

Memo

From: Adrianna Hennen, Clerk-Treasurer

To: Freeport City Council

Date: 12/21/15

Re: SunShare

Last month, Kyle from SunShare, was supposed to present to us. He had gotten sick that day and had called me to let me know after I had already left the office. I thought we could give him one more chance. He will be going over the information I had included in our packet last month. It was rather lengthy so I'm not going to include it again. If you would like a copy of the information again, let me know or stop in and I'll get you a copy.

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Re: Dog Boarding

We started the conversation last month regarding dog boarding. I talked to our land use advisor and a couple of other cities shared their codes with me. If council chooses to allow dog boarding here are a few items that should be considered:

1. Allowing it as a Conditional Use in Industrial zoned areas.
2. Can only board small animals (i.e. cats, dogs)
3. All aspects of the facility are totally contained (including kennel runs) with a sound-controlled building.
4. A ventilation or exhaust system is installed to control or remove emissions or odors generated by such use. Such system shall be designed to prevent the migration of emissions or odors to other parts of the building and/or external to the facility.
5. At no time shall any animal be left unsupervised while outdoors. Outdoor exercise shall be conducted so as not to unreasonably annoy, injure, or endanger the health, safety, comfort, or welfare of the public. Animals being exercised shall at all times be on a leash or be contained by a sufficient height fence to prevent escape and shall be buried as part of installation to prevent escape by digging beneath the fence posts.
6. All animal waste shall be immediately disposed of in proper fashion.
7. All animal facilities comply with the Minnesota Pet and Companion Animal Welfare Act (MN Statutes 346.35-346.44) (see attached Statutes).
8. A maximum number of animals should be set for such facilities (i.e. can board no more than 10 animals at any given time).
9. Adequate storage and refrigeration shall be provided to protect food supplies against contamination and deterioration.
10. No animal breeding allowed

Below is some information that was graciously provided to me by the City of Melrose, since they are having the same discussion regarding dog boarding that we are. It briefly states how a few other cities regulate dog boarding.

City of Albany

Kennel - Place where more than 3 dogs over 6 months of age are kept. No kennels are permitted within City limits.

City of Alexandria

Kennel – Person, partnership or corporation in the business of breeding, buying, selling or boarding dogs, cats or other domesticated animals or pets more than 3 over 6 months of age. Allowed by CUP in Ag-Open Space, Residential-Vacant Agricultural of 40 acres, Residential Low Density of 10 acres, General Business District where there is to be an outdoor exercise or other outdoor activity area provided. Permitted use in Business 1 or 2 provided there is no outdoor activity.

City of Cold Spring

Kennel – Structure or premises with 5 or more domestic animals over 4 months old are kept.
Permitted uses in Commercial 2, 3 and Industrial-1.

City of Sauk Centre

Kennel – Keeping of 3 or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept.
CUP or Interim Use in C-2 and permitted use in I/C

City of Sartell

Animal hospitals and kennels not allowed in I-1 or I-2

City of St. Joseph

CUP in Ag District

***This topic came up in conversation at the EDA meeting. With a unanimous vote (5-0) the EDA is recommending that Council does not move forward with allowing dog boarding facilities in the Industrial park, or anywhere in town. They think it would have an adverse effect on selling the remaining lots if one was located in the industrial park and would disrupt any current surrounding business and/or residential.

Current Kennel Ordinance

- 500.23 Agriculture
 - Subd. 4
 - 4. Kennels and animal hospitals, fur farming, stables and riding academies provided containing such use is adequate and is adequately separated from residential, commercial, and industrial districts.

910.11 Kennels

Subd.1 Definition

The keeping of five or more dogs or cats on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a "kennel;" except that a fresh litter of pups or kittens may be kept for a period of three months before such keeping shall be deemed to be a "kennel."

Subd.2 Kennels as a Nuisance

Because the keeping of five or more dogs or cats on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of five or more dogs or cats on the premises is hereby declared to be a nuisance and no person shall keep or maintain a commercial kennel within the City limits.

910.13 Nuisances

Subd.1 Habitual Barking

It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries.

Subd.2 Damage to Property

It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.

Subd.3 Cleaning-up Litter

The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner whether on their own property, on the property of others or on public property.

Subd.4 Other

Any animals kept contrary to this Ordinance are subject to impoundment.

910.13 Seizure of Animals

1. Any City Animal Control officer or peace officer may enter upon private property and seize any animal provided that following exist:
2. There is an identified complainant other than the peace officer making a contemporaneous complaint about the animal;

3. The officer reasonably believes that the animal meets either the barking dog criteria set out in 910.13, Subd.1; the criteria for cruelty set out in 910.15, Subd.10; or the criteria for an animal at large set out in 910.01, Subd.8;
4. The officer can demonstrate that there has been at least one previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;
5. The officer has made a reasonable attempt to contact the owner of the property and those attempts have either failed or have been ignored;
6. The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other authorized person to have such key shall not be considered unauthorized entry; and
7. Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

910.15 Animals Presenting a Danger to Health and Safety of City

If, in the reasonable belief of any peace officer or the City Animal Control Officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the officer may destroy the animal in a proper and humane manner. Otherwise the peace officer or City Animal Control Officer may apprehend the animal and deliver it to the Animal Shelter for confinement under 910.09. If the animal is destroyed, a charge of seventy-five dollars (\$75.00) to dispose of the animal is payable by the owner of the animal. If the animal is found not to be a danger to the health and safety of the City, it may be released to the owner or keeper in accordance with 910.09, Subd.3.

