer or Animal Control Authority may enter upon the owner's property for the purpose of seizing the animal. In all cases, the owner, if known, shall immediately be notified and the person having possession of the animal shall have a lien thereon for its actual cost of care in keeping and expenses of notice.
(Prior Code, § 10.11) (Ord. 111, 2nd Series, eff. 12-15-1998)

§ 93.18 *(formerly 93.38)* DISEASED DOGS AND CATS.

It is unlawful for any person having custody or control of any diseased dog or cat to keep or allow the dog or cat to suffer unless the dog or cat is under the care of a veterinarian.
(Prior Code, § 10.11) Penalty, see § 93.99

§ 93.19 *(formerly 93.39)* QUARANTINE OF DOGS OR CATS.

Whenever any dog or cat has bitten any person, the owner shall immediately quarantine it at home or at some other suitable place within the city, as directed by the City Health Officer, or other designated officer, for a period of ten days and report the bite to the Animal Control Authority. During the quarantine period, the animal shall be securely confined within the building so as to prevent it from contact with other persons or animals. Failure to comply with the quarantine requirements herein shall subject the animal to impoundment under the authority of the Animal Control Authority or city police at the owner's expense. At the end of the ten-day quarantine period, the animal may be released if a licensed veterinarian determines that it is not rabid. If the animal is determined to be rabid, it shall be destroyed humanely after completion of necessary medical procedures.
(Prior Code, § 10.11)

UNLAWFUL ACTS RELATING TO ANIMALS

§ 93.25 UNLAWFUL ACTS RELATING TO ANIMALS.

(A) It is unlawful for any person to keep any animal, not in transit, in any part of the city not zoned for agricultural purposes, except for domestic pets (dogs, cats, parakeets, aquarium fish, and the like).

(B) It is unlawful for any person to keep domestic fowl, such as ducks, geese, turkeys, chickens, guinea hens, etc. or wild fowl, such as doves, pigeons, pheasants, peacocks, etc. in any part of the city not zoned for agricultural purposes; and in the A-O Zoning District, only in limited quantities and not as a commercial hatchery, feeding, finishing or egg operation.

(C) It is unlawful for any person to sell baby chicks, or sell, offer for sale, barter, give away or be in possession of any artificially colored animals or fowl.

(D) It is unlawful for any person to keep mammals, such as cattle, buffalo, elk, pigs, pot-bellied pigs, sheep, goats, llama, alpaca, etc. in any part of the city not zoned for agricultural purposes; and in the A-O Zoning District, only in limited numbers and not as a commercial calving or farrowing, feeding or finishing operation.

(E) It is unlawful for any person to keep horses, ponies, mules, or donkeys in any part of the city not zoned for agricultural purposes.

(F) It is unlawful for any person to keep predators or any animals classified as exotic, wild or dangerous, such as skunks, foxes, coyotes, raccoons, minks, weasels, ostriches, emus, snakes, reptiles, lizards, lions, tigers, cougars, leopards, cheetahs, bears, lemurs, monkeys, chimpanzees, gorillas, etc., except after proper licensing with the United Sates Department of Agriculture and/or registration with the City (depending upon the specific animal), and then only in accordance with all applicable city, state and federal regulations. (See Sections 93.30 through 93.33; Minnesota Statutes Section 346.155 "Possessing Regulated Animals", as amended from time to time; and applicable federal regulations.)

(G) It is unlawful for any person to keep or allow to be kept any hive or other facility for the housing of honey bees.

(H) It is unlawful for any person to harbor or keep any stray animal. Animals known to be strays shall be immediately reported to the Police Department.

(I) It is unlawful for any person to suffer or permit animals to run at large in the streets or public places, or to be herded or driven thereon, unless each animal is confined within a vehicle or restrained by means of bridles, halters, ropes or other means of individual restraint. It is also unlawful for any person to permit any animal under his or her care, custody or control to be left standing unattended in any street or public place, whether leashed or unleashed.

(J) It is unlawful for any person to herd, ride or drive any animal over and upon any grass, turf, boulevard, city park, cemetery, garden or lot without specific permission therefor from the owner.

(K) It is unlawful for any person to attach any animal under his or her care, custody or control to any tree, shrub or other planting, or to any post or pole in any street or public place.

