



CITY OF MILACA
PLANNING COMMISSION AGENDA
AUGUST 15, 2022
6:00 P.M.
255 1ST ST E, CITY HALL COUNCIL ROOM

1. Open Regular Planning Commission Meeting
2. Call to Order/Roll Call
3. Approve minutes from February 7, 2022
4. Open Public Hearing;
 - Conditional Use Permit request from Craig and Nancy Anson
 - Conditional Use Permit request from Amy and Greg Smith
 - Zoning Changes to Allow Chickens and Honey Bees
5. Close Public Hearing
6. New Business
 - a. Conditional Use Permit Request by Craig and Nancy Anson
 - b. Conditional Use Permit Request by Amy and Greg Smith
 - c. Zoning Changes to allow Chickens and Honey Bees
 - d. Review "Draft" Version of City of Milaca's Comprehensive Plan
7. Miscellaneous
8. Adjourn

Planning Commission Meeting Minutes

February 7th, 2022 at 6:00pm

1. Roll call

Present: Brett Freese, Brad Tolzman, Joel Millam, Pam Novak, Arla Johnson

Absent: Hayden Hultman

Others also present: Norris Johnson, Milaca City Council; Tammy Pfaff, City Manager; and Phil Carlson, Planning and Zoning Consultant

2. Election of Officers

President – Brad Tolzman

Secretary – Pam Novak

3. New Business

Discussion on changes or modifications to ordinance 156.042. Phil explained difference between brewery, distillery, winery, tap room, and brew pub for industrial park vs. commercial district. At this time the Commission decided to include brewery, distillery, and winery in the industrial park. Commission will wait for further interest from individual seeking business approval on this matter to make additional decision.

4. Other Business

A. AJW Contracting, S. Williams – Working on a building with retail units on lower level and apartments on upper level at 555 Hwy 23 E, Milaca.

B. Dusty's Car Wash has expressed interest in building a KFC/Caribou Coffee on their property.

C. Carvin Buzzell – has recently purchased former M Health Fairview Clinic and has expressed interest in establishing a senior living facility on the grounds to the north of the clinic (not assisted living facility). Access to this potential property/business would be needed from 2nd Avenue/11th Street.

D. El Jalrisco Mexican Restaurant is moving into Daddio's. They currently own a restaurant in Mora.

E. Select Urgent Care is moving into the former Bremer Bank building.

With no other business, motion made by Joel Millam and seconded to Brett Freese to adjourn meeting.

Respectfully submitted,

Pam Novak



CITY OF
MILACA Minnesota

255 First Street East, Milaca, MN 56353

(320)983-3141 | (320)983-3142 fax

APPLICATION FOR CONDITIONAL USE PERMIT

870 Central Ave N

ADDRESS OF PROPERTY FOR CONDITIONAL USE PERMIT REQUEST

PROPERTY OWNER INFORMATION			
NAME: Craig + Nancy Anson (Anson Properties, LLC)			
ADDRESS: 870 Central Ave N.			
STREET ADDRESS			
Milaca	MN	56353	
CITY	ST	ZIP CODE	
TELEPHONE: () HOME			
(320) 493-0597 CELL			
PID: 21.360.0620			

The following information is submitted in support of this application:

APPLICANT INFORMATION (IF DIFFERENT FROM PROPERTY OWNER INFORMATION)			
NAME: El Jalisco			
ADDRESS: 870 Central Ave N.			
STREET ADDRESS			
Milaca	MN	56353	
CITY	ST	ZIP CODE	
TELEPHONE: (320) 983-5008 HOME			
() CELL			

- Completed Application for Conditional Use Permit
- Fee of \$200.00 - Paid Receipt # 16815
- Full legal description of property (Not from your property tax statement)
- Depending on the Conditional Use Permit requested, the following may be required:
 - 16 copies of a Site Plan
 - 16 copies of a Sign Plan
 - 16 copies of any other appropriate plans or drawings
- A narrative explaining the purpose of the request, the exact nature of the Conditional Use Permit and the justification of the request

Other

I fully understand that all of the above required information must be submitted at least 20 days prior to the Planning Commission meeting to ensure review by the Planning Commission on that date.



Property Owner Signature

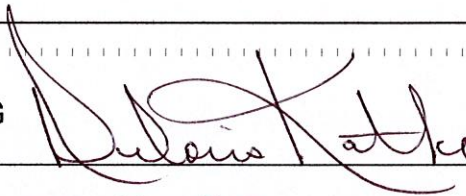


Applicant Signature (If different from Property Owner Signature)

Date

COMMENTS/REVISIONS: _____ _____ _____

CITY STAFF RECEIVING APPLICATION:



DATE: 07.11.22

Legal Description of Anson Properties/El Jalisco

SECT-25 TWP-038 RANG-27 LOT-001 BLK-009
HIGHLAND PARK ADDITION TO MILACA
& LOTS 2, 24 & 25 BLK 9
& E ½ OF LOT 3 EX S 25 FT BLK 9

Assisted Living

Assisted Living

South patio

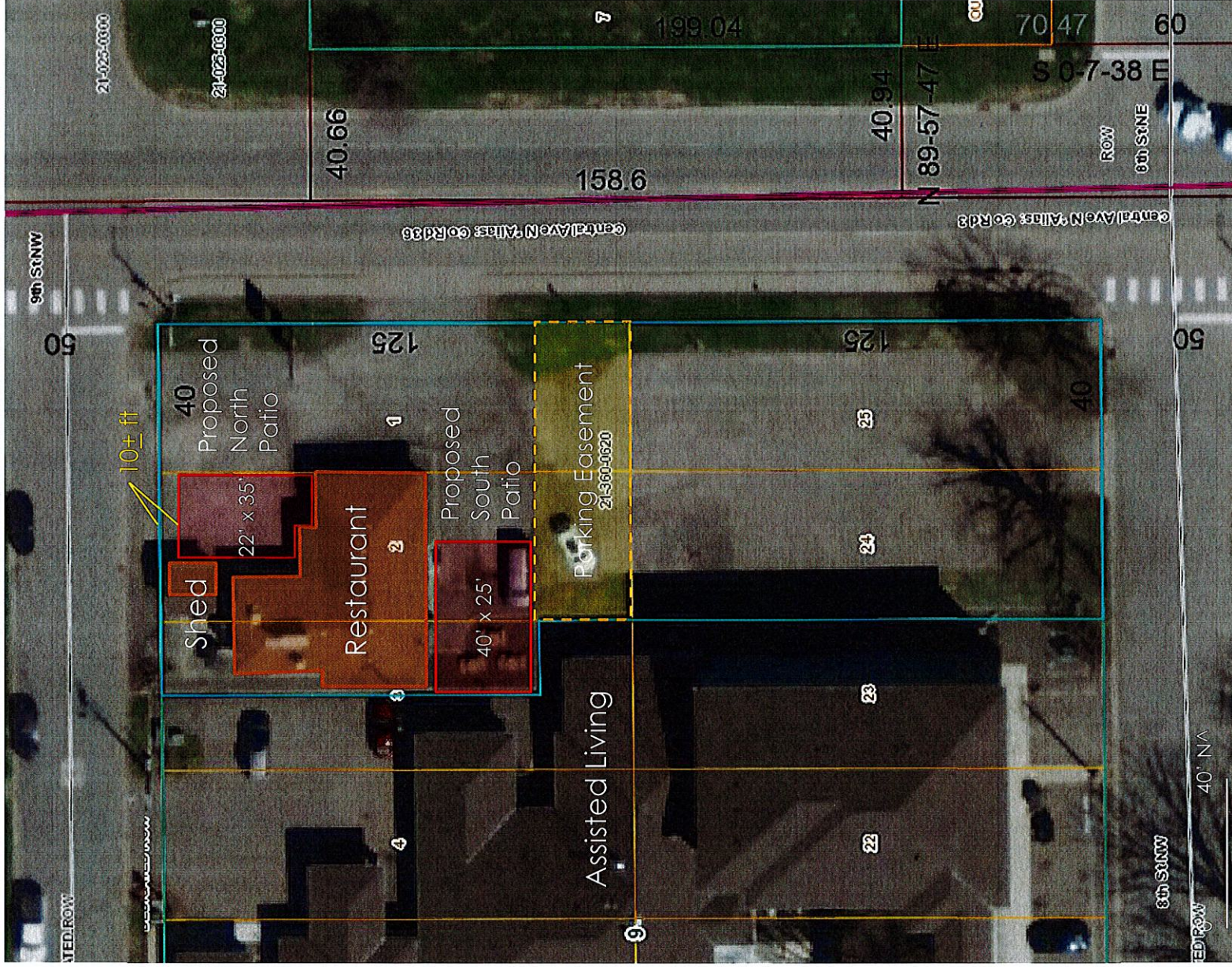
El Jalisco

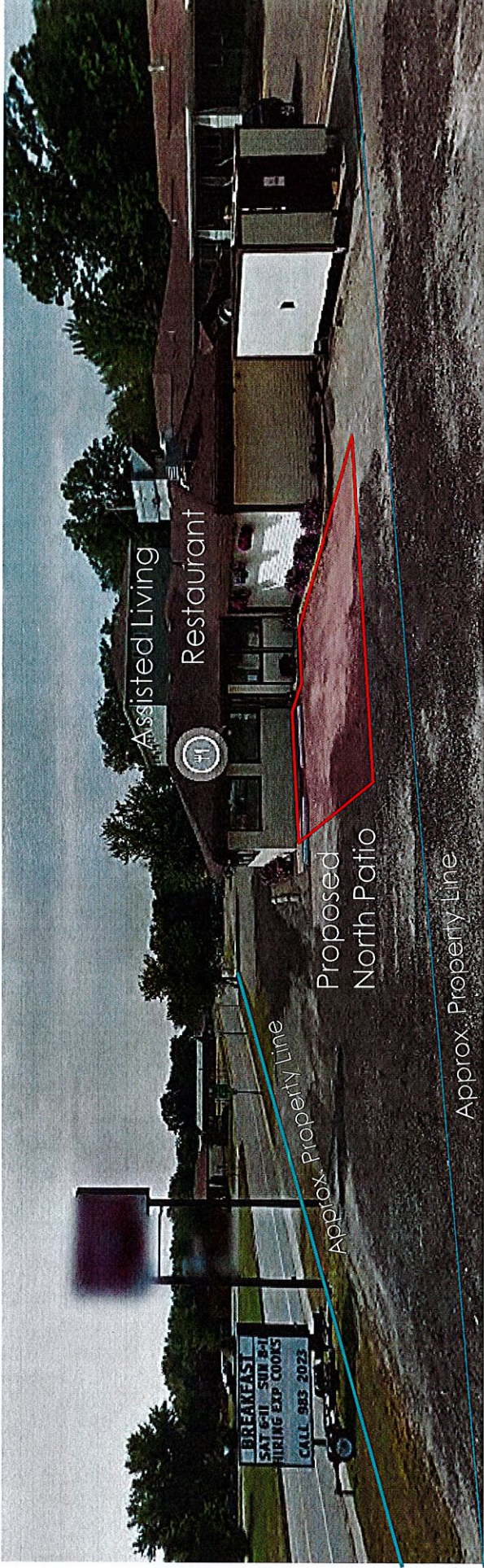
North patio

Shed

CENTRAL AVENUE

El Jalisco Restaurant
Milaca MN
Assumed Site Plan
Proposed Patios
(approx. locations)





El Jalisco Restaurant – View South from 9th St NW (approx. location of patio)



El Jalisco Restaurant – View NW from Central Ave N (approx. location of patio)

Deloris Katke

From: Storlie, Angela <AStorlie@lmc.org>
Sent: Thursday, June 23, 2022 10:42 AM
To: Deloris Katke
Subject: serving alcohol on patios

Hello Deloris,

Thanks for contacting the League for guidelines on serving alcohol on patios.

There is no definition of a bar patio in the Minnesota Statutes. There is, however, Minnesota Statute 340A.410, subdivision 7 (<https://www.revisor.mn.gov/statutes/cite/340A.410>), which requires that the premises of a licensed establishment be “compact and contiguous.”). That means the patio area has to be connected to the bar itself. The licensed area has to be all connected and can’t contain an area not connected to the rest of the bar. Also, when an applicant applies to the city for a license, the application must contain “a complete description of the compact and contiguous area in which the licensee will conduct business, including a description of physically connected attachments to the main structure such as patios, decks, or pavilions. See Minnesota Rule 7515.0430 (<https://www.revisor.mn.gov/statutes/cite/340A.410>).

I hope this answers your question. Please let me know if you need anything further.

Angie Storlie | Research Analyst

Phone: (651) 215-4176

astorlie@lmc.org

League of Minnesota Cities | 145 University Ave. West | St. Paul, MN 55103

www.lmc.org | [Facebook](#) | [Twitter](#) | [Podcast](#)

Please be advised that I am not an attorney and this does not constitute legal advice.

340A.410 LICENSE RESTRICTIONS; GENERAL.

Subdivision 1. **Counties; town consent.** A county may not issue a retail license to sell any alcoholic beverage within an organized town unless the governing body of the town has consented to the issuance of the license.

Subd. 2. **Counties; recommendation and review of applicants.** (a) No county may issue or renew a retail license to sell any alcoholic beverage until the county board has received a written recommendation from the sheriff and county attorney stating that to the best of their knowledge that the applicant is eligible to be licensed under section 340A.402. A copy of the statements must be given to the town board if a town's consent is required for issuance of the license under subdivision 3.