Subd.1 Diseased Animals

1. **Running at Large.** No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the City, any animal which is diseased so as to be a danger to the health and safety of the City, even though the animal is properly licensed under this Ordinance.
2. **Confinement.** Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in an Animal Shelter by any peace officer or the Animal Control Officer. The City Animal Control Officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in such a manner so as to be a danger to the health and safety of the City, the City Animal Officer shall cause such animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this Section shall be responsible for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.
3. **Release.** If the animal, upon examination, is not found to be diseased within the meaning of this Section, the animal shall be released to the owner or keeper free of charge.

Subd.2 Dangerous 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 section 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. **Destruction of Dangerous Animal.** The City Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this ordinance.
3. **Dangerous Animal.** An animal which has:
 - a. Caused bodily injury or disfigurement to any person on public or private property; or
 - b. Engaged in any attack on any person under circumstances which would indicate danger to personal safety; or
 - c. Exhibited unusually aggressive behavior, such as an attack on another animal; or
 - d. Bitten one (1) or more persons on two (2) or more occasions; or
 - e. 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.
4. **Potentially Dangerous Animal.** An animal which has:
 - a. Bitten a human or a domestic animal on public or private property; or
 - b. When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
 - c. Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.
5. **Proper enclosure.** Proper enclosure means 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:
6. **Unprovoked.** Unprovoked shall mean the condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

Subd.3 Designation as Potentially Dangerous Animal

The City Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or a domestic animal as stated in Subd.2, Paragraph 4. When an animal is declared potentially dangerous, the City Animal Control Officer shall cause one (1) owner of the potentially dangerous animal to be notified in writing that such animal is potentially dangerous.

Subd.4 Evidence Justifying Designation

The City Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

1. That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in Subd.2, Paragraph 4.
2. That the animal has been declared potentially dangerous and such animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in Subd.2, Paragraph 4.

Subd.5 Authority to Order Destruction

The City Animal Control Officer, upon finding that an animal is dangerous, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one (1) or more of the following findings of fact:

1. The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or
2. The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

Subd.6 Procedure

The City Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner:

1. The City Animal Control Officer shall cause one (1) owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make such orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given fourteen (14) days to appeal this order by requesting a hearing before the City Council for a review of this determination.
2. If no appeal is filed, the orders issued will stand or the City Animal Control Officer may order the animal destroyed.
3. If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than three (3) weeks after demand for the hearing. The records of the City Animal Control Officer or city clerk's office shall be admissible for consideration by the City Council without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the City Animal Control Officer take the animal into custody for destruction, if such animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the animal control officer.
4. No person shall harbor an animal after it has been found by the city animal control officer to be dangerous and ordered into custody for destruction.

Subd.7 Stopping an Attack

If any peace officer 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.

Subd.8 Notification of New Address

The owner of an animal which has been identified as dangerous or potentially dangerous must notify the City Clerk-Treasurer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification must be given in writing at least fourteen (14) days prior to the relocation or transfer of ownership. The notification must include the current owner's name and address, the relocation address, and the name of the new owner, if any.

Subd.9 Dangerous Animal Requirements

1. If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:
 - a. That the owner provide and maintain a proper enclosure for the dangerous animal as specified in 910.09, Subd.3;

- b. Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in Minnesota Statute 347.51;
 - c. Provide and show proof annually of public liability insurance in the minimum amount of three hundred thousand dollars (\$300,000.00);
 - d. If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six (6) feet in length) and under the physical restraint of a person sixteen (16) years of age or older. The muzzle must be of such 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;
 - e. If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in Minnesota Statute 347.51;
 - f. All animals deemed dangerous by the City Animal Control Officer shall be registered with Stearns County within fourteen (14) days after the date the animal was so deemed and provide satisfactory proof thereof to the City Clerk-Treasurer.
 - g. If the animal is a dog, the dog must be licensed and up to date on rabies vaccination. If the animal is a cat or ferret, it must be up to date with rabies vaccination.
2. **Seizure.** A peace officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within fourteen (14) days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the City and filing it with the district court.
 3. **Reclaiming animals.** A dangerous animal seized under paragraph two (2) above, may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to the City Clerk-Treasurer that each of the requirements under 910.09, Subd.3 above is fulfilled. An animal not reclaimed within fourteen (14) days may be disposed of as provided under 910.09, Subd.5 and the owner is liable to for costs incurred in confining the animal.
 4. **Subsequent offenses.** If an owner of an animal has subsequently violated the provisions under 910.15, Subd.2 with the same animal, the animal must be seized by a peace officer. The owner may request a hearing as defined in 910.15, Subd.6. If the owner is found to have violated the provisions for which the animal was seized, the City Animal Control Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of 910.09 Subd.3. If the animal is not reclaimed by the owner within fourteen (14) days after the date of impound the owner is notified that the animal may be disposed of as provided under 910.09, Subd.5. The owner is also liable for the costs incurred in confining, impounding, and disposing of the animal.

