POLICE
218.568.8111
Fax 218.568.5647
plpd@pequotlakes-mn.gov

www.pequotlakes-mn.gov

Eric Klang
Chief of Police
4638 County Road 11
Pequot Lakes, MN 56472

MEMORANDUM

To: Mayor Jim Tayloe and members of the Pequot Lakes City Council

From: Eric Klang
Chief of Police, Pequot Lakes Police Department

Date: March 19, 2020

Re: Potentially Dangerous Dog Enforcement and Contested Hearing Process

---

The following memorandum addresses the process we recommend the City Council of the City of Pequot Lakes (City) follow in conducting a hearing on the Police Department's declarations that a dog owned by Mr. Craig Rose in the City is "potentially dangerous" within the meaning of Minnesota Statutes, section 347.50, subdivision 3.

Introduction and Background

Craig Rose resides at 5100 Edgewater Dr. in Mound, MN and is the owner of a Black lab dog named Jax. He was visiting family at 31092 Lakewood Ave in Pequot Lakes on March 3, 2020. Jax bit a 5 year old child while at this residence leaving open wounds on his face and fingers. The child received medical attention at Essentia in Brainerd.

The Pequot Lakes Police Department issued Mr. Craig Rose a Notice of Potentially Dangerous Dog on March 8, 2020; which also provided him with the opportunity to request a hearing before the City Council to challenge the City's declaration within 14 days from the date of the notices.

The City received Mr. Craig Rose's request for such a hearing on March 9, 2020. City staff has notified Mr. Rose that the City Council will conduct the hearing in a special meeting on April 7, 2020, at 6:00 p.m., preceding its regular meeting at 6:30 p.m.

Analysis of the law applicable to such a hearing and recommended process for administering the hearing follows.

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Applicable Law

State statute and the City's (potentially) dangerous dog ordinance both factor into the City's (potentially) dog enforcement proceedings. The substantive (potentially) dangerous dog regulations the City must enforce are contained in state law, however the state statutes are largely silent on the process cities should follow to enforce the statutes. Cities do not need to have an ordinance in place in order to enforce the regulations in state law, however, cities are free to establish a process for such enforcement, or to supplement the statute's regulations. *See* Minn. Stat. sec. 347.53 ("nothing in sections 347.50 to 347.565 limits any restrictions that the local jurisdictions may place on owners of potentially dangerous dog.")

Minnesota Statutes, sec. 347.50, subd. 3 defines a "potentially dangerous dog" as any dog that:

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

In this case, the Police Department's declaration that Jax is a potentially dangerous dog is grounded in the first element of the above definition: that Jax, when unprovoked, inflicted a bite on a human while off the owner's (Mr. Rose) property.

Chapter 347 of the Minnesota Statutes proceeds to outline the requirements for microchip identification requirements for potentially dangerous dogs (347.515). Section 347.53 declares that any statutory or home rule charter city may regulate potentially dangerous and dangerous dogs, with few limitations placed on local jurisdictions by the statutes.

The (potentially) dangerous dog laws must be enforced by the animal control authority or law enforcement agency whether or not there is a local ordinance on the subject. Minn. Stat. Sec. 347.565. An "animal control authority" is defined as an agency of the state, county, municipality, or other governmental subdivision of the state, which is responsible for animal control operations in its jurisdiction (Minn. Stat. sec. 347.50, subd. 7) – in this case the City itself or its Police Department would be considered to be the animal control authority.

Statute (as well as constitutional due process considerations) establishes that the owner of any dog that is declared to be potentially dangerous has a right to a hearing by "an impartial hearing officer" to contest the designation. Minn. Stat. sec. 347.541. This section states that the hearing officer "must be an impartial employee of the local government or impartial person retained by the local government to conduct the hearing." This section further establishes extensive notification requirements on animal control authorities when declaring a dog to be dangerous, each of which was complied with by the City in this case (*id.*, subd. 3); however, it does not establish clear procedural requirements for conducting such a hearing.