(b) The county board shall consider the recommendations of the sheriff and county attorney, the character and reputation of the applicant, and the nature and location of the business prior to issuance of any license.

Subd. 3. **License extension; death of licensee.** In the case of the death of a retail licensee to sell alcoholic beverages, the personal representative is authorized to continue operation of the business for not more than 90 days after the death of the licensee.

Subd. 4. **License posting.** A retail license to sell alcoholic beverages must be posted in a conspicuous place in the premises for which it is used.

Subd. 4a. [Repealed, 1996 c 418 s 18]

Subd. 4b. **Notice posting.** (a) A premises licensed for the retail sale of alcoholic beverages and a municipal liquor store must post and maintain in a conspicuous place within the licensed premises clearly visible to consumers: one sign 14-1/2 inches wide by 8 inches high as designed by the commissioners of health and public safety, which incorporates the following information:

- (1) the penalties of driving while under the influence of alcohol;
- (2) penalties for serving alcoholic beverages to a person who is obviously intoxicated or under 21 years of age; and
- (3) a warning statement regarding drinking alcohol while pregnant.

(b) The commissioners of health and public safety shall design a sign that complies with this subdivision and shall make the sign available for reproduction. A retail licensee or municipal liquor store may not modify the sign design but may modify the color.

Subd. 5. **Gambling prohibited.** (a) Except as otherwise provided in this subdivision, no retail establishment licensed to sell alcoholic beverages may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice or any gambling device as defined in section 349.30, or permit gambling therein.

(b) Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized by (1) chapter 349, (2) a tribal ordinance in conformity with the Indian Gaming Regulatory Act, Public Law 100-497, or (3) a tribal-state compact authorized under section 3.9221.

(c) Lottery tickets may be purchased and sold within the licensed premises as authorized by the director of the lottery under chapter 349A.

(d) Dice may be kept and used on licensed premises and adjoining rooms as authorized by section 609.761, subdivision 4.

Subd. 6. **Racial discrimination; clubs.** No retail license to sell alcoholic beverages may be issued or renewed by a municipality or county to a club which discriminates against members or applicants for membership or guests of members on the basis of race.

* Subd. 7. **License limited to space specified.** A licensing authority may issue a retail alcoholic beverage license only for a space that is compact and contiguous. A retail alcoholic beverage license is only effective for the licensed premises specified in the approved license application.

Subd. 8. **Copy of summons.** Every application for the issuance or renewal of intoxicating or 3.2 percent malt liquor licenses must include a copy of each summons received by the applicant under section 340A.802 during the preceding year.

Subd. 9. **Coin-operated devices.** Coin-operated amusement devices may not be made available in establishments licensed solely for the off-sale of intoxicating liquor or municipal stores which sell only at off-sale. An establishment holding a combination on-sale and off-sale license or a municipal liquor store which sells at on-sale and off-sale which makes coin-operated devices available shall keep such devices to the greatest extent practicable in that area of the establishment where on-sales are made.

Subd. 10. **Temporary licenses; restrictions.** (a) A municipality may not issue more than three four-day, four three-day, six two-day, or 12 one-day temporary licenses, in any combination not to exceed 12 days per year, under section 340A.404, subdivision 10, for the sale of alcoholic beverages to any one organization or registered political committee, or for any one location, within a 12-month period.

(b) A municipality may not issue more than one temporary license under section 340A.404, subdivision 10, for the sale of alcoholic beverages to any one organization or registered political committee, or for any one location, within any 30-day period unless the licenses are issued in connection with an event officially designated a community festival by the municipality.

This restriction does not apply to a municipality with a population of 5,000 or fewer people.

(c) A municipality that issues separate temporary wine and liquor licenses may separately apply the limitations contained in paragraphs (a) and (b) to the issuance of such licenses to any one organization or registered political committee, or for any one location.

History: 1985 c 305 art 6 s 10; 1Sp1986 c 3 art 1 s 39; 1987 c 152 art 1 s 1; 1987 c 381 s 4; 1989 c 334 art 6 s 5; 1991 c 178 s 1; 1991 c 249 s 12; 1993 c 350 s 10; 1994 c 611 s 21; 1995 c 42 s 2; 1996 c 323 s 1,4; 1996 c 418 s 8; 1998 c 364 s 5; 1999 c 187 s 1



CITY OF
MILACA *Minnesota*

255 First Street East, Milaca, MN 56353

(320)983-3141 | (320)983-3142 fax

APPLICATION FOR CONDITIONAL USE PERMIT

345 2nd Ave NW + 355 2nd Ave NW

ADDRESS OF PROPERTY FOR CONDITIONAL USE PERMIT REQUEST

PROPERTY OWNER INFORMATION

NAME: Amy and Greg Smith

ADDRESS: 345-2nd Ave NW (our home)
STREET ADDRESS
355 -2nd Ave NW - where our flower stand
Milaca MN 56353
CITY ST ZIP CODE

is.

TELEPHONE: (612) 282-4514 HOME

() _____ CELL

PID # 21.041.0070

The following information is submitted in support of this application:

APPLICANT INFORMATION (IF DIFFERENT FROM PROPERTY OWNER INFORMATION)

NAME: _____

ADDRESS: _____
STREET ADDRESS

CITY ST ZIP CODE

TELEPHONE: () _____ HOME

() _____ CELL

Completed Application for Conditional Use Permit

Fee of \$200.00 PD. 07.26.22 Receipt # 116820

Full legal description of property (Not from your property tax statement) *NOT sure how to get this.*

Depending on the Conditional Use Permit requested, the following may be required:

16 copies of a Site Plan

16 copies of a Sign Plan

16 copies of any other appropriate plans or drawings

A narrative explaining the purpose of the request, the exact nature of the Conditional Use Permit and the justification of the request

Other

.....
I fully understand that all of the above required information must be submitted at least 20 days prior to the Planning Commission meeting to ensure review by the Planning Commission on that date.



Property Owner Signature



Applicant Signature (If different from Property Owner Signature)

07.26.22

Date

COMMENTS/REVISIONS:

PD. \$ 200.00 via C.C.

.....
CITY STAFF RECEIVING APPLICATION: 

DATE: 07.26.22

July 26, 2022

To Whom It May Concern:

I understand that the City of Milaca would like me to apply for a Conditional Use Permit to conduct our flower business at 345 2nd Ave NW and 355 2nd Ave. NW in Milaca. We grow chemical-free flowers from seed and bulb at the property of 355 2nd Ave. NW. At that property, we sell some of the flowers we grow on a seasonal basis. We begin growing in May until the first frost which is sometime in late September/early October. Our flower stand is located at 355 2nd Ave. NW is open 2-3 days weekly in June, July, and August, and some occasional sales in May and September. Our business is seasonal meaning we do not grow or sell our flowers on that property the other months of the year.

Our home, 345 2nd Ave. NW is where I process the flowers and prepare them for sale. This happens in our garage. Occasionally, when the flower stand is not open, people will pick up flowers at the garage entrance of our home.

Other business activities we do at both our property and the adjacent property are garden tours (10-12 people at a time), garden education classes (typically 5-15 people at a time), and flower photography. These activities have been a wonderful addition to our community and those who participate very much appreciate the opportunities.

Thank you for your consideration and attention to this matter. We would like to continue conducting our business as the flowers have been a beautiful place for people to come and enjoy. We feel it is a beautiful and joyful addition to our community.

Sincerely,

Amy Tourdot-Smith, Owner
Rusty Shovel Gardens, LLC

7/22/2022

RE: Rusty Shovel Gardens, LLC

To whom it may concern,

This letter is being written in regards to Amy Smith, business owner of Rusty Shovel Gardens, LLC located at 345 2nd Ave NW, Milaca, MN 56353. It has been brought to my attention that the City of Milaca has requested a letter from myself, Emmanuel Betinis, to grant permission to Amy Smith to conduct some of the business activities on my secondary residence property located at 355 2nd Ave NW in Milaca. These activities include growing some of the flowers & transacting business in connection with Rusty Shovel Gardens, LLC. I hereby grant permission to Amy for these activities to take place during the course of my ownership of 355 2nd Ave NW. If there are any additional requirements needed on my part in regards to these activities please feel free to reach out to me directly @ 320-260-0251 or via eMail: stallion@betinis.com

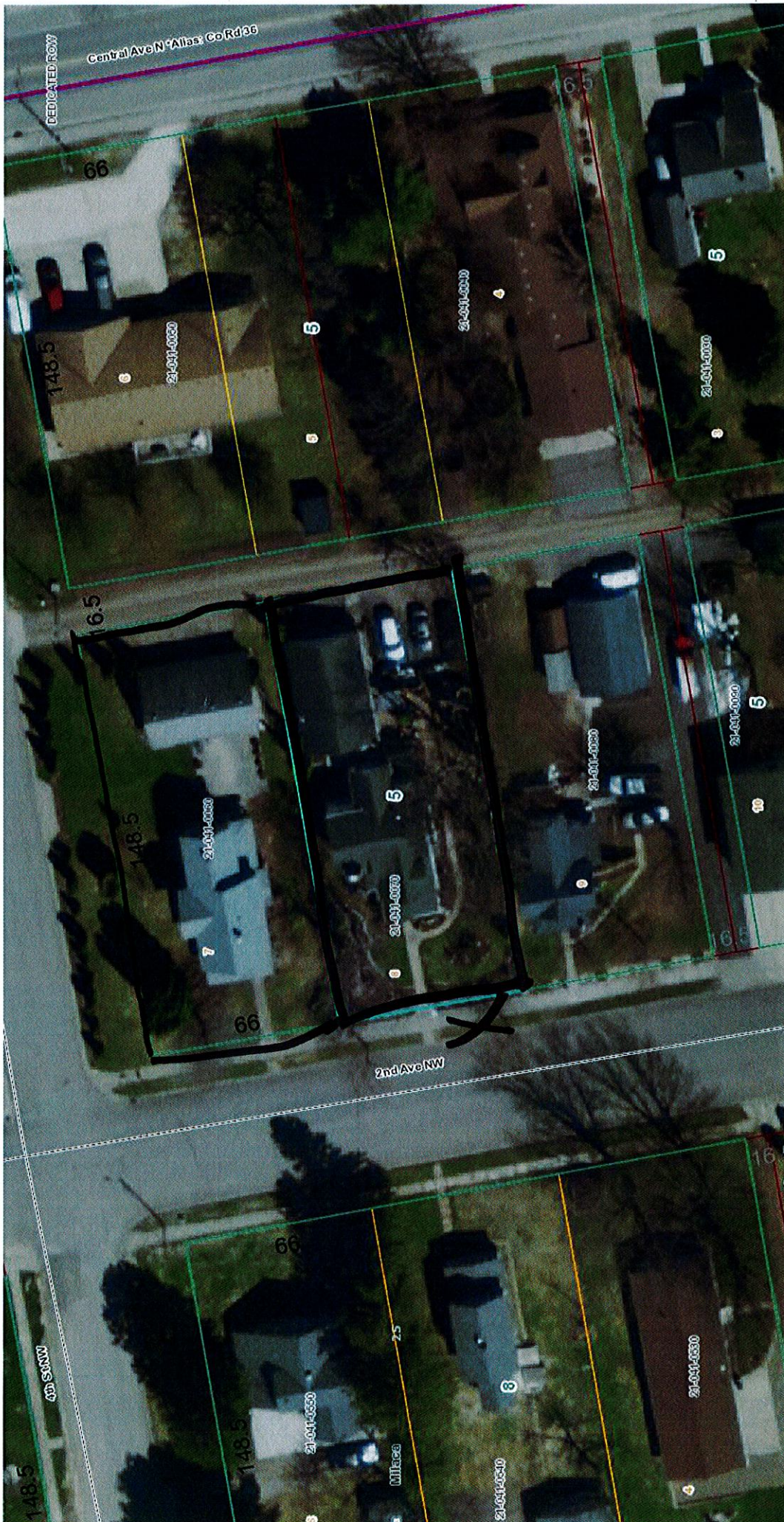
Sincerely,

A handwritten signature in blue ink, appearing to read 'Emmanuel Betinis', written in a cursive style.

Emmanuel Betinis

Primary Residence: 1012 Juniper Ct – Shakopee, MN 55379

Secondary Residence: 355 2nd Ave NW – Milaca, MN 56353





CITY OF
MILACA *Minnesota*

255 First Street East, Milaca, MN 56353

(320)983-3141 | (320)983-3142 fax

REZONING APPLICATION

Application is hereby made for Rezoning from (description of Rezoning

Zoning Ordinance change chickens and
bees

ADDRESS OF
PROPERTY _____

OWNER

NAME _____

OWNER

ADDRESS _____

STREET ADDRESS

CITY

ST

ZIP CODE

TELEPHONE () _____

APPLICANT

NAME Daniel Hollenkamp

APPLICANT
ADDRESS

605 Central Ave S

STREET ADDRESS

Milaca, MN 56353

CITY

ST

ZIP CODE

TELEPHONE (320) 362 4512

THE FOLLOWING INFORMATION IS SUBMITTED IN SUPPORT OF THIS APPLICATION:

COMPLETED APPLICATION FOR REZONING

FEE OF \$200.00

N/A LEGAL DESCRIPTION OF PROPERTY ATTACHED

DEPENDING ON THE REZONING REQUESTED, THE FOLLOWING MAY BE REQUIRED:

16 COPIES OF SITE PLAN


16 COPIES OF SIGN PLAN

16 COPIES OF ANY OTHER APPROPRIATE PLANS OR DRAWINGS

A NARRATIVE EXPLAINING THE PURPOSE OF THE REQUEST, THE EXACT NATURE OF THE REZONING AND THE JUSTIFICATION OF THE REQUEST

OTHER _____

I FULLY UNDERSTAND THAT ALL OF THE ABOVE REQUIRED INFORMATION MUST BE SUBMITTED AT LEAST 15 DAYS PRIOR TO THE PLANNING COMMISSION MEETING TO ENSURE REVIEW BY THE PLANNING COMMISSION ON THAT DATE.