Subd.10 Basic Care

All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in such a humane manner will be subject to the penalties provided in this ordinance.

Subd.11 Breeding Moratorium

Every female dog or female cat in heat shall be confined in a building or other enclosure in such manner that it cannot come in contact with another male dog or cat.

Subd.12 Enforcing Officer

The Council is hereby authorized to appoint an Animal Control officer(s) to enforce the provisions of this Ordinance. The City Animal Control Officer may, with the consent of the Council, designate assistants.

Subd.13 Animal Shelter

The City Council shall designate an official Animal Shelter to which animals found in violation of this ordinance shall be taken for safe treatment, and if necessary, for destruction.

Subd.14 Interference with Officers

No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs, cats or other animals and convey them to the Animal Shelter while engaged in such operation. Nor shall any unauthorized person break open the Animal Shelter, or attempt to do so, or take or attempt to take from the Animal Shelter any animal taken up in compliance with this Chapter, or in any other manner to interfere with or hinder peace officers or the City Animal Control Officer in the discharge of his or her duties under this ordinance.

Subd.15 Violations and Penalties

1. **Separate Offenses.** Each day a violation of this ordinance is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this ordinance.
2. **Misdemeanor.** Unless otherwise provided, violation of this ordinance shall constitute a misdemeanor.
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Minnesota Laws and Rules
Kennels

Minnesota Statutes

347.31 Definitions.

Subdivision 1. **Terms.** For the purpose of sections 347.31 to 347.40 the terms defined in this section have the meanings given to them.

Subd. 2. **Kennel.** "Kennel" means any place, building, tract of land, abode, or vehicle wherein or whereupon dogs or cats are kept, congregated, or confined, if the dogs or cats were obtained from municipalities, pounds, auctions, or by advertising for unwanted dogs or cats, or dogs or cats strayed, abandoned, or stolen. "Kennel" does not include a pound owned and operated by any political subdivision of the state or a person's home where dogs or cats are kept as pets.

Subd. 3. **Premises.** "Premises" means any building, structure, shelter, or land wherein or whereon dogs or cats are kept or confined.

Subd. 4. **Dealer.** "Dealer" means a public or private agency, person, society, or corporation that is licensed or is required to be licensed as a "Class B dealer" under United States Code, title 7, sections 2131 to 2155, as amended through December 31, 1986, who sells or transfers dogs or cats to institutions or to other dealers who sell or transfer to institutions.

Subd. 5. **Institution.** "Institution" means a school or college of agriculture, veterinary medicine, medicine, pharmacy, dentistry, or other educational or scientific organization properly concerned with the investigation of living organisms, instruction concerning the structure or functions of living organisms, or the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.

347.32 License for kennel or dealer.

No person, firm, or corporation shall establish, maintain, conduct, or operate a kennel or operate as a dealer within this state without first obtaining a license therefor from the board of animal health. The license shall be issued for a term of one year.

347.33 Licensing procedures; inspections; administration.

Subdivision 1. **Application.** The application for a license to operate and maintain a kennel or operate as a dealer shall be made to the Board of Animal Health, in the manner prescribed by rules of the board.

Subd. 2. **Contents.** The application for a license shall be in writing and on a form as the board may by rule provide, and shall set forth: (1) The full name and address of the applicant or applicants, or names and addresses of the partners if the applicant is a partnership, or the names and addresses of the officers if the applicant is a corporation, and the address of the corporation. (2) The legal description or, in its place, the address and specific location of the site, lot, field, or tract of land upon which it is proposed to operate and maintain a kennel.

Subd. 3. **Fees; issuance of license.** The annual license fee is **\$15 for each kennel and \$100 for each dealer licensed**. All license fees collected by the board shall be deposited in the state treasury and credited to the general fund. When application is made to the board, complete in the manner set forth by rule to be issued by the board, and upon payment of the license fee, the license shall be issued by the board if, after inspection of the premises, the board determines that the kennel or dealer complies with sections 347.31 to 347.40 and the rules promulgated pursuant to those sections.

347.34 Licenses required.

It shall be unlawful for any person, firm, or corporation to establish, maintain, conduct, carry on, or operate a kennel or operate as a dealer without first having received a license to maintain, conduct, carry on, and operate a kennel, or operate as a dealer, duly signed and executed in the name of the state of Minnesota and signed by the Board of Animal Health. The license shall be conspicuously displayed upon the licensed premises. All licenses issued under sections 347.31 to 347.40 shall be personal to the licensee and be nontransferable.