(L) It is unlawful for the owner, caretaker or attendant of any animal to allow it to defecate on public or private property other than his or her own, or to permit any accumulation thereof on his or her own property. If the animal does defecate on public or private property other than his or her own, it shall not be a violation of this provision if the owner, caretaker or attendant shall immediately and thoroughly clean the fecal material from the property, and properly dispose thereof.

(M) It is unlawful for any person to keep any animals in any structure infested by rodents, vermin, flies or insects.

(N) It is unlawful for any person to abuse, neglect, or treat any animal in a cruel or inhumane manner.

(O) It is unlawful for any person, not acting under instructions from the owner or the city, to willfully or maliciously administer or cause to be administered poison of any sort

whatsoever to any animal, with the intent to injure or destroy the animal, or to willfully or maliciously place any poison or poisoned food where the same is accessible to any animal.

(P) It is unlawful for any person to abandon an animal owned by him or her.

(Q) It is unlawful for any person to give any false information or statement concerning the owner, keeper or attendant of any animal, or concerning any animal brought into the animal shelter or impounded therein.

REMOVAL OF ANIMALS

§ 93.26 *(formerly 93.07)* REMOVING ANIMALS SUBJECT TO CRUEL, INHUMANE TREATMENT; DUTY OF OFFICERS.

(A) Any peace officer or Animal Control Authority may remove, shelter and care for any animal which has been found to be treated in a cruel and inhumane manner or which is not properly sheltered from cold, heat or inclement weather or any animal not properly fed or watered or provided with suitable food and drink in circumstances that threaten the life of the animal.

(B) When necessary, a peace officer or Animal Control Authority may deliver the animal to another person to be sheltered and cared for and furnished with suitable food and drink.

(C) In all cases, the owner, if known, shall be immediately notified as provided in M.S. § 343.235(3), as amended from time to time, which is incorporated by reference, and the person having possession of the animal shall have a lien thereon for its actual cost of care in keeping and the expenses of notice.
(Prior Code, § 10.12) (Ord. 111, 2nd Series, eff. 12-15-1998)

WILD AND EXOTIC ANIMALS

§ 93.30 LICENSE AND REGISTRATION REQUIRED FOR WILD AND EXOTIC ANIMALS

(A) It is unlawful for any person to keep or maintain any wild or exotic animal without a license therefor from the United States Department of Agriculture (USDA), compliance with the USDA regulations and standards, registration with the local Animal Control Authority, and other requirements as set forth in M.S. § 346.155, as amended from time to time, which is incorporated by reference.

(B) Any wild or exotic animals not covered by M.S. § 346.155, as amended from time to time, shall be subject to special permitting by the City. A permit may be issued for the keeping of no more than two wild or exotic animals at any single location. No permit for such animal(s) shall be issued for a period exceeding one year and the permit shall specify the conditions under which the animal shall be kept. These animals shall also be subject to all regulations, standards, and procedures provided for by the United States Department of Agriculture and also as set forth in M.S. § 346.155, as amended from time to time.

(C) The Chief of Police shall issue a special permit for the purpose of keeping or maintaining a wild or exotic animal, pursuant to Section 93.30(B), if it is found that:

(1) The animal is, at all times, kept or maintained in a safe manner and confined securely so that the keeping of the animal will not constitute the danger to human life or property of others;

(2) Adequate safeguards are made to prevent unauthorized access to the animals by members of the public;

(3) The health or well-being of the animal is not, in any way, endangered by the manner of keeping or confinement;

(4) The keeping of the animal does not constitute a nuisance and will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood;

(5) The keeping of the animal will not create or cause offensive odors or constitute a danger to public health;

(6) The quarters in which the animal is kept or confined are adequately lighted, ventilated and are so constructed that they may be kept in a clean and sanitary condition;

(7) A sign is prominently displayed on the structure where the animal is housed indicating that a wild or exotic animal is on the premises; and

(8) The applicant for the special permit proves his or her ability to respond to damages to and including the amount of at least $300,000 for bodily injury to or death of any person or persons or for the damage to property owned by any other persons which may result from the ownership, keeping or maintenance of the animal. Proof of liability to respond to damages may be given by filing with the Chief of Police of a certificate of insurance stating that the applicant is, at the time of his or her application, and will be during the period of the special permit, insured against liability to respond to the damages, or by posting with the City a surety bond, approved by the City Attorney, in the amount of at least $300,000 conditioned upon the payment of the damages during the period of the special permit. The certificate of insurance or bond shall provide that no cancellation of the insurance or bond will be made unless ten days' written notice is first given to the City's Police Department.