APPLICANT'S SIGNATURE 

DATE 6-23-22

COMMENTS/REVISIONS _____

RECEIVED BY:  CITY MANAGER SIGNATURE/ZONING ADMINISTRATOR
DATE 6-29-22

Dan Hollenkamp
605 Central Ave S
Milaca, MN 56353
dan@hollenkamp.us

I would like to change the zoning laws to allow for the raising of four chickens, no roosters, and one honey bee colony on any residential property.

There has very high support in our community for allowing residents this freedom if they so choose.

- Residents would like the opportunity to produce their own food items that these creatures would provide.
- The many gardeners in town will benefit from the compostable organic materials that will be produced. This will result in better food production for those residents.
- The addition of honeybees to the community will improve pollination for all residents, increasing fruit yields.
- The children of community members will have expanded educational opportunities through 4H and FFH programs. Knowing where your food comes from is valuable life experience for many people.
- Growing and raising food for your own family can help offset grocery costs.
- Allowing these freedoms will make our community more attractive to potential homebuyers for our city.

I am aware that there are many details to discuss in making this change. I am personally researching similar ordinances from other cities, so that we can craft an ordinance to meet our community's needs.

I look forward to working with the planning commission and city staff in this endeavor.

Sincerely,

Daniel Hollenkamp

Elk River

Chapter 10 - ANIMALS

Footnotes:

--- (1) ---

Editor's note— Ord. No. 19-25, § 1, adopted Dec. 2, 2019, repealed the former ch. 10, §§ 10-1—10-9, 10-31, 10-32, 10-51—10-53, 10-81—10-85, 10-90—10-104, and enacted a new ch. 10 as set out herein. The former ch. 10 pertained to similar subject matter and derived from Code 1982, §§ 502.00, 502.02, 502.04, 502.08—502.12, 502.14, 502.16, 502.18, 502.20, 502.22, 502.24, 502.28, 502.30, 502.32, 502.34, 502.36, 502.38; Ord. No. 00-15, §§ 2, 3, 4(502.08), adopted Sept. 11, 2000; Ord. No. 09-08, § 1, adopted Aug. 17, 2009; Ord. No. 13-16, adopted Oct. 21, 2013; Ord. No. 15-04, § 1, adopted Feb. 2, 2015; Ord. No. 17-12, §§ 1, 2, adopted June 19, 2017; Ord. No. 18-14, § 1, adopted Oct. 15, 2018.

Cross reference— Health and sanitation, ch. 26; zoning regulations concerning animals, § 30-803.

ARTICLE I. - IN GENERAL

Sec. 10-1. - Purpose.

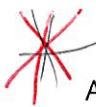
The purpose of this chapter is to establish regulations for the control of animals to protect the public health, safety, and welfare, and to allow for uniform enforcement of such regulations.

(Ord. No. 19-25, § 1, 12-2-2019)

Sec. 10-2. - Definitions.

For the purposes of this chapter, the following terms and definitions apply:

Animal means any mammal, reptile, amphibian, fish, bird, or other member commonly accepted as part of the animal kingdom. Animals shall be classified as follows:

 *Animals, agricultural* means animals which are used for the production of food or other products.

Agricultural animals shall include cattle, swine, bees, sheep, goats, chickens, turkeys, horses, and other animals commonly accepted as farm animals in the state.

Animals, dangerous means a mammal, bird, or large or poisonous reptile with a propensity to be dangerous to the safety and welfare of any person, property or other domestic animal. Examples of such dangerous animals include but are not limited to bears, lions, wolves, coyotes, cougars, tigers, panthers, apes, alligators, crocodiles, large snakes (greater than six feet), and poisonous snakes, badgers, and ocelots, excluding dogs, cats, other traditional house pets and livestock. Dangerous animals shall also include any animal that has attacked or bitten any person when the attack or bite was unprovoked. Animals which are cross-bred with dangerous animals shall also be considered dangerous animals.

Animals, domestic means a tame, non-agricultural, animal that is subject to the dominion and control

of an owner and accustomed to living in or near human habitation without requiring extraordinary restraint or unreasonably disturbing such human habitation. Unless otherwise defined, such animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous, and non-constricting reptiles or amphibians, and other similar animals.

Animals, nontraditional or exotic means animals which are not normally considered to be domesticated but are not dangerous animals as defined in this section.

Animal control officer means any individual designated by the chief of police to enforce the provisions of this chapter.

Animal shelter means any premises designated by the city for the purpose of impounding and caring for animals held under the authority of this chapter. The facility may be owned by the city or may be a contracted shelter service.

Kennel, commercial means any place where a person accepts dogs from the general public and where such animals are kept for the purpose of selling, boarding, breeding, training, grooming, dog-sitting, except a veterinary clinic.

Kennel, private means where more than three dogs are kept for private enjoyment and not for monetary gain, provided such animals are owned by the property owner or the lessee of the premises on which they are kept.

Owner means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of an animal.

(Ord. No. 19-25, § 1, 12-2-2019)

Sec. 10-3. - Dangerous, nontraditional, and exotic animals prohibited.

No person shall keep, harbor, or maintain care custody, or control, over any dangerous, nontraditional, and exotic animals within the city limits. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

(Ord. No. 19-25, § 1, 12-2-2019)

~~Sec. 10-4. - Agricultural animals.~~

Agricultural animals shall only be kept in agricultural districts within the city or other districts as allowed in the city zoning ordinance and pursuant to restrictions set forth in the zoning ordinance. An exception shall be made to this section for those farm animals brought into the city as part of an

operating zoo, veterinarian clinic, scientific research laboratory, or licensed show or exhibition.

(Ord. No. 19-25, § 1, 12-2-2019)

Sec. 10-5. - Nuisance animals.

- (a) It shall be the obligation and responsibility of the owner of any animal in the city, whether permanently or temporarily therein, to prevent such animal from committing any act which constitutes a nuisance. Failure on the part of the owner to prevent his/her animal from committing an act of nuisance shall be subject to the penalty herein provided.
- (1) *Noisy animals.* It shall be unlawful for any person to keep or harbor an animal which habitually barks or cries. Habitual noise shall be defined as barking or crying for repeated intervals of at least five minutes with less than one minute of interruption. Such barking or crying must also be audible off of the owner's premises. Repeated barking or crying due to intentional provocation by an unrelated individual residing off the property of the owner is not considered habitual for purposes of this subsection, nor is barking or crying related to a periodic external stimulus such as a nondomestic animal, machinery or unusual activity within the vicinity of the premises.
- (2) *Excrement.* The owner of any animal shall be responsible for cleaning up any feces of the animal and disposing of such feces. Feces on the property of others or on public property must be cleaned up immediately. Feces on your own property is required to be cleaned up.
- (3) *Running at large.* Any domestic or agricultural animal shall not be permitted by the owner to run at large within the city. For purposes of this section the term "at large" means any animal not restrained by chain or leash not exceeding eight feet, except:
- a. Police dogs;
 - b. Animals restrained in a vehicle, fenced-in area, or building;
 - c. Animals on the premises of the owner and under the control and direction of the owner so as to be effectively restrained by command as by leash.
 - d. Animals accompanied by the owner and under the control and direction of the owner so as to be effectively restrained by command as by leash.
 - e. Off-leash dog park.
- (4) *Destruction of property.* It is a nuisance for an animal to molest, defile, or destroy any property, public or private.
- (5) *Vicious animals.* It is a nuisance for an animal to bite, attack, or endanger the safety of humans or domestic animals.
- (6) *Diseased or dangerous animal.*

- a. Any animal displaying symptoms of being rabid may be seized and shall be confined by the animal shelter at the expense of the owner, until found to be free from rabies.
- b. If any animal appears to be diseased, vicious, dangerous, or rabid, or has been exposed to rabies, and such animal can't be taken up and impounded without serious risk, such animal may be disposed of if reasonably necessary for the safety of any person.

(7) *Non-domesticated animal nuisances.* The city does not manage wildlife. Wildlife removal is handled by the Minnesota Department of Natural Resources or a private pest removal company.

(b) *Disposition of seized animal.* Any animal seized under the provisions of section 10-5 shall be taken to the animal control shelter and kept there to be reclaimed by the owner. The owner shall pay all fees related to impounding. An animal shelter shall maintain records in accordance with Minn. Stats. § 346.47, subd. 2.

(c) *Violations.* No animal shall be permitted to be a nuisance. Any owner who keeps, harbors, or is in physical control of an animal that is a nuisance shall be in violation of this article.

(Ord. No. 19-25, § 1, 12-2-2019)

Sec. 10-6. - Impounding.

(a) *Generally.*


- (1) The animal control officer shall take up and impound any animals which are in violation of any of the provisions of this chapter. Animals shall be impounded in an animal shelter and confined in a humane manner. Impounded animals shall be kept for not less than five regular business days of the animal shelter, unless reclaimed by their owners.
- (2) If an animal is found at large and the owner can be identified and located, such animal need not be impounded but may, instead, be taken to the owner. In such cases, however, proceedings may be taken against the owner for violation of this chapter.
- (3) The animal control officer may enter upon any public or private premises by warrant or as otherwise provided by law when such officer is in reasonable pursuit of his or her duties.
- (4) Upon receiving any animal as provided in this chapter, the animal shelter personnel who receive animals shall check for identification on each animal, identify the owner by the identification whenever possible, and promptly notify the owner of the location of the animal by the most expedient means. The animal shelter and police department shall maintain a record of animals so impounded per Minn. Stats. § 346.47.

(b) *Claiming an impounded animal.*

- (1) The owner of the impounded animal shall pay the animal shelter all fees related to

Sec. 30-803. - Animals.

- (a) *Definitions.* The definitions in section 30-1 are applicable in this section.
- (b) *Purpose.* It is the intent of this section to establish regulations which will allow the keeping of animals within the city in a safe, clean, and healthy manner. The city recognizes that certain types of animals require regulations and standards to ensure that the health, safety, and welfare of the public is protected and to promote the compatibility of land uses as it relates to the keeping of animals.
- (c) *Applicability of other regulations.* The provisions of this section relate to the regulation of animals in the context of land use compatibility. These standards and provisions are not exclusive of other regulations set forth in this Code. The provisions of any other ordinance, statute or rule which impose other or greater restrictions shall also apply.



~~(d) *Keeping of chickens.*~~

(1) *Number and type of chickens.*

- a. A maximum of 12 chickens (hens) are allowed on parcels two and one-half to five acres on all residentially zoned properties in the city.
- b. For parcels within the R-1a zoning district, the number of chickens can be increased with a conditional use permit, as described in this section.
- c. Chickens are not permitted on parcels below two and one-half acres in size in the R1-b, R1-c, and R1-d zoning district.
- d. Roosters are not permitted on parcels two and one-half acres to five acres in size, unless a conditional use permit is granted.

(2) *Chicken coop and run.*

- a. Every person who owns, controls, keeps, maintains, or harbors chickens must keep them confined at all times in a chicken coop or chicken run.
- b. Chickens are not allowed in principal or accessory structures.
- c. Chicken coops may not be constructed on any parcel of land before construction of the principal structure.
- d. A chicken coop will be considered an accessory structure and will count towards total lot coverage.
- e. Chicken coops and runs must comply with all applicable building and zoning codes and regulations.
- f. Setbacks.
 - i. Chicken coops and runs must be setback at least 25 feet from any residential structure and at least ten feet from the property line.

- ii. Chicken coops and runs must be located in the rear yard. Corner lots must maintain front yard setbacks from all property lines adjacent to rights-of-way.
- iii. A chicken coop and run may not be located within 45 feet of a wetland or stormwater pond.

g. Design standards.

- i. Chicken coops may be no larger than ten square feet per chicken and must be elevated between 12 and 24 inches to ensure air circulation beneath the coop. A chicken coop must have rodent resistant flooring.
- ii. Chicken runs may not exceed 20 square feet per chicken and must have a protective overhead netting to keep chickens separated from other animals.
- iii. Chicken coops and runs must be completely enclosed. A chicken coop and run must be enclosed with weather resistant wood or woven wire materials. Additionally, hardware cloth or similar material must extend one foot beyond the base of the coop and run area to protect from predators.

(3) *Additional requirements.*

- a. Chicken feed must be stored in rodent-proof containers.
- b. Chicken may not be kept or raised in a manner as to cause injury or annoyance to persons on other property in the vicinity by reason of noise, odor, or filth.
- c. The slaughtering of chickens is prohibited.

(e) *Agricultural animals.*

- (1) The keeping of agricultural animals in the A1 and R-1a zoning district is a permitted use on parcels which are five acres or larger and a conditional use on parcels which are smaller than five acres. In the R-1b, R-1c, and R-1d districts, the keeping of agricultural animals is a conditional use and shall be limited to parcels which are five acres or larger.
- (2) The number of animals permitted shall be limited to one animal unit per acre of fenced pasture land as outlined in the following table:

Animal	Animal Unit Value
Slaughter steer or heifer	1.0
Horse	1.0
Mature dairy cow	1.4
Swine under 55 pounds	0.5
Swine over 55 pounds	0.4
Sheep	0.1
Duck	0.2

Turkey	0.018
Chicken	0.01

Note: For animals not listed in this table, the number of animal units shall be defined as the average weight of the animal divided by 1,000 pounds.