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Section 9-2.10 of the City Code also addresses the City's handling of potentially and dangerous dogs, and while it is not entirely consistent with the state statutes – which take precedence – in all respects, it establish a procedure to be followed when a dog owner requests a hearing to contest a potentially or dangerous dog designation as follows:

> If the owner of the dog requests a hearing as to the dangerous nature of his/her dog, then the City Clerk/Administrator shall place the matter before the City Council at its next regular meeting. The owner may present evidence in opposition to the designation of his/her dog as dangerous or potentially dangerous. The Chief of Police or his/her designee shall present evidence to the City Council that supports his determination that the dog is dangerous or potentially dangerous. Following the hearing, the City Council shall make a determination of facts and issue an order as to whether such dog is properly characterized as dangerous or potentially dangerous…

City Code sec. 9-2.10(2)(C).

In our view, the above quoted language from the City Code is consistent with the statutory requirement that the City grant a dog owner a hearing by "an impartial hearing officer," with the City Council performing the responsibilities of the "impartial hearing officer." Even though the City Council is not literally "an impartial employee" or "an impartial person retained to conduct the hearing," as stated in the statute, a hearing before the full City Council would provide greater process and protection to dog owners than the statute, and would therefore satisfy the statutory requirements. Further, as noted above, state statutes expressly leave room for cities to pass their own ordinances regulating dangerous dogs. For these reasons, we recommend that the City Council conduct the hearing on whether Mr. Rose dog, Jax is potentially dangerous within the meaning of state statute.

If requested, the hearing must be held within 14 days of the request (Minn. Stat. sec. 347.541, subd. 4), which will be satisfied by conducting the hearing on April 7, 2020. Do to the circumstances beyond our control the hearing date was moved to the following regularly council meeting date. In the event that the City Council upholds the potentially dangerous dog declaration, the dog's owner will be responsible for the actual expenses of the hearing up to a maximum of $1,000. *Id.* The hearing officer (in this case the City Council) must issue a decision on the matter within 10 days after the hearing. *Id.* The decision must be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy must be provided to the animal control authority. *Id.*

The decision to declare a dog to be potentially dangerous must not be arbitrary and capricious, which means it must not 1) rely on factors not intended by the ordinance (or statute); 2) entirely fail to consider an important aspect of the issue; 3) offer an explanation that conflicts with evidence; or 4) be so implausible that it could not be explained as a difference in view or the result of the city's expertise. *See e.g. In re Space Ctr. Transp.*, 444 N.W.2d 575, 581 (Minn. Ct. App. 1989).

If, after conducting the hearing, the City Council affirms the Police Department's declaration that the dogs are dangerous, the City must follow state statute regarding the requirements for potentially dangerous dogs; specifically microchip identification.

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Analysis and Recommendations

In reviewing the potentially dangerous dog declaration, the City Council will be serving in what has been termed a "quasi-judicial" capacity. Unlike when the Council typically considers matters of policy in a legislative capacity, when acting in a quasi-judicial capacity, the City Council's discretion is much more limited. As a result, rather than legislating for the broad population as whole, the City Council is, in this case, making a quasi-judicial determination in a judge-like manner about specific enforcement actions undertaken by the City's Police Department regarding whether its determination that Mr. Rose's dog, Jax, satisfy the statutory definition of potentially dangerous dog.

In quasi-judicial circumstances, the Council must follow the standards and requirements of its ordinance(s) and, if applicable, state statute. In this case, the Council must follow procedures set for in City Code sec. 9-2.10(2)(C) and the substantive requirements of Minn. State. Sec. 347.50, subd. 3 (the statutory definition of potentially dangerous dog). While the City Council has a great deal of freedom to establish its ordinances as it sees fit, once established, the Council is as equally bound by those ordinances as the public and must apply its ordinances (as well as state law) as written.

Simply put, if the evidence provided in the hearing supports the finding that Mr. Rose's dog, without provocation bit a human while off Mr. Rose's property, the City Council should uphold the potentially dangerous dog declarations. If the evidence does not support such a finding, the declarations should be reversed with respect to that dog. In either case, the City Council should pass a resolution making written findings and conclusions in support of its decision.

Further, in quasi-judicial situations as this hearing, due process and equal protection are key factors courts will review in the event of further legal challenge. Due process and equal protection under the law demand that similar applicants and appellants must be treated uniformly by the City. Mr. Rose must have adequate notice and opportunity to be heard by the City Council prior to the City Council deliberating and rendering its decision. The below recommended procedure for this hearing is intended to meet these legal standards for due process and equal protection.