347.35 Board of Animal Health authorized to promulgate rules.

The Board of Animal Health shall promulgate rules as it deems necessary for the operation of kennels and dealers and the enforcement of sections 347.31 to 347.40 which shall be in addition to rules established herein. The rules adopted by the board must provide for the cost recovery for the activities of the board with respect to licensing, inspection, and enforcement of civil penalties and must provide for

1 cooperation with the United States Department of Agriculture Animal Plant Health Inspection Service
2 program and for reference of complaints to local enforcement authorities. Rules must include, but are not
3 limited to, requirements governing the care of dogs and cats, minimum conditions, and maintenance of
4 quarters and kennels, the humane treatment of dogs and cats while in the kennels, maintenance of
5 detailed records showing the person from whom any dog or cat aged over three months has been
6 received, and in the case of a dealer, including address, driver's license number or social security
7 number, and to whom it has been transferred, and preservation of the records for a minimum period of
8 two years. The dealer is responsible for making a reasonable attempt to ensure the accuracy of the data
9 collected. A payment from a dealer to a person from whom the dealer buys dogs or cats must be by
10 check, payable only to that person. The check must contain the dealer's name and address.

11 12 **347.36 Advertising.**

13 All advertising by any person, firm, or corporation licensed hereunder shall include the number of the
14 current license issued to such licensee.
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16 **347.37 Public access; notice; inspection; enforcement.**

17 The Board of Animal Health shall cause to be inspected from time to time all kennels and dealers
18 licensed hereunder and all records required by sections 347.31 to 347.40 to be kept by the licensees.
19 Any duly authorized agent of the board, any sheriff, or sheriff's deputy, or police officer, or humane agent
20 appointed pursuant to section 343.01 is granted the power and the authority to enter upon the premises
21 of any kennel or dealer at any time during the daylight hours for the purposes herein set forth, and for the
22 purposes of inspecting the compliance with the provisions of sections 346.55, 347.31 to 347.40 and the
23 rules issued pursuant thereto, and for the purposes of enforcing sections 346.55, or 347.31 to 347.40;
24 except that humane agents shall not enter upon the premises of a licensed veterinarian acting as a
25 kennel. Each dealer shall post a conspicuous notice in a format no less than 24 by 36 inches and easily
26 readable by the general public, that states: (1) that the person is a licensed dealer in dogs and cats; (2)
27 that dogs and cats left with the dealer may be used for research purposes; and (3) the hours the dealer is
28 open to the public. The notice must be placed in at least two locations on the premises, one of which
29 must be on or near the exterior mail delivery point and one of which must be at the regularly used point of
30 exchange of dogs and cats. A person may view dogs and cats in the custody of a dealer during the time
31 the premises is open to the public. Dealers are required to be open to the public on a regular basis at
32 least four hours between 7:00 a.m. and 10:00 p.m. on at least four of the seven days of each week
33 including at least one Saturday or Sunday. Any advertisement placed by a dealer seeking dogs or cats
34 must inform the public that dogs and cats brought to the dealer may be used for research purposes.
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36 **347.38 Revocation of license.**

37 The Board of Animal Health may as hereinafter set forth revoke or suspend the license of any person,
38 firm, or corporation, for violation of sections 346.55 and 347.31 to 347.40 or the rules issued pursuant to
39 sections 347.31 to 347.40. Upon written complaint made to the board by any person, firm, or corporation
40 alleging any violation of sections 347.31 to 347.40 or any rules pursuant thereto by any licensee, the
41 board may cause an investigation to be made upon matters related in said complaint. Thereupon the
42 board shall in its discretion either dismiss the complaint or require the kennel or dealer against whom the
43 complaint is made to correct the conditions or violations complained of within ten days after receipt of
44 written notice of the same. If upon termination of the ten day period the licensee has failed to correct or to
45 remedy the violation or violations of sections 346.55 or 347.31 to 347.40 or any rules pursuant thereto, or
46 if the board considers it appropriate under the circumstances the board shall, upon a minimum of 30 days'
47 notice to the licensee, conduct a hearing for the purpose of determining whether the license to operate a
48 kennel or as a dealer should be revoked or temporarily suspended. If after notice and hearing the board
49 finds that any provision of sections 346.55 or 347.31 to 347.40 has been violated by the licensee or any
50 rule issued by the board has been violated by the licensee, the board may revoke and suspend the
51 license. The possession or transfer of a dog or cat by a dealer to an institution, without the permission of
52 the owner, failure of a dealer or kennel to keep accurate data as required in section 347.35, or failure of a
53 dealer or kennel to permit access to its premises as required in section 347.37, is grounds for license
54 revocation. The licensee whose license is revoked or suspended may within 20 days after the board's
55 decision appeal to the district court. The district court shall upon 20 days' notice to the board hear the
56 appeal within 45 days after the filing of the appeal. On the hearing of the appeal the court shall review the
57 decision of the board in a manner as though reviewed by certiorari, except that new or additional
58 evidence may be taken, if in the opinion of the court additional evidence is necessary or proper to the
59 disposition of the case.

347.39 Penalties.

Violation of any provision of sections 347.31 to 347.40 or of any rule of the Board of Animal Health issued pursuant to sections 347.31 to 347.40, or operation of a kennel or as a dealer without a license, or operation of a kennel or as a dealer after revocation of a license or during a period of suspension, shall constitute a misdemeanor.

347.40 Exceptions.

Sections 347.31 to 347.40 shall in no way apply to any veterinarian licensed to practice in the state of Minnesota who keeps, congregates, or confines dogs or cats in the normal pursuit of the practice of veterinary medicine.