(D) A person may not move a wild or exotic animal from its location unless the person notifies the City's Police Department in writing prior to moving the animal. The notification must include the date and the location where the animal is to be moved, unless the animal is being transported to a licensed veterinarian.

(E) A person who possesses a wild or exotic animal must notify the City's Police Department in writing within ten days of a change in address or location where the wild or exotic animal is kept. The notification of change in address or location shall be made on the form prepared by the Minnesota Animal Control Association and approved by the Board of Animal Health.

(F) A person who possesses a wild or exotic animal must notify local law enforcement officials as soon as possible of any escape of the animal. The person who possesses the wild or exotic animal is liable for any costs incurred by any person, city, county, or state agency resulting from the escape of the wild or exotic animal unless the escape is due to a criminal act by another person or a natural event.

§ 93.31 INVESTIGATION PERIOD.

The Chief of Police, in investigating any applicant for a permit for a wild or exotic animal (pursuant to Section 93.30(C) or any enforcement of this subchapter, is authorized to consult with and seek the advice of the United States Department of Agriculture, Department of Natural Resources, Minnesota Animal Control Association, Board of Animal Health, Society for the Prevention of Cruelty to Animals, the Humane Society, any

representative of the Animal Control Center of the county, if there be one, or any other individual, agency, organization or society which may be able to provide information and advice concerning the keeping of wild or exotic animals.

§ 93.32 SITE INSPECTION FEES AND PERMIT FEE FOR WILD OR EXOTIC ANIMALS.

A fee of up to $50 may be charged for an initial site inspection by the Animal Control Authority. Upon compliance with all provisions of Sections 93.30(B) and (C) and 93.31, a permit shall be issued for an annual fee as established, and may from time to time be amended, by resolution of the Council; provided that, the permit shall not be issued for the keeping of more than two wild or exotic animals [Section 93.30(B)] at any single location. Additional site inspection fees may be charged as set forth in M.S. § 346.155, as amended from time to time.

§ 93.33 EXCEPTION.

The provisions of this chapter shall not apply to the keeping of wild or exotic animals in the following cases:

(A) The keeping of an animal for exhibition to the public by a traveling circus, carnival or other exhibit or show holding a permit issued by the Commissioner of Natural Resources pursuant to M.S. § 97A.041and Minnesota Rule 6244 ("Captive Wildlife"), as amended from time to time.

(B) The keeping of animals in a licensed veterinary hospital for treatment; and/or

(C) Dangerous or poisonous reptiles may be maintained by a bona fide educational or medical institution for the purpose of instruction or study; provided, the reptiles are securely confined and are properly cared for pursuant to standards and regulations of the United States Department of Agriculture and standards and regulations set forth in M.S. § 346.155, as amended from time to time, and in a manner satisfactory to the Chief of Police.

DANGEROUS ANIMALS

§ 93.35 DANGEROUS ANIMALS.

(A) *Definitions.* For the purpose of Chapter 93, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL CONTROL AUTHORITY. An agency of the county or city which is responsible for animal control operations in its jurisdiction.

DANGEROUS ANIMAL. An animal which has:

(1) Caused bodily injury or disfigurement to any person on public or private property;

(2) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;

(3) Exhibited unusually aggressive behavior, such as an attack on another animal;

(4) Bitten one or more persons on two or more occasions; or

(5) Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bites, attacks or endangers the safety of humans or domestic animals.

OWNER. Any person who owns, harbors, feeds, boards, keeps or otherwise possesses an animal, and who is the head of the household of the residence, or the owner or manager in charge of the establishment or premises at which an animal remains, or to which it returns.
(Prior Code, § 10.12)

POTENTIALLY DANGEROUS ANIMAL. An animal which has:

(1) When unprovoked, bitten a human or a domestic animal on public or private property;

(2) When unprovoked, chased or approached a person upon the streets, sidewalks or any public property in an apparent attitude of attack; or

(3) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

PROPER ENCLOSURE. Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal 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 animal 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 barriers which prevent the animal from exiting. The ***ENCLOSURE*** shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

(1) Have a minimum overall floor size of 32 square feet;

(2) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, and support posts shall be 11-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground;

(3) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches; 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 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.