The total number of allowed animal units per acre may be increased, provided there is an approved manure management plan following the Minnesota Pollution Control Agency Technical Guidelines for Manure Management and Applications. Such approval may be obtained through the conditional use permit process as noted in sections 30-651 through 30-657. In no event, however, shall the increased amount exceed twice the allowed animals as indicated in subsection (d)(2).

- (3) *Stables and barns.* All agricultural animals shall be provided a shelter under roof appropriately sized to accommodate the specific animal in a humane manner. For setback requirements see section 30-1007.
- (4) *Fences.* Agricultural animals shall be enclosed in a pen or corral. Fences for pens, corrals, pasture or similar enclosures must be of sufficient height and strength to retain such animals. For setback requirements see section 30-1007.
- (5) *Sanitation and health standards.* Any stable or barn in which animals are kept or maintained shall be kept clean so as to prevent the transmittal of disease to other animals or persons. Manure shall be removed from confined areas with sufficient frequency and disposed of properly to avoid nuisances from odors or breeding of flies. If manure is used as fertilizer, it shall be turned under immediately if possible, or as soon as the frost leaves the ground. Application of manure should be conducted in such a manner so as not to permit runoff toward surface waters. If the city finds that the manure and other waste materials create a nuisance by attracting flies, other insects, or rodents, or by creating offensive odors, the city may order that the manure and other waste materials be removed within four days of notice to the owner of the land.

~~(f)~~ *Keeping of honeybees.* Honeybees are an asset to the community and important in the pollination of plants and in the production of honey and other products.

- (1) *Purpose.*
 - a. The purpose of this ordinance is to establish certain requirements for beekeeping within the city, to avoid issues which might otherwise be associated with beekeeping in populated areas.
 - b. Compliance with this ordinance shall not be a defense to a proceeding alleging that a

given colony constitutes a nuisance, but such compliance may be offered as evidence of the beekeeper's efforts to abate any proven nuisance.

- c. Compliance with this ordinance shall not be a defense to a proceeding alleging that a given colony violates applicable ordinances regarding public health, but such compliance may be offered as evidence of the beekeeper's compliance with acceptable standards of practice among hobby beekeepers in the State of Minnesota.

(2) *Colony density.*

- a. Every residentially zoned lot or parcel of land of at least one acre, but below five acres shall be permitted six colonies.
- b. There is no limit to the number of colonies for residentially zoned parcels five acres and above.
- c. If any beekeeper serves the community by removing a swarm or swarms of honeybees from locations where they are not desired, that person shall not be considered in violation of the colony density restrictions in this section if the following conditions are met:
 - 1. The person temporarily houses the honeybees at an apiary site of a beekeeper registered with the city,
 - 2. The bees are not kept for more than 30 days, and
 - 3. The site remains in compliance with the other provisions of this section.

(3) *Colony location.*

- a. Hives cannot be located in the front or side yards. Corner lots shall be considered to have two front yards. All hives must adhere to the below setbacks:

Parcel Size	Minimum Distance (feet)
Front	35
Side	20
Rear	20
Public Right-of-Way or Trail Easements	30
Adjacent Dwelling Units	30

- b. Hives cannot be located in any drainage and utility easements; floodway or regulated floodplain as defined in division 11 of the city code; or the first 25 feet of the wetland buffer as defined in section 30-1852 of the City Code.
- c. Except as otherwise provided in this section, in each instance where any part of a hive is kept within 25 feet of a lot line of the apiary site, a flyway barrier of at least six feet in height must be constructed.
 - 1. The flyway barrier must consist of a wall, fence, or dense vegetation that requires honeybees to fly over, rather than through, the barrier.
 - 2. If a dense vegetation flyway barrier is used, the initial planting may be a minimum of four feet in height, but the vegetation must reach a height of at least six feet within two years after installation.
 - 3. If a wall or fence flyway barrier is used, the materials must be decay resistant, maintained in good condition, and constructed in accordance with sections 30-796 of this code.
 - 4. The flyway barrier must continue parallel to the lot line of the apiary site for at least ten feet in both directions from the hive or must contain the hive or hives in an enclosure at least six feet in height.
 - 5. A flyway barrier is not required if the hive is located on a rooftop.

(4) *Additional requirements.*

- a. Honeybee colonies shall be kept in hives with removable frames, which shall be kept in sound and useable condition.
- b. Each colony on the apiary site shall be provided with a convenient and adequate source of water which must be located within ten feet of each active colony on the applicant's property.
- c. Materials from a hive such as wax combs or other materials that might encourage robbing by other bees shall be promptly disposed of in a sealed container or placed within a building or other bee and vermin proof enclosure.
- d. For each colony permitted to be maintained, there may also be maintained upon the same apiary lot, one nucleus colony in a hive structure not to exceed one standard 9 5/8-inch depth box, ten frame hive body with no supers.
- e. Each beekeeper shall maintain his beekeeping equipment in good condition, including keeping the hives painted if they have been painted but are peeling or flaking, and securing unused equipment from weather, potential theft or vandalism and occupancy

by swarms. It shall not be a defense to this ordinance that a beekeeper's unused equipment attracted a swarm and that the beekeeper is not intentionally keeping bees.

- f. Hives shall be continuously managed to provide adequate living space for their resident honeybees in order to prevent swarming.
- g. Honey may not be sold from any residential property unless a home occupation permit has been obtained and required conditions met in accordance with section 30-801 of this Code.

(5) *Permit.*

- a. Each apiary site must apply for registration and receive approval prior to bringing any honeybees into the city.
- b. The application for a beekeeping permit must be upon a form provided by the city. All required information must be complete.
- c. Beekeeping training and education is required for the beekeeper prior to the issuance of the initial beekeeping permit by the city. At the time of application for registration, the beekeeper must submit a certificate of completion of a honeybee keeping course from an accredited institution.
- d. If the beekeeper relocates a hive or colony to a new apiary site, the beekeeper shall apply for an updated beekeeping permit, prior to the relocation, on the form provided by the city.
- e. The beekeeping permit shall be valid until March 31 of each calendar year following initial issuance and must be renewed by the registrant prior to expiration each year by submitting a renewal form on a form provided by the city.
- f. Upon receipt of a beekeeping permit for initial review, the city will send written notice to all owners of properties located within 350 feet of the property the apiary site(s) are identified on. Any objections to the registration must be made in writing and received within 14 days of mailing the notice. If any written objection is received, the beekeeping permit must be referred to the city administrator or designee.
 - 1. The beekeeping permit must be denied if the city receives a written objection from a resident living within the designated notification area that includes medical documentation by a licensed physician of an allergy to honeybee venom.
- g. The fees for the registration will be determined by the city council in the city's fee schedule.
- h. The property must be in compliance with all other applicable city regulations in order to receive approval and renewal.
- i. If the standards of practice are not maintained subsequent to issuance of a

beekeeping permit, the permit may be revoked by the city administrator or designee.

- j. Beekeepers operating in the city prior to the effective date of the section will have until July 1, 2019 to apply for registration.

(6) *Inspection.*

- a. Upon initial registration, renewal every two years or any updated registration, each beekeeper must allow for an inspection of the site.
- b. A designated city official shall have the right to inspect any apiary for the purpose of ensuring compliance with this ordinance between 8:00 a.m. and 5:00 p.m. once annually upon 30 days notice to the owner of the apiary property.
- c. In the case of a complaint regarding the apiary, the apiary site may be inspected without prior notice.

(g) *Dangerous animals.* No person shall keep or be allowed to keep in the city any animal which is dangerous by nature as defined in section 30-1.

(h) *Nontraditional or exotic animals.*

(1) A person may keep a nontraditional or exotic animal only upon issuance of a conditional use permit in accordance with subdivision III of division 2 of this article. In determining whether an animal is considered nontraditional or exotic, it shall be the responsibility of the applicant to supply the city with the necessary data and information to reasonably prove that the animal is not dangerous in captivity. This information shall be part of the public record and shall be discussed as part of the conditional use permit review.

(2) If a conditional use permit is approved which allows the keeping of a nontraditional or exotic animal, this use shall be at a minimum subject to the agricultural standards as set forth in subsection (d) of this section. In reviewing a request to keep nontraditional or exotic animals, the city may impose conditions and restrictions as it finds necessary, including, but not limited to, the following:

- a. Restrictions on the number and type of animals.
- b. Setbacks greater than those required in subsections (d)(3) and (4) of this section.
- c. Restrictions on the size, height and type of enclosures.
- d. Screening or landscaping of the proposed use.

(3) The applicant must also submit a copy of all permits required from the state department of natural resources, United States Department of Agriculture, United States Fish and Wildlife Service, and any other governmental agency if applicable.

(i) *Inspections.* The city may at any time inspect the lot and structures where animals are kept to ensure compliance with the conditions and restrictions of this article and strict compliance

with the terms and conditions of a conditional use permit.

(Code 1982, § 908; Ord. No. 04-21, § 2, 12-20-2004; Ord. No. 17-09, § 1, 5-15-2017; Ord. No. 18-08, § 2, 5-21-2018)

Cross reference— Animals, ch. 10.

CHAPTER 2
ANIMAL CONTROL

SECTION:

- 5-2-1: Definitions
- 5-2-2: Animal Identification
- 5-2-3: Limitations
- 5-2-4: Keeping or Harboring Prohibited
- 5-2-5: Animals at Large
- 5-2-6: Barking, Nuisances, Property Damage and Fecal Clean-up
- 5-2-7: Rabies Control
- 5-2-8: Dangerous and Potentially Dangerous Animals
- 5-2-9: Potentially Dangerous Animals
- 5-2-10: Dangerous Animals
- 5-2-11: Animal Biting; Quarantine
- 5-2-12: Animals Subject to Impoundment
- 5-2-13: Redemption
- 5-2-14: Disposition of Unredeemed Animals
- 5-2-15: Interference with Officers
- 5-2-16: Service Animals
- 5-2-17: Commercial Kennels
- 5-2-18: Violations and Penalties

5-2-1: **DEFINITIONS**

As used in this Chapter, unless the context otherwise indicates, the following words shall be defined to mean:

ANIMAL CONTROL OFFICER. The city staff charged with the duty of picking up and impounding strays or abandoned animals as herein provided.

ANIMAL SHELTER. Any premises designated by the City for the purpose of impounding or caring for animals held under the authority of this Chapter.

AT LARGE. Off the premises of the owner and not under the control of the owner, or other competent person, by leash not exceeding eight (8) feet in length.

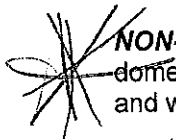
DANGEROUS ANIMAL. An animal that has:

1. without provocation, inflicted substantial bodily harm on a human being on public or private property; or
2. killed or caused substantial bodily harm to a domestic animal without provocation while off the owner's property; or
3. been found to be potentially dangerous, and after the owner has notice that the animal is potentially dangerous, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals; or
4. been declared a Dangerous Dog pursuant to Minnesota Statutes by the animal control authority of another jurisdiction.

DOMESTIC ANIMAL. Any of various non-venomous animals domesticated so as to live and breed in a tame condition. Domestic animals do not include any animal considered "non-domestic" as defined by this Section. Domestic animals are limited to:

- Dogs
- Cats
- Rabbits
- Ferrets
- Any of the class of Aves (birds) that are caged and otherwise kept inside the residence, specifically excluding poultry.
- Any of the order of Rodentia such as mice, rats, gerbils, hamsters, chinchillas & guinea pigs
- Any of the class of Reptilia such as snakes, lizards, and turtles excepting those meeting the non-domestic animal definition
- Any of the class of Amphibian such as salamanders, frogs, toads excepting those meeting the non-domestic animal definition.

KENNEL. Any place, building, tract of land, abode, or vehicle where three or more dogs are kept and maintained. Kennel does not include a veterinarian licensed to practice in the State of Minnesota who keeps, congregates or confines dogs in the normal pursuit of the practice of veterinary medicine. Kennel does not include an animal shelter owned and operated by any political subdivision of the State or providing animal sheltering services under contract with any political subdivision of the State.



NON-DOMESTIC ANIMAL. Those animals considered to be naturally wild and not naturally trained or domesticated; or which are considered to be farm animals or inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:

1. Any member of the cat family (Felidae) including, but not limited to, lions, tigers, cougars, bobcats, leopards and jaguars, but excluding those recognized as domesticated house cats.
2. Any naturally wild member of the canine family (Canidae) including, but not limited to, wolves, foxes, coyotes, dingoes, and jackals, but excluding those recognized as domesticated dogs.
3. Any hybrid or crossbreeds between an animal defined in clauses (1) or (2) and a domestic animal and offspring from all subsequent generations of those hybrids or crosses, such as the crossbreed between a wolf and a dog.
4. Any member or relative of the mammal family including any skunk (whether or not descended), raccoon, or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets.
5. Any poisonous, venomous, constricting (when snake is of size causing inherent risk to humans), or inherently dangerous member of the reptile or amphibian families including, but not limited to, rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.
6. Goats, pigs (including pot bellied pigs), poultry, horses, cattle, llama, bison.
7. Any other animal that is not explicitly listed above but which can be reasonably defined by the terms of this Section including, but not limited to exotic animals, human primates, bear, deer, elk, ducks, and game fish.