Minnesota Rules

1721.0520 Kennels.

Subpart 1. **Kennels and kennel dealers; licenses.** A person licensed by the board to operate as a kennel or kennel dealer must comply with this part and must apply for a license in accordance with Minnesota Statutes, sections 347.31 to 347.40.

Subp. 2. **Inspections.** Periodic inspections must be made pursuant to Minnesota Statutes, section 347.37. Upon request, the board must be allowed to inspect any building or structure on a premises where a kennel is operated.

Subp. 3. **Veterinary care.** A kennel or kennel dealer must establish and maintain a program of disease control and prevention, euthanasia, and adequate veterinary care under the supervision of a licensed veterinarian. A written program of veterinarian care, signed and dated by the veterinarian and kennel manager, must be kept on file at the kennel and available for review by the board upon request. The program of veterinary care must be reviewed by the kennel manager and veterinarian annually and updated as needed. The veterinarian must visit the facility as often as necessary to supervise the program, with a minimum of an annual visit. Sick or injured animals must receive veterinary care promptly.

Subp. 4. **Control of pests.** The kennel or kennel dealer shall establish and maintain an effective program for the control of insects, ectoparasites, rodents, and other pests.

Subp. 5. **Kennel premises and facilities.** All licensed kennels must meet the following requirements.

A. All housing facilities must be structurally sound and maintained in good repair.

B. All animals must be housed in an indoor facility maintained at a temperature of not less than 50 degrees Fahrenheit. Animals may be provided temporary access to outdoor runs and exercise areas when appropriate for the species, breed, and weather conditions.

C. All housing facilities must have at least eight hours of illumination, either natural or artificial, sufficient to permit routine inspection and cleaning.

D. All housing facilities must be adequately ventilated. Drafts, odors, and moisture condensation must be minimized. Auxiliary ventilation, such as exhaust fans, vents, and air conditioning, must be used when the ambient temperature exceeds 85 degrees Fahrenheit at the floor level.

E. Carcass and garbage disposal facilities must be provided and managed to minimize vermin infestation, odors, and disease hazards.

F. Adequate storage and refrigeration must be provided and managed to protect food supplies against contamination and deterioration. Open bags of food must be stored in vermin-proof containers.

G. The premises, housing facilities, exercise areas, and confinement areas must be cleaned and disinfected as often as necessary to maintain a clean and sanitary condition. Animal confinement areas must be cleaned at least once daily. Measures must be taken to protect animals from being splattered with water or feces and from exposure to harmful chemicals during cleaning. Bedding, if used, must be kept clean and dry. Outdoor runs and exercise areas must be kept clean and soiled base material must be replaced as necessary.

Subp. 6. **Animal housing and confinement areas.**

A. Confinement areas must be of sufficient size to allow each dog or cat to turn about fully and to stand, sit, and lie in a comfortable, normal position. The confinement area must be constructed so as to prevent injury to the dog or cat. Interior surfaces of indoor confinement areas must be constructed and maintained so that they are substantially impervious to moisture, provide for rapid drainage, and may be readily cleaned.

B. Dogs or cats must not be confined by chains or by tethering.

C. For animals housed in the same primary confinement area: (1) dogs or cats must be maintained in a compatible group; (2) puppies or kittens must not be housed with adult dogs or cats other than their dam; (3) any dog or cat exhibiting a vicious disposition must be housed separately; and (4) females in estrus must not be confined in the same confinement area with males.

D. Dogs or cats with clinical signs of infectious, contagious, or communicable disease must be separated from other dogs or cats.

Subp. 7. Feeding of dogs and cats.

A. Dogs and cats must be fed at least once a day with clean, wholesome food sufficient to meet the normal daily nutritive requirements for the dog's or cat's age, size, and condition. Feed standards must be those recommended by the National Research Council.

B. Clean potable water must be made available to all dogs and cats at least twice daily for periods of not less than one hour.

C. All feeding and watering receptacles must be kept clean and sanitary. The receptacles must be accessible to each animal and located so as to minimize contamination by excreta. Disposable food receptacles must be discarded when soiled.

Subp. 8. Identification. Each dog and cat in a kennel must be identified with a numbered tag affixed to the neck by the means of a collar, identification attached to the cage, microchip, or by other means approved by the board.

Subp. 9. Records. Records required in this part must be maintained for a minimum of two years and available to duly authorized agents upon demand at any reasonable time. A licensed kennel or kennel dealer must maintain the following records for each animal handled:

A. the date of acquisition and disposition;

B. the name and address of the person from whom a dog or cat was received and, in the case of a kennel dealer, the person's driver's license number or Social Security number;

C. the identification of each dog or cat confined to the premises;

D. description of the dog or cat by approximate age, breed, and sex, and other distinguishing traits;

E. the name and address of the person to whom a dog or cat was transferred;

F. the history of disease conditions diagnosed by a veterinarian or diagnostic laboratory on animals housed on the premises; and

G. for impounded or stray animals, the location at which the animal was found or taken.

Subp. 10. Holding period for impounded or stray animals.

A. With the exception of items B and C, an impounded or stray animal must be held for redemption by the owner for at least five regular business days or for a longer time specified by statute or municipal ordinance.

B. Upon a proper determination by a licensed veterinarian, an impounded or stray animal may be immediately euthanized if the animal is physically suffering and is beyond cure through reasonable care and treatment.