Finally, City Council members should specifically note that as the judge in this case, Council members should state no opinion on the subject matter of this hearing until after the hearing and record on April 7, 2020 are closed, such that all testimony and evidence will have been received by the Council prior to the Council's deliberations on April 7, 2020 and subsequent decision-making. Whatever decision the City Council ultimately then decides to make to either 1) affirm, or 2) overrule the Police Department's potentially dangerous dog declaration, the City's decisions must be supported by legally and factually sufficient findings and an order. City staff will propose findings for the Council's consideration at the April 7, 2020 hearing; however it is the Council's responsibility to determine if the evidence supports the proposed findings.

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In light of the above, we propose that the order of procedure for the City Council to hear this appeal on April 7, 2020 should be as follows:

1. Open public hearing – Mayor Tayloe
2. Opening comments on process of appeal by Mayor Tayloe and Chief Klang
3. Introductory comments by City/Police Department staff – 5 minutes
4. Appellant, Mr. Rose, has the opportunity to be heard by the City Council and to show why the Police Department's potentially dangerous dog declaration should be overruled or amended – 10 minutes
5. City/Police Department staff presentation of evidence that Mr. Rose's dog, Jax, satisfy the statutory definition of dangerous dog and opportunity to rebut evidence submitted by and/or respond to arguments made by Mr. Rose – 10 minutes
6. Questions from City Council members
7. Close public hearing and record – Mayor Tayloe
8. City Council deliberations on the issue
9. City Council make a motion and to approve resolution making factual findings and order affirming or overruling the March 8, 2020 potentially dangerous dog declaration during open meeting.

Please do not hesitate to contact us with any questions.

Thank you,

Chief Eric Klang

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Eric Klang
Chief of Police
4638 County Road 11
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March 19, 2020

Craig Rose
5100 Edgewater Drive
Mound, MN 56364

Re: Hearing on Potentially Dangerous Dog Declaration

Dear Mr. Rose,

As we have communicated to you, I am writing in my capacity as the chief of police for the City of Pequot Lakes to notify you that the hearing on the City's potentially dangerous dog declaration for your dog Jax that you requested is scheduled for Tuesday April 7, 2020 at 6:00 p.m. in the City Council chambers at City Hall, 4638 Main Street, Pequot Lakes.

This hearing will take place in a special meeting of the City Council in advance of its regularly scheduled meeting at 6:30 p.m. pursuant to the requirements of Section 9-2.10(2)© of the City Code and Minnesota Statues, Section 347.541, subdivision 4. The purpose of the hearing will be for the City Council to determine, acting in an impartial, quasi-judicial capacity, whether the evidence supports the City's potentially dangerous dog declaration with respect to you dog Jax. You will be given an opportunity to be heard and present evidence at this hearing.

Thank you.

Sincerely,

Eric Klang
Chief of Police
Pequot Lakes Police Department

emailed 3-19-20 1605 CR@collectionlawoffice.net

PEQUOT LAKES POLICE DEPARTMENT
INCIDENT REPORT

ICR# 20000465	AGENCY ORI# MN0181100	JUVENILE: ⚠ Juvenile Involved

Reported: 03-08-2020 1608 **First Assigned:**1629 **First Arrived:**1634 **Last Cleared:**1923
Committed Start: **Committed End:**
Title: Animal Bite Dog **How Received:** Radio
Short Description:
Reports uncle's dog bit son in face. Child transported by mom to ER. 386 Served dog owner with potentially dangerous dog paperwork, photos taken of dog. Victim's parents will be filling out a medical release form for Essentia to provide the PD with their photos.
Summary:
Dog Bite - Potential dangerous dog paperwork served
Location(s)
Address: 31092 Lakewood Ave **City:** Pequot Lakes **State:** MN **Zip:** 56472 **Country:**

Officer Assigned: Fyle, Sherilyn **Badge No:** 386 **Primary:** Yes

Involvement: Owner **Name:** Rose, Craig XXXXX **DOB:** XXXXXX1964
Age: 55 **Sex:** **Race:** **Height:** XXX **Weight:** XXX
Address: (Residence) XXXX Edgewater Dr **City:** MOUND **State:** MN **Zip:** 55364 **Country:**
ID Number(s)
ID Type: Drivers License **ID #:** XXXXXXXXXXXXX **State:** MN **Year:** **Class:**