UNPROVOKED. The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

(B) *Attacks by Animals.*

(1) *Attack by an Animal.* It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This division shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

(2) *Stopping an attack.* If any police officer or Animal Control Authority is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

(C) *Dangerous Dogs - Designation.*

(1) *Designation.* The Animal Control Authority shall designate any dog as a dangerous dog upon receiving evidence that the dog meets any of the criteria of a "dangerous
animal" as set forth in Section 93.35(A) of this Ordinance.

(2) *Notice.*

a. 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. Service upon any owner shall be effective as to all owners. The notice shall include a description of the dog and shall state the dates, times, places and facts of the incidents which form the basis for the determination.

b. The Notice shall also set forth the registration requirements and other restrictions imposed upon a dangerous dog under this Ordinance and Minnesota Statutes Chapter 347.

c. 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.

d. 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 set forth in the Notice.

(3) *Hearing.* 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 not more than fourteen (14) days after the Animal Control Authority is notified of the owner's request for a hearing. Any dog owner who requests such a hearing is liable to the City for all costs and expenses related to the hearing. 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.

a. 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.

b. *Burden of Proof.* 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.

c. After considering all evidence pertaining to the dog, the hearing officer shall make such orders 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.

d. 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.

e. *Authority to Order Destruction.* The hearing officer, upon a 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:

(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.

The owner or person claiming an interest in the dog is liable for all actual costs of seizure, care, and disposal of the dog.

f. *Release Upon Conditions.* The hearing officer, upon a finding that a dog is dangerous hereunder and a further finding that the owner has the ability and willingness to ensure that the appropriate safeguards are implemented to ensure the safety of persons and other domestic animals, is authorized to order release of the dog to the owner after the following requirements have been met:

(i) Upon inspection by the Animal Control Authority, all requirements for registration of a dangerous dog as set forth in this ordinance have been met.

(ii) All actual costs of seizure and care of the dog have been paid in full or a mutually satisfactory arrangement for payment has been made between the City and the owner or person claiming an interest in the dog before the dog is returned to the person.

(4) *Review of Designation.* Beginning one year after a dog is declared a dangerous dog, an owner may request annually that the Animal Control Authority review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, sterilization, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the Animal Control Authority finds sufficient evidence that the dog's behavior has changed, the Authority may rescind the dangerous dog designation.

(D) *Dangerous Dogs – Registration.*

(1) *Registration.* No person may own or possess a dangerous dog unless the dog is registered as provided in this Ordinance. All dogs deemed dangerous by the Animal Control Authority shall be registered as a dangerous dog with the Animal Control Authority within fourteen (14) days after the date the dog was so deemed.

(2) *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:

a. The owner provides and maintains a proper enclosure for the dangerous dog as defined in Section 93.35(A) of this Ordinance; and

b. 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; and

c. If the dangerous dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration; and

d. An identification microchip was implanted in the dog as required under Minnesota Statutes Section 347.515; and

e. The dog must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times; and

f. The owner provides, and annually shows proof of, public liability insurance prepaid in full in the minimum amount of $300,000.00; and

g. The dog must have a lifetime license, if required, and must be up to date on all vaccinations including rabies; and

h. The owner has paid an annual fee of not more than $500, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this Ordinance; and

i. An owner of a dangerous dog must renew the registration of the dog annually until the dog is deceased.

(3) *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, have been complied with. The owner must pay the City for all costs incurred in the seizure and care of the dog prior to its return.

(4) *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, within fourteen (14) days of the death or relocation. The notification shall include the current owner's name and address, the circumstances surrounding the death and disposition, or the complete name, address, and telephone number of the person to whom the dog was transferred. 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.

(5) *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 to inspect to ensure compliance with the provisions of this Ordinance. The failure of an owner to permit such inspection is, by itself, a ground to immediately seize the dog pursuant to Section 93.35(F) of this Ordinance and revoke the dangerous dog registration issued pursuant to Section D(2) of this Ordinance.