C. An impounded or stray animal that has bitten a human may be euthanized and tested for rabies before the required five-day holding period if requested by the Department of Health.

Subp. 11. Transportation of dogs and cats. A dog or cat must be transported in a vehicle equipped with ample cargo space and confinement areas. The dog and cat cargo space must be constructed and arranged to prevent injuries from fighting and allow for compatible grouping in terms of age, breed, size, and disposition. Separate confinement areas must be provided for females in estrus. A dog or cat must not be placed in a confinement area over other animals unless the upper confinement area is constructed to prevent excreta from entering the lower confinement area. All confinement areas and cargo space must be cleaned and disinfected between uses. The number of dogs or cats transported at one time must not exceed the number that can ride comfortably. Vehicles must be adequately equipped to provide sufficient ventilation and still protect the dogs or cats from the elements, injurious drafts, and exhaust fumes.

Subp. 12. Dogs or cats may not be used for breeding. No person shall allow a dog or cat housed in a kennel facility to be used for breeding. This part does not apply to a veterinary clinic licensed to operate a kennel.

Subp. 13. Complaints and cost recovery.

A. The board may investigate a written complaint alleging a violation of Minnesota Statutes, sections 347.31 to 347.40, or these rules, in accordance with Minnesota Statutes, section 347.38

B. Money from license fees, fines, penalties, or deposits under Minnesota Statutes, section 346.55 or 347.31 to 347.40, must be deposited into the general fund.

346.36 DEFINITIONS.

Subdivision 1. **Scope.** Sections 346.35 to 346.44 shall only apply to veterinarians, animal boarding facilities, and commercial animal facilities. As used in sections 346.35 to 346.44 the terms defined in this section have the meanings given them.

Subd. 2. **Abuse.** "Abuse" means intentionally causing unnecessary pain, injury, suffering, or harassment to a pet or companion animal.

Subd. 3. **Cruelty.** "Cruelty" means causing or allowing unnecessary pain, suffering, or unjustifiable injury or death to a pet or companion animal.

Subd. 4. **Expert opinion.** "Expert opinion" means the opinion of at least one licensed Minnesota veterinarian selected by an investigating officer.

Subd. 5. **Neglect.** "Neglect" means failure to provide the minimum care required for the health and well-being of a pet or companion animal.

Subd. 6. **Pet or companion animal.** "Pet" or "companion animal" means a nonhuman mammal, bird, or reptile impounded or held for breeding, or possessed by, cared for, or controlled by a person for the present or future enjoyment of that person or another.

Subd. 7. **Shelter; confinement area.** "Shelter" or "confinement area" means an enclosure provided to protect or confine a pet or companion animal when it is not in transit.

History: 1983 c 216 art 2 s 14; 1983 c 358 s 2

346.37 GENERAL PROVISIONS.

Subdivision 1. **Abandoned animals.** (a) If an animal is left with a veterinarian, boarding facility, or commercial facility pursuant to a written agreement with the owner or person in possession of the animal and the owner or lawful possessor of the animal has not claimed the animal within ten days after notice in accordance with paragraph (b) or (d), the animal is abandoned and the owner has no further rights or claim to the animal.

(b) The notice required under paragraph (a), must be given by the veterinarian, boarding facility, or commercial facility to the owner or the owner's agent at the person's last known address by certified mail, return receipt requested, or may be served upon the owner or owner's agent in the manner that a summons is served in a civil court action in the district courts. The notice must notify the owner or owner's agent that the animal may be redeemed by paying all prior expenses incurred within ten days or the animal is abandoned and will be disposed of in accordance with this subdivision.

(c) If the animal is not claimed within ten days, the veterinarian, boarding facility, or commercial facility becomes the owner of the animal and the animal may be disposed of by the veterinarian, boarding facility, or commercial facility as they consider proper. Upon the veterinarian, boarding facility, or commercial facility becoming the owner of the animal, the veterinarian, boarding facility, or commercial facility is relieved of any liability for disposal of the animal.

(d) If the notice under paragraph (c) is not given to the owner or owner's agent, or if the address of the owner or owner's agent is not known, notice must be given by the veterinarian, boarding facility, or commercial facility by publishing one notice in a legal newspaper circulated in the county where the animal was delivered to the veterinarian, boarding facility, or commercial facility not less than ten days before the animal is to become the property of the veterinarian, boarding facility, or commercial facility under paragraph (c). The published notice must contain the information required in paragraph (b).

(e) Each veterinarian, boarding facility, or commercial facility shall warn its patrons of the provisions of this subdivision by a conspicuously posted notice or by conspicuous type in a written document delivered to the owner or the owner's agent.

Subd. 2. **Good Samaritans.** A person is not liable for rendering humane assistance to an injured pet or companion animal.

Subd. 3. **Cruel training or handling.** A person may not inflict cruelty on a pet or companion animal by the use of a cruel training or handling device or method.

Subd. 4. **Health care.** Adequate health care, including parasite and pest control, must be provided to each pet or companion animal.

Subd. 5. **Interpretation of terms.** A dispute as to the meaning of "abuse," "cruelty," or "neglect" shall be resolved by an expert opinion.