OWNER. Any person, keeper, custodian or legal entity owning, harboring or keeping an animal, whether temporary or permanent.

POTENTIALLY DANGEROUS ANIMAL. An animal which has:

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

4. Been declared a Potentially Dangerous dog pursuant to Minnesota Statutes by the animal control authority of another jurisdiction.

PREMISES. Any building, structure, shelter or land whereupon animals are kept or confined.

PROPER ENCLOSURE. Securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the animal. 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 obstacles that prevent the animal from exiting.

PROVOCATION. An act that an adult could reasonably expect may cause an animal to attack or bite.

SUBSTANTIAL BODILY HARM. Bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

UNPROVOKED. The condition in which the animal is not purposely agitated or disturbed. It is a rebuttable presumption that any attack on a child fourteen years of age or younger for which a reasonable person connotes an intent to inflict bodily harm will be considered to be unprovoked unless the child is engaged in the commission of a crime or illegal activity, including activities classified under Minnesota Statutes as cruelty to animals.


5-2-2: **ANIMAL IDENTIFICATION**

All dogs and cats are required to have some identification on them that would assist animal control in contacting the owner. Identification allowed under this subdivision include microchips, veterinarian issued rabies certificates, or any tags or collars with contact information and phone number(s) inscribed on it.

5-2-3: **LIMITATIONS**

- A. *Generally.* No more than two dogs over six (6) months of age shall be owned, kept or harbored on the premises of a single family home or per dwelling unit for multi-family properties.
 1. *Grandfathering.* Owners who currently possess dogs in excess of the limitations set forth in this Ordinance, and who met licensing requirements prior to the date of enactment, will be allowed to continue to possess such dogs for as long as such dogs reside in the City. Once such dogs become deceased or do not live within the City for a period of 6 months, the limitations set forth shall again apply.
 2. *Fostering.* Owners who provide foster care for animals through the Tri-County Humane Society or other foster agencies are still subject to the number limitations and other provisions of this Ordinance.

5-2-4: **KEEPING OR HARBORING PROHIBITED**

- 
- A. No person shall own, care for, have custody or control of, within the City limits, any non-domestic animal as defined in this Chapter.
 1. *Exceptions.* An exception may be made to this prohibition for the following:
 - a. *Non-domestic animals within the City's Agricultural Zoning District as specifically provided within the City's Zoning Ordinance.*

- B. *Restrictions on Food and Drink Establishments.* It is unlawful for the owner or operator of any establishment wherein the selling, handling, processing or preparation of food is done to permit any animal in such establishment except as allowed by Minnesota Statutes.

5-2-5: **ANIMALS AT LARGE**

- A. It will be unlawful for any person having or maintaining any animal to permit the animal to be at large or to be upon any premises other than as provided in the permit whether or not a permit for such animal has been issued as provided under the licensing and permit provisions of this Chapter or other ordinance of the City.
- B. It is unlawful for any owner to allow a domestic animal to be at large at any time.
- C. *Dog Parks.* Dogs are permitted to be unleashed in off leash dog park areas as designated by the City under the following conditions:
1. The dog owner or owner's designee as allowed by Park rules must be present; and
 2. The dog must be under the voice control of the owner at all times; and
 3. Feces must be properly removed and disposed of; and
 4. A dog deemed a dangerous or potentially dangerous animal under this Chapter is not permitted to use off leash areas.
- D. Owners of animals found running at large are subject to a fine pursuant to the City's fee schedule.

5-2-6: **BARKING, NUISANCES, PROPERTY DAMAGE AND FECAL CLEAN-UP**

- A. *Barking.* No person will keep or harbor a dog which habitually barks or cries, howls or whines for a period of six (6) or more minutes out of a ten (10) consecutive minute period.
- B. *Nuisance Noise.* It is unlawful for any owner to maintain at any place within the City any animals which, by their habitual whining, barking, howling or other disagreeable noises, disturbs the people in the locality where kept.
- C. *Damage to Property by Animals Prohibited.* No person having the custody or control of a dog, cat or other animal will permit the animal to damage any lawn, garden or other property, public or private, or to defecate on private property, without the consent of the property owner.
- D. *Fecal Clean-up.* It is the duty of each person having the custody or control of a dog, cat or other animal to voluntarily and promptly remove any feces left by such dog or animal on any sidewalk, gutter, street, park land or other public property, or any public area, and to dispose of the feces in a sanitary manner and to have in immediate possession a device or equipment for the picking up and removal of feces. For the purpose of this subdivision, "public area" will include any property open for public use or travel, even though it is privately owned.
1. *Exception.* The provisions of this subdivision do not apply to a guide dog or service animal accompanying a blind person or to a dog when used in police or rescue activities by or with the permission of the City. This subdivision will not be construed by implication or otherwise to allow dogs to be where they are otherwise prohibited by the ordinances of the City.

5-2-7: **RABIES CONTROL**

- A. *Dogs and Cats Rabies Immunization Required.* All dogs and cats over the age of six (6) months harbored or maintained within the City shall be immunized against rabies by a licensed veterinarian. The vaccines used and their duration of immunity against rabies will be as recommended by the National Association of State Public Health Veterinarians (NASPHV) in their current Compendium

CHAPTER 5

RESIDENTIAL DISTRICTS

ARTICLE A. AG AGRICULTURE DISTRICT:

SECTION:

10-5A-1:	Intent
10-5A-2:	Permitted Uses
10-5A-3:	Conditional Uses
10-5A-3.5:	Interim Uses
10-5A-4:	Permitted Accessory Uses
10-5A-5:	Lot, Area and Yard Requirements
10-5A-6:	Animal Density Allowances
10-5A-7:	Minnesota Agricultural Land Preservation Program
10-5A-8:	Waste Utilization Plan

10-5A-1: **INTENT:** The agriculture district is intended to preserve the city's agricultural uses in order to protect farms, to maintain the city's small town character and to create an urban reserve for such time when there is a need for additional urban development and public utilities may be extended.

10-5A-2: **PERMITTED USES:** The following uses shall be permitted within the A-1 Agriculture District:

- A. General Farming
- B. Single Family detached dwellings
- C. Greenhouses, Nurseries and tree farms
- D. Public parks and playgrounds, game refuge
- E. Roadside/Seasonal produce stands.

- 1. They are erected at least fifty feet (50') from the nearest edge of roadway surface.
- 2. Parking space is provided off the road right of way

10-5A-3: **CONDITIONAL USES:** The following uses require a conditional use permit as provided in Chapter 14 of this Title:

- A. Living quarters for up to six (6) persons employed on the premises
- B. Cemeteries.
- C. Equipment maintenance and storage facilities.
- D. Commercial outdoor recreation facilities including Golf courses, club houses, swimming pools and other similar uses.
- E. Commercial Kennels and veterinary establishments.
- F. Stables and riding academies.
- G. Public and Private Schools.
- H. Public buildings, essential services
- I. Churches.

J. Agricultural service establishments

10-5A-3.5: INTERIM USES: Subject to the issuance of a interim use permit.

- A. Mining/extraction of minerals, sand, gravel, other granular materials and the like subject to other applicable sections of this Title.
- B. Land Filling of over 50 cubic yards of material.

10-5A-4: PERMITTED ACCESSORY USES:

- A. Accessory structures.
- B. Operation and storage of vehicles, equipment, and machinery that is incidental to an allowed principal or conditional use permit.
- C. Solar and Wind energy systems.
- D. Fenced runs, pens and similar intensively used facilities for animal raising and care provided they are not located within three hundred feet (300') of a neighboring property.
- E. Home Occupations,
- F. Living quarters for up to 6 persons employed on the premise.
- G. Fish ponds for private use to not exceed 5 acres.
- H. Signs
- I. Gardening

10-5A-5: LOT, YARD, AREA AND HEIGHT REQUIREMENTS:

- A. Lot Area: Minimum lot area forty (40) acres.
- B. Lot Width: Minimum lot width 150 feet.
- C. Front Yard Setback: The minimum front yard setback in the A-1 Agriculture District shall be fifty feet (50').
- D. Side Yard Setback: The minimum side yard setback in the A-1 Agriculture District shall be twenty feet (20').
- E. Rear Yard Setback: The minimum rear yard setback in the A-1 Agriculture District shall be thirty feet (30').
- F. Height: Maximum height of buildings shall be forty-five feet (45').

10-5A-6: ANIMAL DENSITY ALLOWANCES: Animal density allowances shall be calculated using gross acreage of all substantially contiguous property owned or leased by the same property owner regardless of jurisdictional boundary and rounded to the nearest whole number.

- A. One (1) equine/acre
- B. One (1) cattle/acre
- C. Three (3) swine/acre
- D. Four (4) cervidae/acre (e.g. deer)
- E. Five (5) goats or sheep/acre
- F. Twenty-five (25) large poultry/acre (such as turkey, ducks, etc.)
- G. Fifty (50) small poultry and animals/acre (such as chickens, rabbits, etc.)
- H. Fifty-one (51) or more small poultry/acre by conditional use permit

10-5A-7: MINNESOTA AGRICULTURAL LAND PRESERVATION PROGRAM: Properties proposed for designation under agricultural preserve status as provided for by MN Statute, Chapter 40A, must be zoned AG – Agricultural District.

10-5A-8: WASTE UTILIZATION PLAN: All properties with livestock must have a Waste Utilization Plan (according to NRCS Standard 633) that is approved by the applicable county soil and water conservation district and must comply with all MPCA permitting requirements.

CHAPTER 91: ANIMALS

Section

- 91.01 Definitions
- 91.02 Dogs and cats
- 91.03 Non-domestic animals
- 91.04 Farm animals
- 91.05 Impounding
- 91.06 Kennels
- 91.07 Nuisances
- 91.08 Seizure of animals
- 91.09 Animals presenting a danger to health and safety of city
- 91.10 Diseased animals
- 91.11 Dangerous and potentially dangerous dogs
- 91.12 Dangerous animals (excluding dogs)
- 91.13 Basic care
- 91.14 Breeding moratorium
- 91.15 Enforcing officer
- 91.16 Pound
- 91.17 Interference with officers
- 91.18 Fighting animals
- 91.19 Feeding stray cats and dogs

- 91.99 Penalty

' 91.01 DEFINITIONS.

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

ANIMAL. Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:

(1) **DOMESTIC ANIMALS.** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

~~(2)~~ **FARM ANIMALS.** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, farm animals shall include members of the equine family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, ratitae (ostriches and emus), farm raised cervidae (caribous and mule deer), llamas and alpacas and other animals associated with a farm, ranch, or stable.

(3) **NON-DOMESTIC ANIMALS.** Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:

(a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(d) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.

(e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.

AT LARGE. Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

CAT. Both the male and female of the felidae species commonly accepted as domesticated household pets.

DOG. Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

OWNER. Any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

Penalty, see ' 91.99

' 91.04 FARM ANIMALS.

Farm animals shall only be kept in an agricultural district of the city, or on a residential lot of at least ten acres in size provided that no animal shelter shall be within 300 feet of an adjoining piece of property. An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

' 91.05 IMPOUNDING.

(A) *Running at large.* Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. The Animal Control Officer or police officer shall not enter the property of the owner of an animal found running at large or the owner of an unlicensed animal unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in ' 10.20, to search for and seize the animal. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

(B) *Biting animals.* Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the city pound for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the county in which this city is located, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

(C) *Reclaiming.* For the purposes of this section regular business day means a day during which the establishment having custody of the animal is open to the public at least four consecutive hours between 8:00 a.m. and 7:00 p.m. All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined under ' 91.11 in which case it shall be kept for seven regular

business days or the times specified in ' 91.11, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

(1) Payment of the release fee and receipt of a release permit as established by the Ordinance Establishing Fees and Charges adopted pursuant to ' 30.11 of this code, as that ordinance may be amended from time to time.

(2) Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in the pound; and

(3) If a dog is unlicensed, payment of a regular license fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to ' 30.11 of this code, as that ordinance may be amended from time to time, and valid certificate of vaccination for rabies and distemper shots is required.

(D) *Unclaimed animals.* At the expiration of the times established in division (C) of this section, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the animal by complying with all provisions in this section, or the officer may sell the animal to the University of Minnesota, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Clerk.

Penalty, see ' 91.99

' 91.06 KENNELS.

(A) *Definition of kennel.* The keeping of three or more dogs 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 may be kept for a period of three months before that keeping shall be deemed to be a kennel.@

(B) *Kennel as a nuisance.* Because the keeping of three or more dogs 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 three or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the city.

Penalty, see ' 91.99

' 91.07 NUISANCES.

(A) *Habitual barking.* 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

CHICKENS

§ 150.400 DEFINITIONS.

For the purpose of this Zoning Code and other applicable ordinances certain words and terms are defined as follows:

BROODING. The period of chicken growth when supplemental heat must be provided due to the bird's inability to generate enough body heat.

CHICKEN. A domesticated bird that is kept as a pet or serves as a source of eggs or meat.

COOP. The structure used for the keeping or housing of chickens.

EXERCISE YARD. A larger fenced area that provides space for exercise and foraging for the birds when supervised.

HEN. A female chicken.

OFFICER. Any person designated by the City Council as an enforcement officer.

ROOSTER. A male chicken.

RUN. A fully-enclosed and covered area attached to a coop where the chickens can roam unsupervised.

(Ord. 460, passed 10-15-2019)

§ 150.401 GENERAL PROVISIONS.

The keeping of chickens is allowed in all zoning districts, subject to administrative approval and subject to the following provisions.

(A) No more than three chickens shall be housed or kept on any one property and shall only be allowed on properties with single family dwellings.