(E) *Potentially Dangerous Dogs – Designation.*

(1) *Designation.* The Animal Control Authority shall designate any dog as a potentially dangerous dog upon receiving evidence that the dog meets any of the criteria of a "potentially dangerous animal" as set forth in Section 93.35(A) of this Ordinance.

(2) *Notice.*

a. Upon a designation that a dog is potentially dangerous, the Animal Control Authority shall provide a written Notice of Potentially Dangerous Dog to the owner of record. Service upon any owner shall be effective as to all owners. The notice shall include a description of the dog and shall state the dates, times, places and facts of the incidents which form the basis for the determination.

(F) *Confiscation.*

(1) *Seizure.* The Animal Control Authority shall immediately seize any dangerous dog if:

a. After fourteen (14) days after the owner has notice that the dog is dangerous, the dog is not validly registered under this Ordinance or applicable state law; or

b. After fourteen (14) days after the owner has notice that the dog is dangerous, the owner has not secured and provided proof of the proper liability insurance or surety coverage as required under this Ordinance; or

c. The dog is not maintained in a proper enclosure as defined in Section 93.35(A) of this Ordinance; or

d. The dog is outside the property enclosure and is not properly leashed and muzzled and under the proper physical restraint of a responsible person as required under this Ordinance or any applicable state law; or

e. 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 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 fourteen (14) days of service of such written notice, has refused or failed to achieve satisfactory compliance; or

f. The Animal Control Authority has reason to believe the dog is dangerous or potentially dangerous dog and is kept or maintained under conditions or circumstances creating an unacceptable risk for harm to persons or other domesticated animals; or

g. For any other reason authorized by law.

(2) *Reclaiming Dogs.* A dog seized under this Ordinance may be released to the owner of the dog upon payment of fees for seizure and care of the dog, and presentation of proof to the Animal Control Authority that all requirements of this Ordinance and state law have been met or are in the process of being met. If requirements are not met, the dog may be seized. A dog not reclaimed under this subdivision within fourteen (14) days may be disposed of and the owner is liable to the Animal Control Authority for costs incurred in seizure, care and disposal of the dog.

(3) *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 hearing officer may order that the dog be destroyed in a proper and humane manner and the owner pay the costs of seizure, care and disposal of 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 seizure and care of the dog. If the dog is not reclaimed by the owner within fourteen (14) days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of by the Authority. The owner is liable to the Animal Control Authority for the costs incurred in seizure, care and disposal of the dog.

§ 93.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person who shall violate any provisions of §§ 93.02 through 93.05, §§ 93.08 through 93.15, or §§ 93.17 through 93.19 shall be liable for civil fines as established by resolution of the City Council from time to time, together with any handling fee and cost of any license for the dog or cat not licensed.

(C) Any person who shall violate any of the provisions of § 93.06 or § 93.25 shall be subject to the provisions of the abatement procedure for nuisances set forth in § 90.07.

(D) Any person who shall violate any of the provisions of §§ 93.30 through 93.33 is guilty of a misdemeanor.

(E) Any person who shall violate any of the provisions of § 93.35 shall be subject to the penalties set forth in said Section and also shall be subject to the penalties set forth in M.S. § 347.55, as it may be amended from time to time.

* *

THE CITY COUNCIL OF THE CITY OF WINDOM, MINNESOTA, FURTHER ORDAINS:

This ordinance, or an approved Title and Summary of this ordinance, shall be published in the COTTONWOOD COUNTY CITIZEN and this ordinance shall be effective immediately upon publication.

ADOPTED AND PASSED by the City Council of the City of Windom, Minnesota, this 12th day of October, 2015.

_____
Corey Maricle, Mayor

ATTEST:

_____
Steven Nasby, City Administrator/Clerk-Treasurer

1st Reading: September 15, 2015
2nd Reading: October 12, 2015
Adoption: October 12, 2015
Published: October 21, 2015

ORDINANCE NO. 153, 2ND SERIES

AN ORDINANCE OF THE CITY OF WINDOM, MINNESOTA,
AMENDING CITY CODE SECTION 33.12

THE CITY COUNCIL OF THE CITY OF WINDOM ORDAINS:

WHEREAS, the City Council adopted Ordinance No. 143, 2ND Series on August 20, 2013, (effective date August 28, 2013) which Ordinance added "Section 33.12 Nuisance Board" to the City Code for the City of Windom; and