Subd. 6. **Reports of abuse, cruelty, or neglect.** A veterinarian must report known or suspected cases of abuse, cruelty, or neglect to peace officers and humane agents as provided in 343.12 and 343.29.

History: 1983 c 358 s 3; 1987 c 394 s 10; 1994 c 401 s 1

346.38 EQUINES.

Subdivision 1. **Definition.** "Equines" are horses, ponies, mules, and burros.

Subd. 2. **Food.** Equines must be provided with food of sufficient quantity and quality to allow for normal growth or the maintenance of body weight. Feed standards shall be those recommended by the National Research Council.

Subd. 3. **Water.** Equines must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water source.

Subd. 4. **Shelter.** Equines must be provided a minimum of free choice protection or constructed shelter from adverse weather conditions, including direct rays of the sun in extreme heat or cold, wind, or precipitation. Natural or constructed shelters must be of sufficient size to provide the necessary protection. Constructed shelters must be structurally sound, free of injurious matter, maintained in good repair, and ventilated. Outside exercise paddocks for equines do not require separate constructed shelter where a shelter is accessible to the equine on adjacent or other accessible areas of the property provided that equines are not kept in outdoor exercise paddocks during adverse weather conditions.

Subd. 5. **Space and cleanliness requirements.** Constructed shelters except for tie stalls must provide space for the animal to: (1) roll with a minimum danger of being cast; or (2) easily stand, lie down, and turn around. Stalls must be cleaned and kept dry to the extent the animal is not required to lie or stand in fluids. Bedding must be provided in all stalls, kept reasonably clean, and periodically changed. The nature of the bedding must not pose a health hazard to the animal.

Subd. 6. **Exercise.** Equines must be provided opportunity for periodic exercise, either through free choice or through a forced work program, unless exercise is restricted by a licensed veterinarian.

Subd. 7. **Hoof care.** All equines must have their hooves properly trimmed periodically to prevent lameness.

Subd. 8. **Transportation.** A vehicle used to transport an equine must have a floor capable of supporting the animal's weight safely. Floors must be of nonskid construction or of nonskid material sufficient to provide the animal with traction while in transport. A minimum of 12 inches must be allowed between the withers of the largest equine and the structure above the animal while it is in a natural standing position. Sturdy partitions must be provided at a minimum of approximately every ten feet inside the vehicle. Interior compartments of transporting vehicles must be of smooth construction with no protruding or sharp objects and must provide ventilation. Food and water must be provided in sufficient quantities to minimize stress and maintain hydration.

History: 1983 c 358 s 4; 1986 c 444; 1998 c 402 s 3,4

346.39 DOGS AND CATS.

Subdivision 1. **Food.** Dogs and cats must be provided with food of sufficient quantity and quality to allow for normal growth or the maintenance of body weight. Feed standards shall be those recommended by the National Research Council.

Subd. 2. **Water.** Dogs and cats must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water source.

Subd. 3. **Transportation and shipment.** When dogs or cats are transported in crates or containers, the crates or containers must be constructed of nonabrasive wire or a smooth, durable material suitable for the animals. Crates and containers must be clean, adequately ventilated, contain sufficient space to allow the animals to turn around, and provide maximum safety and protection to the animals. Exercise for 20 to 30 minutes and water must be provided at least once every eight hours. Food must be provided at least once every 24 hours or more often, if necessary, to maintain the health and condition of the animals.

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

Subd. 5. **Exercise.** All dogs and cats must be provided the opportunity for periodic exercise, either through free choice or through a forced work program, unless exercise is restricted by a licensed veterinarian.

Subd. 6. **Group housing and breeding.** Animals housed together must be kept in compatible groups. Animals must not be bred so often as to endanger their health.

Subd. 7. **Temperature.** Confinement areas must be maintained at a temperature suitable for the animal involved.

Subd. 8. **Ventilation.** An indoor confinement area must be ventilated. Drafts, odors, and moisture condensation must be minimized. Auxiliary ventilation, such as exhaust fans, vents, and air conditioning, must be used when the ambient temperature rises to a level that may endanger the health of the animal.

Subd. 9. **Lighting.** An indoor confinement area must have at least eight hours of illumination sufficient to permit routine inspection and cleaning.

Subd. 10. **Confinement and exercise area surfaces.** Where applicable, the interior surfaces of confinement and exercise areas, including crates or containers, must be constructed and maintained so that they are substantially impervious to moisture and may be readily cleaned. They must protect the animal from injury and be kept in good repair.

Subd. 11. **Drainage.** Where applicable, a suitable method must be used to rapidly eliminate excess fluids from confinement areas.

Subd. 12. **Sanitation.** Food and water receptacles must be accessible to each animal and located so as to minimize contamination by excreta. Feeding and water receptacles must be kept clean. Disposable food receptacles must be discarded when soiled. Measures must be taken to protect animals from being contaminated with water, wastes, and harmful chemicals. Wastes must be disposed of properly. Where

applicable, flushing methods and a disinfectant must be used periodically. Bedding, if used, must be kept clean and dry. Outdoor enclosures must be kept clean and base material replaced as necessary.