(B) Roosters are prohibited and the keeping of any poultry besides chickens is prohibited.

(C) Chickens shall not be housed in a residential dwelling unit or an attached or detached garage, except for brooding purposes.

(D) A coop is required to house the chickens. The coop must be constructed and maintained to meet the following minimum standards:

(1) The coop shall be located in the side or rear yard.

(2) The coop shall meet the setback requirements for utility/storage structures for the respective zoning district.

(3) The coop shall provide a minimum of nine (9) square feet of interior floor space.

(4) Construction shall be adequate to protect chickens from extreme temperatures and prevent access by rodents.

(5) The coop must be maintained in a clean and sanitary condition, devoid of all rodents and vermin and free from objectionable odors. Manure shall not be allowed to accumulate in a way that causes an unsanitary condition or causes odor detectible on another property.

City of Mora

- (6) The coop shall be fully-enclosed.
- (E) A run or exercise yard is required.
 - (1) Runs must be constructed and maintained to meet the following minimum standards:
 - (a) The run shall be located in the side or rear yard and attached to the coop.
 - (b) The run shall meet the setback requirements for utility/storage structures for the respective zoning district.
 - (c) The size of the run shall be at least 16 square feet if access to a fenced exercise yard is available. The size of the run shall be at 32 square feet if access to an exercise yard is not available. If the coop is elevated two feet so the birds can access the space beneath, that area may be counted as a portion of the minimum run footprint.
 - (d) The run shall be fully-enclosed.
 - (2) Exercise yards must be fully-enclosed by a fence.
- (F) Grains and feed must be stored in rodent and raccoon-proof containers inside of a structure.
- (G) Leg banding of all chickens is required.
- (H) Chicken fighting is prohibited.
- (I) Outdoor butchering of chickens is prohibited.
- (J) Dead chickens must be disposed of according to the Minnesota Board of Animal Health rules which require chicken carcasses to be disposed of as soon as possible after death, usually within 48 hours to 72 hours. Legal forms of chicken carcass disposal include offsite burial, offsite incineration or rendering, or offsite composting.
- (K) The city's officer may inspect the premises to ensure compliance with city ordinances.
- (L) Any person no longer keeping chickens must notify the city and remove the coop and run within 30 days of the chickens being removed from the property.

(Ord. 460, passed 10-15-2019)

§ 150.402 ADMINISTRATIVE APPROVAL REQUIRED.

No person shall own, keep, or have custody of live chickens without first obtaining approval from the city.

(A) Application shall be made to the city along with a fee for Site Plan Review according to the adopted fee schedule.

(B) A site plan shall be submitted with the application. The site plan shall identify the location of all structures on the property, including the coop, run, and exercise yard, and provide accurate property dimensions and setbacks.

(C) Letters of support from all adjacent property owners are required and shall be submitted with the application. The applicant is responsible for obtaining the letters.

(D) Upon receipt of a complete application, the Community Development Director shall be responsible for conducting an administrative Site Plan Review and, if approved, issuing a permit and leg bands.

City of Moira

(E) An application submitted by a renter requires written consent from the property owner in order to be considered a complete application.

(F) If at any time the Community Development Director determines violations of this subchapter to exist, the permit is subject to revocation.

(Ord. 460, passed 10-15-2019)

§ 150.403 RUNNING AT LARGE PROHIBITED.

(A) It shall be unlawful for the chicken(s) of any person who owns, harbors or keeps chickens, to run at large.

(B) Leg banding of all chickens is required and used to identify chicken owners.

(C) Any expenses incurred by the city in the enforcement of this section shall be the responsibility of the chicken owner. Expenses may include but are not limited to staff time, shelter, and feed.

(D) Any person who owns, harbors or keeps chickens shall be afforded one warning of running at large. A second occurrence of chicken(s) running at large will result in indefinite permit revocation by the Community Development Director.

(E) A person who owns, harbors or keeps chickens which runs at large shall be guilty of a misdemeanor.

(Ord. 460, passed 10-15-2019)

TITLE 5. ANIMALS

Chapter 500 Animals

Chapter 510 Horses, Colts and Ponies

Chapter 500 – Animals *amended 11-2-16, ord 741*

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

(A) “Animal” means any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. “Animals” shall be classified as follows:

(1) “Domestic animals” means those animals commonly accepted as domesticated household pets. Unless otherwise defined, “domestic animals” shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians and other similar animals;



(2) “Farm animals” are those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, “farm animals” shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees and other animals associated with a farm, ranch or stable;

(3) “Nondomestic animals” means those animals commonly considered to be naturally wild and not naturally trained or domesticated or which are commonly considered to be inherently dangerous to the health, safety and welfare of people. Unless otherwise defined, “nondomestic animals” shall include:

(a) Any member of the large cat family (family Felidae), including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats;

(b) Any naturally wild member of the canine family (family Canidae), including wolves, foxes, coyotes, dingos and jackals, but excluding commonly accepted domesticated dogs;

(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet;

(d) Any member or relative of the rodent family, including any skunk (whether or not descended), raccoon, squirrel or ferret, but excluding those members otherwise defined or commonly accepted as domesticated


(D) Vaccination.

- (1) All dogs and cats kept harbored, maintained or transported within the city shall be vaccinated at least once every three years by a licensed veterinarian for:
 - (a) Rabies - with a live modified vaccine; and
 - (b) Distemper.
- (2) A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine and the veterinarian's signature. Upon demand made by the City Administrator, the Animal Control Officer or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the City Administrator or officer. Failure to do so shall be deemed a violation of this section.

Penalty, see §500.99

500.03 Nondomestic Animals. It shall be illegal for any person to own, possess, harbor or offer for sale any nondomestic animal within the city. Any owner of a nondomestic animal at the time of adoption of this code shall have 30 days in which to remove the animal from the city, after which time the city may impound the animal as provided for in this chapter. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory or a licensed show or exhibition.

Penalty, see §500.99

 **500.04 Farm Animals.** Farm animals shall only be kept in an agricultural district of the city. An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory or a licensed show or exhibition.

500.05 Impounding.

- (A) **Running at large.** Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy or otherwise cause injury to any animal, including dogs and cats running at large.

2. A-1 Agricultural

A. Intent

The intent of the A-1 Agricultural District is to preserve the rural character of the district until such time as the land use is determined.

B. Permitted Uses

In the A-1 Agricultural District, no building or land shall be used and no building shall be erected, converted, or structurally altered unless otherwise provided herein, except for one or more of the following uses:

- Airports, cemeteries, and public uses;
- Farm access buildings and related structures;
- Game farms;
- Golf courses;
- One family detached dwelling units;
- Raising of non-domestic livestock or dairying not to exceed five animals;
- Raising poultry or bees;
- Nursery and greenhouses;
- Accessory structures to principal building.

C. Conditional Uses/Interim Uses

The following uses are permitted subject to the issuance of a conditional use permit:

- Permanent stands for the sale of agricultural products produced on the premises.
- Recycling Center (Revised 06-26-08, Ord. #618)

The following uses are permitted by the issuance of an interim use permit as outlined in Section IV, subsection 6:

- Raising of more than five (5) non-domestic livestock animals

D. General Requirements

All structures hereinafter erected shall conform to the following:

- Not more than one residential structure shall be permitted per a 40-acre tract of land;
- Not more than one residential structure shall be permitted per platted lot of record as of the date of this ordinance or date of annexation;
- Exterior metal siding and/or exterior metal roofing shall be permitted;
- Pole-type construction shall be permitted.

Chapter V – Zoning Districts

E. Front Yard Setback

Each lot shall have a front yard of not less than 50 feet.

F. Rear Yard Setback

Each lot shall have a rear yard of not less than 30 feet.

G. Side Yard Setback

Each lot shall have side yards of not less than 30 feet.

H. Lot Size

N/A

I. Lot Width

N/A

J. Maximum Height

N/A

K. Recycling Center Standards (Revised 06-26-08, Ord. #618)

- The Recycling Center shall be screened from adjacent use by the use of an opaque fence a minimum of 6 feet and not exceeding 10 feet in height.
- All necessary State and Federal permits shall be maintained on file with the City.
- The City shall inspect the site no less than annually for compliance with the conditions of approval.
- Signage shall be limited to 32 square feet of total signage visible from any public road.
- The Recycling Center shall at all times be in compliance with Minnesota Statutes Section 609.675 (doors of refrigerators or other containers to be removed or made inaccessible to children).

6. INTERIM USES (Rev. 11-18-10; Ord. 658)

An interim use permit as defined in Chapter II may be issued using the following procedure:

A. Procedure

1. Request for interim uses, as provided within this chapter, shall be filed with the Zoning Administrator on an official application form.
2. The Planning Commission shall prepare a findings of fact after holding a public hearing in the manner provided in M.S. § 462.357, as it may be amended from time to time. If, in the opinion of the city, the interim use requested is appropriate for the property in question, the Planning Commission shall prepare findings of fact supporting issuance of the permit.
3. The appropriateness of any interim use for a specific property shall be determined by the resolution of the City Council, adopted by at least a simple majority, after their review of all evidence presented including the findings of fact prepared by the Planning Commission.

B. Findings of Fact

When reviewing an application for an interim use, the city shall base its judgment on the following factors and any other factors it may deem appropriate for the specific property. The interim use may be granted if:

1. The proposed use is an interim use listed in the district in which the application is being made;
2. The date or event that will terminate the use can be identified with certainty and continued;
3. The interim use does not result in adverse effects on the public health, safety and welfare nor does it create additional pollution potential for ground and surface waters;
4. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.

C. Conditions of Approval

The user agrees to any and all conditions that the city deems appropriate for permission of the use. The conditions may include but are not limited to:

Chapter IV – Administration and Enforcement

1. A performance bond for the entire period of the interim use sufficient to cover any future costs the city may incur to enforce the provisions of the interim use permit;
2. Hours of operation, parking restrictions, lighting restrictions, screening, landscaping, fencing, signing restrictions, noise restrictions and the like.

D. Review of Permit

Failure of the city to specifically note conditions or restrictions does not waive the city's ability to enforce existing codes or hold a subsequent hearing and delete or impose additional conditions upon the property at any time. The Planning Commission shall review the interim use permit after eleven months have expired and recommend to the Council whether the use approved under the interim use permit shall be continued. If continued, the permit is subject to all other restrictions, subsequent revisions and provisions listed herein.

E. Longevity, Termination and Expiration

1. Any interim use may be terminated by a change in this chapter or violations of any of the conditions imposed after the original or subsequent hearings held by the city.
2. Any interim use permit issued by the city automatically expires upon the termination date noted in the permit or upon change of the ownership of the property, whichever comes first.

Section 1125 – Livestock

Section 1125:00. Livestock Not Permitted: No person shall keep livestock in the corporate limits of this municipality. Violations of this section shall be a misdemeanor.


Section 1125:02. Definitions. As used in this section the following words shall have the meanings set forth hereafter:

Subd. 1. “Person” shall include an individual, whether singular or plural, male or female, a partnership, a joint venture, a corporation or other association, and the agent thereof.

Subd. 2. “Keep” means to have in possession or control whether as owner or as agent or employee for the owner. In the context of this section, the time or duration of keeping shall have no relation to the definition of “keep,” that is, whether said livestock is being raised over a period of time or merely brought into the city temporarily until shipped to another destination. “Keep” does not include:

- (a) the riding of livestock in the city, although it does include the holding of livestock in the city for riding, such as riding stables, whether or not for hire;
- (b) the importing of livestock into the city for slaughter by a slaughtering house in the city on the day of importing;
- (c) the importing of livestock into the city on a truck or trailer if said livestock is not removed from such truck or trailer, except that transfer of livestock on the day of importing directly from one vehicle to another vehicle shall be permitted;
- (d) licensed special events; or
- (e) the provision of veterinary services.

Subd. 3. “City” means the City of Foley.

 Subd. 4. “Livestock” means horses; mules; donkeys; buffalo; cattle; swine; sheep; goats; elk; llama; fowl including pigeons, ducks, geese, turkeys, and chickens; or other farm animals. “Livestock” shall include animals raised for fur. “Livestock” shall include the singular as well as the plural.

Section 1125:04. Owner or Lessee Responsible. The Owner or lessee or person in lawful possession of the real estate in the City shall be responsible for compliance with this section.

Section 1125:06. Existing Licensed Livestock. Existing licensed livestock kept within the City at the effective date of this ordinance shall be removed within a reasonable period of amortization. The amortization period in which existing livestock must be removed, shall be five years from the effective date of this ordinance. As existing livestock are removed during the amortization period, they cannot be replaced.

Section 1125:08. Misdemeanor. Any person who violates any provisions of this Ordinance shall be guilty of a misdemeanor.

Section 1125 of the 1974 Code of Ordinances was amended by Interim Ordinance Number 388, passed and adopted July 6, 2010.

Section 1125 of the 1974 Code of Ordinances was repealed and replaced in its entirety by Ordinance Number 389, passed and adopted September 7, 2010.

Section 1115 - Beekeeping

Section 1115:00. Beekeeping Limited. No person shall keep bees in this municipality on property owned by him within 300 feet of the property line of any other property owner; nor shall any person keep or have at any one location more than two hives of bees in any case. Bees kept contrary to this ordinance are hereby declared a public nuisance and may be abated according to law.

Section 1040 –Animal Control Ordinance

Section 1040:00. Definitions.

Subd. 1. "Animal Control Officer" means the city staff charged with the duty of picking up and impounding unlicensed dogs, strays, and abandoned animals as herein provided.