WHEREAS, the City Council has adopted administrative fees for the Nuisance Board by resolution; and

WHEREAS, it is necessary to add two subsections to Section 33.12 to clarify timing of payment of administrative fees and assessments for non-payment of those fees; and

WHEREAS, it is in the best interests of the citizens of Windom that Section 33.12 be amended as set forth herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WINDOM, MINNESOTA, ORDAINS:

THE CITY CODE OF THE CITY OF WINDOM IS HEREBY AMENDED BY ADDING THE FOLLOWING SUBSECTIONS TO SECTION 33.12 "NUISANCE BOARD":

§ 33.12 NUISANCE BOARD

(E) *Administrative Fees:* Any real estate owner who requests a hearing before the Nuisance Board shall be responsible for payment of administrative fees. The amount of these fees shall be established by resolution of the Council as adopted from time to time. These fees shall be payable to the Office of the City Administrator prior to the date of the scheduled Nuisance Board hearing. These administrative fees shall be in addition to any amounts billed by the City for any subsequent required abatement and associated administrative fees as set forth in § 90.07(D).

(F) *Assessment*: If the real estate owner fails to pay the administrative fees as set forth in § 33.12(E), then after notice and hearing as provided by Minnesota Statutes § 429.061, as it may be amended from time to time, the City Administrator shall, on or before December 31 next following the hearing date, certify to the County Auditor, as special assessments, the total unpaid administrative fees against each separate lot or parcel to which the charges are attributable. The special assessments levied under this section shall be payable with real estate tax installment(s) the following year.

* *

THE CITY COUNCIL OF THE CITY OF WINDOM, MINNESOTA, FURTHER ORDAINS:

This ordinance shall be published in the COTTONWOOD COUNTY CITIZEN and this ordinance shall be effective immediately upon publication.

ADOPTED AND PASSED by the City Council of the City of Windom, Minnesota, this 12th day of October, 2015.

_____
Corey Maricle, Mayor

ATTEST:

_____
Steven Nasby, City Administrator/Clerk-Treasurer

1st Reading: September 15, 2015
2nd Reading: October 12, 2015
Adoption: October 12, 2015
Published: October 21, 2015

TITLE AND SUMMARY
OF
ORDINANCE NO. 151, 2ND SERIES

AN ORDINANCE OF THE CITY OF WINDOM, MINNESOTA, AMENDING CITY CODE CHAPTER 90 ENTITLED "NUISANCES; HEALTH AND SAFETY"

THE CITY COUNCIL OF THE CITY OF WINDOM, MINNESOTA, DOES ORDAIN: TO AMEND CHAPTER 90 BY REMOVING THE EXISTING CHAPTER AND REPLACING IT WITH AN UPDATED CHAPTER 90.

The following is a summary of the deletions and amendments to Chapter 90:

CHAPTER 90: "NUISANCES; HEALTH AND SAFETY"

Section 90.02 "Public Nuisances Affecting Health":

(B) Unlawful acts relating to animals – Revised and incorporated into Chapter 93 "Animals".

(D) – Word added.

(H)(5) - Search warrant deleted and assessment language added.

(I)(b), (c), and (d) – New language incorporated regarding tree diseases.

(I)(2) – Word corrected.

Section 90.04 "Public Nuisances Affecting Peace and Safety":

(J) – Items added.

Section 90.20 "Excessive Noise" – "General Prohibition":

(B) – Correction made in the wording.

Section 90.55 "Inoperable, Unlicensed, Junk Vehicles"

(B) (1) – Wording deleted that was inadvertently included.

Sections 90.59 "Assault", 90.60 "Window Peeping" and 90.61 "Ambulance Service Interference":

Sections removed as these are criminal offenses and charged under Minnesota Statutes, etc.

Section 90.99 "Penalty":

(C) – Deleted sections were removed.

All other provisions of Chapter 90, as codified in Ordinance No. 138, 2nd Series adopted on October 16, 2012, shall remain in full force and effect.