History: 1983 c 358 s 5

346.40 PET BIRDS.

Subdivision 1. **Food.** Birds must be fed at least once each day except as otherwise required to provide adequate health care. The food must be wholesome, palatable, and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the bird, and must be free from contamination.

Subd. 2. **Water.** Except for birds in shipment for less than four hours, all birds must be provided with clean, potable water in sufficient quantity to satisfy the bird's needs or supplied by free choice. Snow or ice is not an adequate water source.

Subd. 3. **Transportation.** Birds may be transported only in containers constructed of a smooth, durable material. Containers must:

- (a) be suitable for the species being shipped;
- (b) be constructed to prevent escape or chewing of the container by the bird that may be injurious to the health of the bird;
- (c) have ventilation on only one side to prevent cross drafts;
- (d) provide enough space for the bird to stand up, turn around, and obtain necessary food, water, and roosting space;
- (e) have fresh food and water available to the bird at all times if the shipping period exceeds four hours.

Subd. 4. **Shelter or cage construction.** A shelter or cage for a bird must be constructed of materials that are impervious to moisture and can be readily cleaned. Perches or other space must be provided to allow the bird to roost without physical harassment from other birds.

Subd. 5. **Exercise.** Room must be provided for a bird to obtain exercise to maintain itself in good health.

Subd. 6. **Temperature.** A confinement area must be maintained at a temperature suitable for the bird involved.

Subd. 7. **Ventilation.** A bird shelter or cage must provide ventilation with minimized drafts, odors, and moisture condensation.

Subd. 8. **Lighting.** Shelters or cages for birds must have at least eight hours of either natural or artificial light to allow for intake of food and water. Lighting must be of sufficient intensity and distribution to permit routine inspection and cleaning on a regular basis.

Subd. 9. **Sanitation.** Excreta must be removed from the bottom of a bird cage on a regular basis to prevent the contamination of the caged bird. The cage, perches, and food and water receptacles must be cleaned on a regular basis.

History: 1983 c 358 s 6

346.41 RODENTS.

Subdivision 1. **Food.** Food must be made available to every pet rodent at least once a day. This food must be fresh, wholesome, palatable, free from contamination, and of sufficient nutritive value to meet the normal daily requirements necessary to maintain the health and condition of the animal.

Subd. 2. **Water.** A pet rodent must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water source.

Subd. 3. **Transportation.** Rodents may be transported only in containers constructed of a smooth, durable material. Containers must:

- (a) be constructed so as to prevent escape or injury by chewing;
- (b) provide fresh air to each contained animal and yet prevent exposure to injurious drafts;
- (c) provide enough space for each animal to stand up, turn around, and obtain necessary food and water;
- (d) have fresh food and water available to each animal during all shipping periods exceeding six hours. Food and water requirements may be met by providing vegetables or fruits sufficient to meet an animal's food and water needs.

Subd. 4. **Shelter and cage construction.** Shelters or cages must be constructed in a manner that allows cleaning of the entire surface area. The materials used must be of sufficient strength to prevent escape or injury by chewing and to protect the animal from predators.

A shelter or cage with a solid bottom must be constructed of materials that are impervious to moisture. A shelter or cage with a wire or mesh bottom must be constructed to allow excreta to pass through the spaces in the wire or mesh. The wire or mesh floor must be constructed to prevent injury to the feet and legs of the animals.

Outdoor confinement areas must provide sufficient shade to protect the animal from the direct rays of the sun and shelter the animal from rain or snow.

Subd. 5. **Exercise.** A shelter or cage must be of sufficient height and have sufficient floor space to allow the caged animals to obtain proper exercise and maintain good health.

Subd. 6. **Temperature.** A confinement area must be maintained at a temperature suitable for the confined animal.

Subd. 7. **Ventilation.** A shelter or cage must provide ventilation to the confined animals. It must be constructed to minimize drafts, odors, and moisture condensation. Additional ventilation must be provided when the ambient temperature rises to a level that may endanger the health of the animal.

Subd. 8. **Lighting.** Lighting of sufficient intensity and distribution must be available to permit routine inspection and regular cleaning.

Subd. 9. **Sanitation.** A shelter or cage must be cleaned on a regular basis to prevent the accumulation of excreta, hair, contaminated or wet litter, and uneaten or contaminated food. If the shelter or cage has a solid floor, the floor must be covered with clean, dry bedding which must be changed at least once a week. If the shelter or cage has a wire or mesh floor, the catch pans or troughs under the cage must be cleaned at least once a week. If the cage or shelter becomes soiled or wet to a degree that may be harmful to the caged animals due to water leakage, dead animals, or spoiled foods, the animals must be transferred to clean,

dry quarters as soon as possible after discovery of the condition. The shelter or cage, and food and water receptacles, must be regularly cleaned.

Subd. 10. **Chewing materials.** A rodent must be provided with materials that allow necessary chewing to prevent detrimental overgrowth of the animal's teeth.

History: *1983 c 358 s 7*

346.42 OTHER ANIMALS.

Animals not covered in detail in sections 346.38 to 346.41 must be maintained in accordance with a general standard of care necessary for the species as determined by an expert opinion.

History: *1983 c 358 s 8*