Subd. 2. "Animal Shelter" or "City of St. Cloud Animal Shelter" means any premises designated by the City Council for the purpose of impounding or caring for animals held under the authority of this Section.

Subd. 3. "At Large" means off the premises of the owner and not under the control of the owner, or other competent person, by leash not exceeding eight feet in length.

Subd. 4. "Dangerous Animal" means an animal that has:

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


Subd. 5. "Domestic Animal" means any of various non-venomous animals domesticated so as to live and breed in a tame condition. Domestic animals do not include any animal considered "non-domestic" as defined by this ordinance section. Domestic animals are limited to:

- a. Dogs: *Canis lupus familiaris*
- b. Cats: *Felis catus*
- c. Rabbits: Order Lagomorpha
- d. Ferrets: *Mustela putorius furo*
- e. Any of the class of Aves (birds) that are caged and otherwise kept inside the residence;
- f. Any of the class of Aves (birds) kept under the owners or caretakers control and within properties that are zoned Rural Residential or Agricultural by the St. Cloud Land Development Code, further providing that those birds are not free to leave the property.
- g. Any of the order of Rodentia such as mice, rats, gerbils, hamsters, chinchillas & guinea pigs;
- h. Any of the class of Reptilia such as snakes, lizards, and turtles excepting those meeting the non-domestic animal definition;
- i. Any of the class of Amphibian such as salamanders, frogs, toads excepting those meeting the non-domestic animal definition;
- j. Any of the order of Erinaceomorpha such as hedgehogs and moon rats
- k. Sugar gliders: *Petaurus breviceps*

Subd. 6. "Kennel" means any place, building, tract of land, abode, or vehicle where three or more dogs are kept and maintained, with the exception of locations where the owners

have been issued a Multiple Animal Permit. Kennel does not include a veterinarian licensed to practice in the State of Minnesota who keeps, congregates or confines dogs in the normal pursuit of the practice of veterinary medicine. Kennel does not include an animal shelter owned and operated by any political subdivision of the State or providing animal sheltering services under contract with any political subdivision of the State.

Subd. 7. "Non-domestic Animal" means those animals considered to be naturally wild and not naturally trained or domesticated; or which are considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:

- a. Any member of the cat family (felidae) including, but not limited to, lions, tigers, cougars, bobcats, leopards and jaguars, but excluding those recognized as domesticated house cats.
- b. Any naturally wild member of the canine family (canidae) including, but not limited to, wolves, foxes, coyotes, dingoes, and jackals, but excluding those recognized as domesticated dogs.
- c. Any hybrid or crossbreeds between an animal defined in clauses (a) or (b) and a domestic animal and offspring from all subsequent generations of those hybrids or crosses, such as the crossbreed between a wolf and a dog.
- d. Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets.
- e. Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including, but not limited to, rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.
-  f. Goats, pigs, poultry, horses, cattle, llama, bison, except as allowed by the City of St. Cloud Land Development Code.
- g. Any other animal that is not explicitly listed above but which can be reasonably defined by the terms of this section including, but not limited to exotic animals, human primates, bear, deer, and game fish.

Subd. 8. "Owner" means any person, keeper, custodian or legal entity owning, harboring or keeping an animal, whether temporary or permanent

Subd. 9. "Potentially Dangerous Animal" A potentially dangerous animal is an animal which has:

- a. When unprovoked, 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 or private property, other than the animal owner's property, in an apparent attitude of attack; or
- c. A known history or propensity, tendency or disposition to attack while unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

Subd. 10. "Premises" shall mean any building, structure, shelter or land whereupon animals are kept or confined.

Subd. 11. "Proper enclosure" means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the animal. A proper enclosure does not include a porch,

1040:30. Keeping or harboring prohibited.



Subd. 1. No person shall own, care for, have custody or control of, within the city limits, any non-domestic animal as defined in this ordinance.

a. Exceptions. An exception may be made to this prohibition for the following:

- (1) non-domestic animals specifically trained for and actually providing assistance to the handicapped or disabled;
- (2) animals permitted as provided by the Land Development Code of the City of St. Cloud
- (3) for those non-domestic animals temporarily brought into the city as part of a licensed or permitted operating zoo,
- (4) veterinarian clinics;
- (5) licensed wildlife rehabilitators currently licensed by the Minnesota Department of Natural Resources, provided that the person has obtained a City of St. Cloud permit
- (6) for traveling exhibitions which keep non-domestic animals for exhibition or show, provided that the person, traveling circus, zoo or show holds a valid USDA license, and has obtained a state permit and a City of St. Cloud permit, provided that such non-domestic animals are not kept in the city more than 14 days per year.
- (7) for the City of St. Cloud Animal Shelter or the Tri-County Humane Society for the purpose of temporarily holding animals legally brought into their custody. Non-domestic animals may not be harbored for the purposes of animal adoption.
- (8) for educational institutions, provided that a City of St. Cloud permit is obtained.

b. Permits. Permits applications for the keeping of non-domestic animals will be made in writing upon a form provided by the Health Director and will state the name and address of the applicant, the kind and number of animals and the purpose for which the animals are to be kept and the location where the applicant proposes to keep the animals. Such permit shall specify any restrictions, limitations, conditions or prohibitions which the Health Director deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, or annoyance, or to protect the public health or safety. Such permit may require conditions to ensure the humane treatment of the animal. Such permit may be modified from time to time or revoked by the Health Director for failure to conform to such restrictions, limitations or prohibitions. Such modification or revocation shall be effective from and after ten (10) days following the mailing of written notice thereof to the person or persons keeping or maintaining such animals. Denial, modification or revocation of a permit issued under this section shall



CITY OF
MILACA *Minnesota*

255 First Street East, Milaca, MN 56353

(320)983-3141 | (320)983-3142 fax

August 11, 2022

Dear Planning Commission Member:

Enclosed is some additional information from our Zoning Engineer Phil Carlson in regard to the Conditional Use Permit for El Jalisco at 870 Central Ave N. which will be on the agenda for the meeting on August 15, 2022, at 6:00 p.m.

Please review for discussion at the meeting. Please note, this is copied back-to-back.

Thank you,

A handwritten signature in black ink that reads "Tammy Pfaff". The signature is written in a cursive style with a horizontal line above the first name.

Tammy Pfaff
City Manager
City of Milaca

Enclosures

Planning Report

Date: August 15, 2022

To: Milaca Planning Commission

From: Phil Carlson, AICP, Stantec

Request: Conditional Use Permit (CUP) for Outdoor Patios

Owner: Anson Properties, LLC

Applicant: El Jalisco Restaurant

Address: 870 Central Avenue N

PID: 21-360-0620

Zoning: B-2 General Business

INTRODUCTION

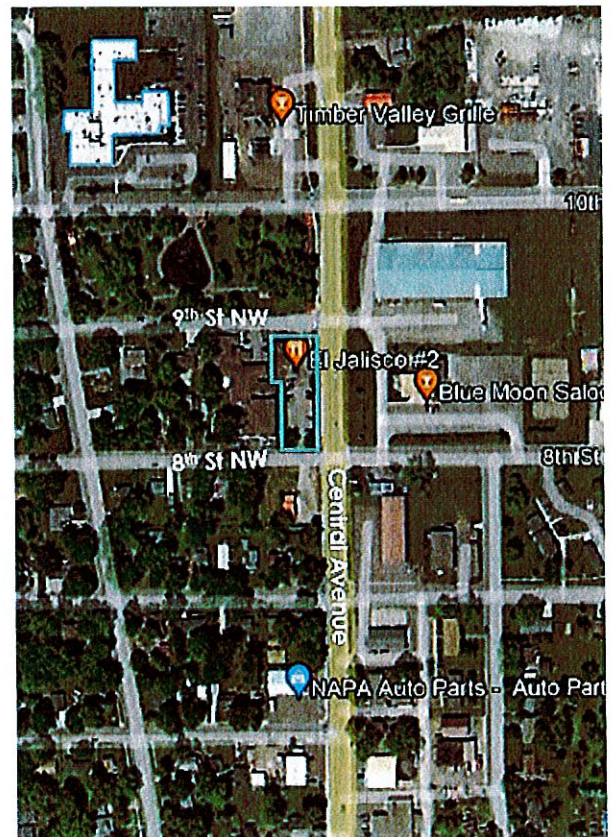
The El Jalisco restaurant on Central Avenue wants to have patios for outdoor seating and is requesting a conditional use permit (CUP) for them.

The property is zoned B-2 General Business and restaurants are a permitted use in that district. But the Zoning Code in Section 156.039(B)(1) says:

"Every use shall be conducted within a completely enclosed structure except as indicated or allowed by conditional use."

An outdoor patio qualifies as a use needing a conditional use permit, as other outdoor patios in Milaca have requested.

There has already been an outdoor patio in place for about five years on the south side of the restaurant, but the applicant has indicated a desire to have one on the north side, in addition to or instead of, the south side patio.





Re: El Jalisco Restaurant, CUP for Outdoor Patio

PLANNING & ZONING ISSUES

Use

As noted above, restaurants are a permitted use in B-2 but any outdoor use, including a patio, needs to be approved by CUP.

CUP Criteria

A conditional use in planning practice is considered a permitted use to which reasonable conditions can be attached based on findings of fact. The Milaca Zoning Code in Section 156.150(D) notes the Planning Commission's role in the CUP process:

(D) The Planning Commission shall consider possible adverse effects of the proposed amendment or conditional use. Its judgment shall be based upon, but not limited to, the following factors:

- (1) Relationship to the city's growth management system/Comprehensive Plan;*
- (2) The geographical area involved;*
- (3) Whether the use will tend to or actually depreciate the area in which it is proposed;*
- (4) The character of the surrounding area; and*
- (5) The demonstrated need for the use.*

Comprehensive Plan

The 2007 *Milaca Comprehensive Plan* has several goals and policies within the "Land Use Objectives and Policies" that might have bearing on this request:

- Promote continued investment in older areas.
As a long-established restaurant location, this site should be encouraged in efforts to improve.
- Use Code enforcement, buffering and screening to try to reduce if not eliminate problems due to incompatible land uses.
Some aspects of a restaurant use are not compatible with the adjacent assisted living use, which could be mitigated with conditions of approval.
- The details of private site design, including landscaping, lighting and signs, are critical to the overall appearance of the city.
The design and features of this outdoor patio are important to consider.
- Plan for retail and service businesses along the Highway 23 corridor and along Central Avenue.
The City has intended for businesses in this location, but with appropriate consideration of adjacent uses.
- Continue to diligently apply the provisions of the zoning ordinance that enhance . . . appearance and function . . . [including] landscaping, sign control, rear buffering, [etc.]”
We expect this use to function well and to enhance the area.



Re: El Jalisco Restaurant, CUP for Outdoor Patio

Conditions

Section 156.150(G) of the Zoning Code notes the kinds of conditions to be considered, not all of which apply to this request:

- (G) For all conditional uses, the following conditions shall be met:
- (1) The land area and setback requirements of the property containing the use or activity shall be the minimum established for the district.
 - (2) Where applicable, all city, state, and federal laws, regulations, and ordinances shall be complied with and all necessary permits secured.
 - (3) Adequate off-street parking and loading shall be provided in accordance with §§ 156.075et seq. This parking and loading shall be screened and landscaped from abutting residential uses in compliance with this subchapter.
 - (4) The proposed water, sewer, and other utilities shall be capable of accommodating the proposed use.
 - (5) The street serving the proposed use or activity shall be of sufficient design to accommodate the proposed use or activity, and the use or activity shall not generate such additional extra traffic to create a nuisance or hazard to existing traffic or to surrounding land uses.
 - (6) All access roads, driveways, parking areas, and outside storage, service, or sales areas shall be surfaced or grassed to control dust and drainage.
 - (7) All open and outdoor storage, sales, and service areas shall be screened from view from the public streets and from abutting residential uses or districts.
 - (8) All lighting shall be designed as to have no direct source of light visible from adjacent residential areas or from the public streets.
 - (9) The use or activity shall be properly drained to control surface water runoff.
 - (10) The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence.
 - (11) Where structures combine residential and non-residential uses, these uses shall be separated and provided with individual outside access, and the uses shall not conflict in any manner.

Parking Easement

There is an existing easement that extends across the El Jalisco property mid-block, which guarantees access (if it is needed) to the property to the west (Assisted Living facility). That facility has adequate access, so the easement is not needed, but it is still in force and must be respected.

Conditions
10 ft Setback west line.
Down Cast lighting.