NOTICE: A COPY OF THE ENTIRE TEXT OF ORDINANCE NO. 151, 2ND SERIES AND A COPY OF THE ENTIRE CHAPTER 90 "NUISANCES; HEALTH AND SAFETY" (as incorporated into Ordinance No. 151, 2nd Series) ARE AVAILABLE ON THE CITY'S WEBSITE AT www.windom-mn.com OR PRINTED COPIES ARE AVAILABLE FOR INSPECTION BY ANY PERSON AT:

Building & Zoning Office
Windom City Hall

444 9th Street
Windom, MN 56101

During regular office hours (Monday through Friday from 8:00 a.m. to 5:00 p.m.)

AND AT: Windom Public Library
904 4th Avenue
Windom, MN 56101

During regular library hours: Monday – 9:00 a.m. to 7:00 p.m.
Tuesday through Friday – 9:00 a.m. to 5:30 p.m.
Saturday – 9:00 a.m. to 1:00 p.m.

ORDINANCE NO. 151, 2ND SERIES:

1st Reading: Windom City Council Meeting – September 15, 2015
2nd Reading: Windom City Council Meeting – October 12, 2015
Adoption: October 12, 2015
Publication: October 21, 2015
Effective Date: October 21, 2015

This "Title and Summary" approved for publication by the Windom City Council on October 12, 2015.

CITY OF WINDOM
By Corey Maricle, Mayor

Attest: Steven Nasby, City Administrator

TITLE AND SUMMARY
OF
ORDINANCE NO. 152, 2ND SERIES

AN ORDINANCE OF THE CITY OF WINDOM, MINNESOTA, AMENDING CITY CODE CHAPTER 93 ENTITLED "ANIMALS"

THE CITY COUNCIL OF THE CITY OF WINDOM, MINNESOTA, DOES ORDAIN: TO AMEND CHAPTER 93 BY REMOVING THE EXISTING CHAPTER AND REPLACING IT WITH AN UPDATED CHAPTER 93.

The following is a summary of the additions, deletions and amendments to Chapter 93:

CHAPTER 93: "ANIMALS"

The order of existing sections was changed to place the most commonly-used sections at the beginning of the Chapter (such as licensing, impoundment, etc.).

Section 93.01 "Definitions":

Some definitions have been expanded.

New Section 93.16 "Habitual Barking and Noise":

This section was transferred to Chapter 93 from Chapter 90.

Section 93.25 "Unlawful Acts Relating to Animals":

This section incorporates provisions from both Chapters 90 and 93. Subsections (A), (B), (D), (E), (F) and (N) have been modified.

Sections 93.30 through 93.33 "Wild and Exotic Animals":

These sections were updated to include certain requirements from the Minnesota Statutes while maintaining the basic format from Chapter 93.

Section 93.35 "Dangerous Animals":

Some language has been transferred from Chapter 90 and updated. The wording "Animal Control Officer" was changed to "Animal Control Authority".

Section 93.99 "Penalty":

This section has been updated.

All other provisions of Chapter 93, as codified in Ordinance No. 138, 2nd Series adopted on October 16, 2012, shall remain in full force and effect.

NOTICE: A COPY OF THE ENTIRE TEXT OF ORDINANCE NO. 152, 2ND SERIES AND A COPY OF THE ENTIRE CHAPTER 93 "ANIMALS" (as incorporated into Ordinance No. 152, 2nd Series) ARE AVAILABLE ON THE CITY'S WEBSITE AT www.windom-mn.com OR PRINTED COPIES ARE AVAILABLE FOR INSPECTION BY ANY PERSON AT:

Building & Zoning Office
Windom City Hall
444 9th Street
Windom, MN 56101

During regular office hours (Monday through Friday from 8:00 a.m. to 5:00 p.m.)

AND AT: Windom Public Library
904 4th Avenue
Windom, MN 56101

During regular library hours: Monday – 9:00 a.m. to 7:00 p.m.
Tuesday through Friday – 9:00 a.m. to 5:30 p.m.
Saturday – 9:00 a.m. to 1:00 p.m.

- -

ORDINANCE NO. 152, 2ND SERIES:

1st Reading: Windom City Council Meeting – September 15, 2015
2nd Reading: Windom City Council Meeting – October 12, 2015
Adoption: October 12, 2015
Publication: October 21, 2015
Effective Date: October 21, 2015

This "Title and Summary" approved for publication by the Windom City Council on October 12, 2015.

CITY OF WINDOM
By Corey Maricle, Mayor

Attest: Steven Nasby, City Administrator