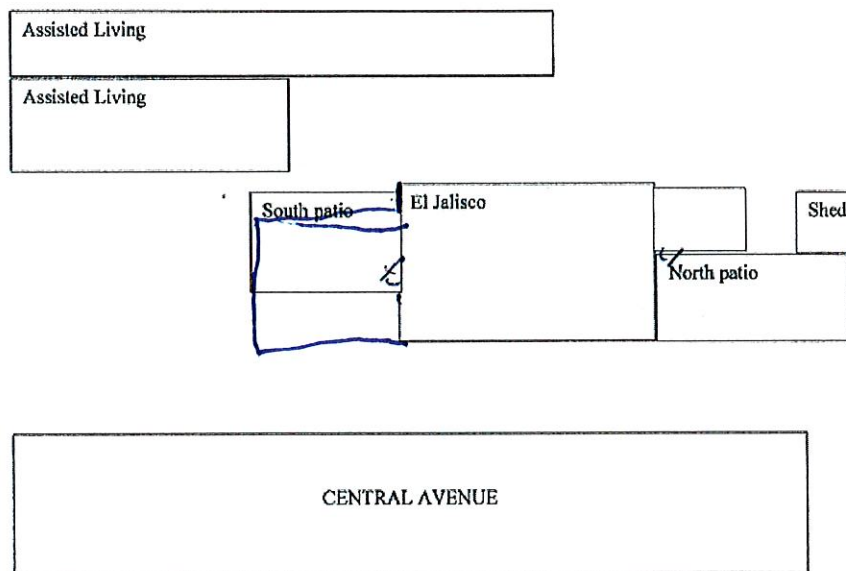
Re: El Jalisco Restaurant, CUP for Outdoor Patio

PROPOSED PATIOS

The request for an outdoor patio has two parts – a south patio and a north patio. The applicant's sketch is illustrated below, but it is not drawn to scale, so we have made assumptions about the intent. The proposed site plan is illustrated on the graphics at the end of this report, drawn to scale. The proposed patios are also illustrated on street view photos from 2014 – the restaurant and other features are not identical to what exists today, but they show the intent.

The proposed south patio is larger than the existing south patio and would extend further out toward the parking lot. From the applicant's sketch we assume the intent is to place the south patio very close to the property line abutting the Assisted Living facility.

The proposed north patio would be placed on the north side of the restaurant toward 9th Street NW between the shed and the parking lot and appears to be placed slightly further from the street than the shed is, a setback of about 5 ft from the north property line.



El Jalisco Restaurant – Applicant's Site Sketch

SITE ISSUES

There are at least three site issues I suggest the Planning Commission consider, which are discussed below:

- 1) Setbacks
- 2) Parking Impacts
- 3) Screening



Re: El Jalisco Restaurant, CUP for Outdoor Patio

Setbacks

The Zoning Code for the B-2 district requires a 25-ft front setback, or conforming to the existing setback on the block, and a 10-ft side setback. The code does not explicitly say the setbacks apply to outdoor patios, but the activity on a restaurant patio might have as much impact as a structure, so it is reasonable to expect an outdoor patio to respect the setback. The existing front setback on the block of 9th Street NW is established by the Assisted Living facility building, which is about 5 ft from its front property line, so that setback is met by the proposed north patio. The proposed south patio as proposed would not meet the 10 ft side setback.

Applying the Zoning Code setbacks to the El Jalisco site would require a 5 ft front setback on the north side and 10 ft side setback on the west side.

Parking Impacts

Most of the parking for El Jalisco is in the parking lot on the south side of the property, but there are a few spaces that appear on aerial photos elsewhere on the site. The bulk of the parking is not affected by the proposed patios (outlined in blue on the attached graphic). But other spaces would be affected – 2 spaces south of the building (outlined in yellow), 2 spaces north of the building (yellow), and 4 spaces on the east side of the building (gray). There is also street parking on 9th Street NW. Parking on site can be seen in historic aerial photos from 2011, 2015, and 2021, also attached at the end of this report, showing the various areas where parking has occurred.

The 4 spaces east of the building (gray) interfere with needed drive aisle dimensions on site and we would discourage these to be used. The spaces north and south of the building would be lost to the proposed patios.

Because only a few spaces are impacted by the proposed patios there may not be a problem in losing them. The applicant and local residents may be able to verify whether there are parking problems at El Jalisco. City staff has not received complaints about parking there.

Screening

The existing south patio is now placed on or near the lot line with the Assisted Living residential use. This would seem to pose a problem, but City staff has not received complaints about the patio. By approving the patio with a CUP the City gives the property the right to the patio "in perpetuity", legal language meaning forever. Now would be the time to consider reasonable conditions for the continued use of the patio.

It would be reasonable to separate the noise, activity, and lighting of the south patio from the Assisted Living building with a minimum setback and with screening by means of a fence, wall, or plantings. The plants could be either permanently installed or in large planters – something in the 10 ft setback to offer a buffer.

The north side patio does not have a similar issue, since it is separated from the residential use by the restaurant and shed structures and by a distance of about 40 ft. Across 9th Street NW to the north is Reineke Park, which is not a sensitive residential use, so screening is not needed.



Re: El Jalisco Restaurant, CUP for Outdoor Patio

RECOMMENDATION

I recommend approval of the conditional use permit for the outdoor patios at El Jalisco restaurant as illustrated on the attached Recommended Site Plan. The recommendation and conditions are as follows, with suggested Findings of Fact:

- 1) South patio setback, location, screening, and size. The south patio will be setback 10 ft from the west side lot line, with screening between the patio seating area and the Assisted Living Facility to the west. Such screening will consist of dense plantings at least 6 ft tall, either permanently installed or in portable planters, or a wall or fence at least 6 ft tall. With the 10 ft setback, the north-south width of the south patio would be reduced from the proposed 25 ft to 15 ft in the narrow portion but can be 25 ft wide beyond the setback. The east-west width of the south patio could be extended further into the site to the requested 40 ft width.
- 2) North patio setback, location, and size. The north patio is recommended as proposed by the applicant, setback 5 ft from the north property line, about 22 ft by 35 ft in size.
- 3) Lighting. All lighting on both the south and north patios will be downcast cutoff type fixtures so no glare more than 0.5 footcandle at eye level extends beyond the property line.
- 4) Hours of operation. Hours of operation for the south patio would be limited to 10 pm. *N/A*
- 5) Liquor service. No liquor service would be allowed on the south patio, but is allowed on the north patio, consistent with the restaurant's liquor license.
- 6) Parking. Parking is not allowed on the east side of either the north or south patio, nor on the east side of the restaurant building.

Findings of Fact

- 1) The City's comprehensive plan policies encourage investment in commercial businesses.
- 2) Outdoor seating for a restaurant is a reasonable and desirable use.
- 3) Outdoor restaurant seating next to a residential use could be disruptive and should adhere to the required setback in the Zoning Code.
- 4) Visually screening the activity of restaurant seating from a residential use by means of plantings, a wall, or a fence is reasonable.
- 5) Lighting for a commercial use next to a residential use should be designed so that very little glare extends beyond the property line.
- 6) Limiting hours of operation of a commercial use adjacent to a residential use is appropriate to protect the peace and quiet of the residential use.
- 7) Restricting parking from required drive aisles is a reasonable safety measure.



Re: El Jalisco Restaurant, CUP for Outdoor Patio

PLANNING COMMISSION MOTION TEMPLATES

The Planning Commission is charged with making a recommendation to the City Council, which has final authority to approve or deny the CUP. The Planning Commission may agree or disagree with my recommendation and is free to modify the recommendation. Options for Planning Commission recommendations and motions might include the following, with appropriate findings of fact:

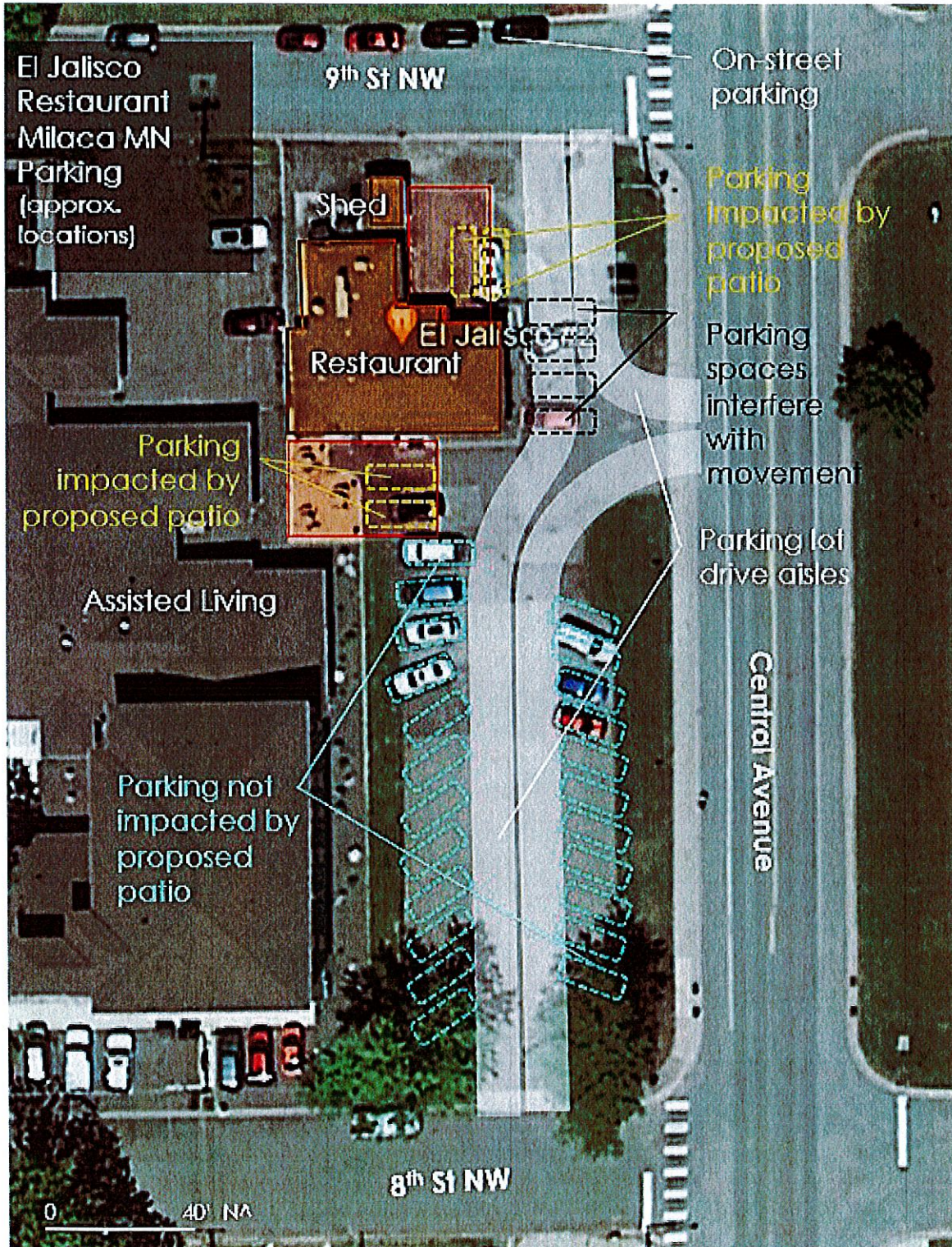
- *Approval Per Planner's Recommendation*
The Planning Commission recommends that the City Council approve the conditional use permit for the proposed patios for El Jalisco restaurant at 870 Central Avenue North with the recommendations, conditions, and Findings of Fact in the Planner's report of August 15, 2022.
- *Approval As Submitted*
The Planning Commission recommends that the City Council approve the conditional use permit for the proposed patios for El Jalisco restaurant at 870 Central Avenue North as submitted by the applicant *[with modifications if desired to the conditions related to setback, location, size, screening, lighting, hours of operation, liquor service, parking, or other issues]* and the following Findings of Fact *[revise the Findings as needed]*.
- *Approval With Revisions*
The Planning Commission recommends that the City Council approve the conditional use permit for the proposed patios for El Jalisco restaurant at 870 Central Avenue North with the following conditions and Findings of Fact *[revise the conditions related to setback, location, size, screening, lighting, hours of operation, liquor service, parking, or other issues]* with the following Findings of Fact *[revise the Findings as needed]*.

Denial

I do not recommend that the Planning Commission recommend denial of the request outright. Since a conditional use is considered a permitted use, the presumption is that there is some way to allow the use with certain conditions. I urge the Planning Commission to craft reasonable conditions to address concerns, rather than deny the request.

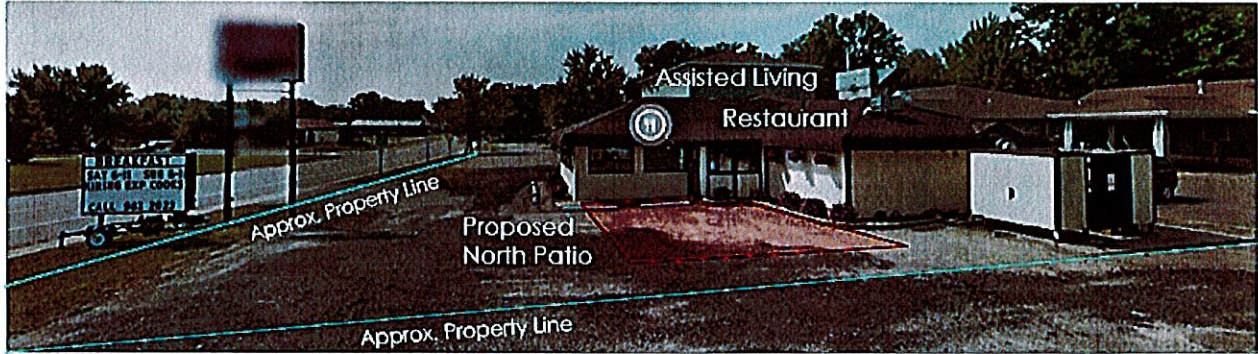


Re: El Jalisco Restaurant, CUP for Outdoor Patio





Re: El Jalisco Restaurant, CUP for Outdoor Patio



El Jalisco Restaurant – View South from 9th St NW (2014 street view photo, approx. location of patio)



El Jalisco Restaurant – View NW from Central Ave N (2014 street view photo, approx. location of patio)



El Jalisco Restaurant – Parking shown on historic aerial photos



Re: El Jalisco Restaurant, CUP for Outdoor Patio