Involvement: Complainant **Name:** Raduenz, Bryce XXXXXXX **DOB:** XXXXXX1987
Age: 32 **Sex:** X **Race:** **Height:** XXX **Weight:** XXX
Address: (Residence) 939 64th St SW **City:** Pequot Lakes **State:** MN **Zip:** 564722075 **Country:**
Phone: (Cell) (XXXX 406-2673
Eye Color: XXX
ID Number(s)
ID Type: Drivers License **ID #:** XXXXXXXXXXXXX **State:** MN **Year:** **Class:**

⚠ **Involvement:** Victim **Name:** XXXXXXXX XXXXX XXXXXXX **DOBX XXXXX**2014
Age: 5 **Sex:** **Race:** **Height:** 0 **Weight:** 0
Address: (Residence) XXX 64Th St SW **City:** Pequot Lakes **State:** MN **Zip:** 56472 **Country:** USA

Involvement: Owner **Name:** Bjornaraa-Rose, Jill Marie **DOB:** XXXXXX1969
Age: 50 **Sex:** X **Race:** **Height:** XXX **Weight:** XXX
Address: (Residence) XXXX EDGEWATER DR **City:** MOUND **State:** MN **Zip:** 553642012 **Country:**
Eye Color: XXX
ID Number(s)
ID Type: Drivers License **ID #:** XXXXXXXXXXXXX **State:** MN **Year:** **Class:**

Involvement: Mentioned **Name:** Bjornaraa, Bud XXXXXX **DOB:** XXXXXX1938
Age: 81 **Sex:** M **Race:** **Height:** 0 **Weight:** 0
Address: (Residence) XXXXX Lakewood Ave **City:** Pequot Lakes **State:** MN **Zip:** 56472 **Country:**
Phone: (Home) (XXXX207-0618
Eye Color: BLU
ID Number(s)
ID Type: Operators License Number **ID #:** XXXXXXXXXXXXX **State:** MN **Year:** **Class:**

Involvement: Parent **Name:** Raduenz, Heather XXXXXXXX **DOB:** XXXXXX1986
Age: 33 **Sex:** **Race:** **Height:** XXX **WeightX XXX**
Address: (Residence) XXX 64Th St Sw **City:** PEQUOT LAKES **State:** MN **Zip:** 56472-2075 **Country:**
ID Number(s)
ID Type: Drivers License **ID #:** XXXXXXXXXXXXX **State:** **Year:** **Class:**

Enroute (386) Fyle , Sherilyn 03-08-2020 1629
OnEvent (386) Fyle , Sherilyn 03-08-2020 1634
Arrived (386) Fyle , Sherilyn 03-08-2020 1634
OffEvent (386) Fyle , Sherilyn 03-08-2020 1658
Cleared (386) Fyle , Sherilyn 03-08-2020 1658

Supplemental Report

ICR: 20000465 **Last Modified:** 03-21-2020 1926
Title: 03-18-2020 Dog Bite **Created By:** Sherilyn Fyle

On 03-08-2020 at approximately 1608 hours, Officer Fyle was dispatched to an address in Pequot Lakes for an animal bite report and the child had already left enroute to the hospital.Upon arrive. Officer Fyle was met in the driveway by one of the dog owners (JILL BJORNARAA-ROSE), the victim's father (BRYCE RADUENZ), and the property owner (BUD BJORNARAA) who stood back in the distance. Officer Fyle gathered the following information while speaking with Raduenz and Bjornaraa-Rose:

- The victim is a 5 year old boy (XXXXX XXXXXXX)
- Ryker was walking up the stairs on the deck attached to the front of the residence when he was bit by the dog
- Ryker suffered a bite injury to his face and finger as well as a bump on his forehead from falling after being bitten
- Ryker was being transported to Essentia ER for his injuries by his mother (HEATHER RADUENZ)
- The dog (JAX) is a 5 year old black lab and was locked in the bedroom of the residence
- Jax was not provoked when the bite occurred
- Bjornaraa-Rose claimed he was being protective of the house and his owners
- Bjornaraa-Rose was asked if the dog has ever bitten anyone before and she hesitated to answer the question, and ultimately didn't until the question was re-phrased
- Bjornaraa-Rose was then asked if the dog has even been labeled as being potential dangerous in the past and she said no
- Jax is current on vaccinations, including having a micro-chip and the vet clinic is West Tonka Animal Hospital
- When not in the presence of Bjornaraa-Rose anymore, Bryce Raduenz advised Officer Fyle that the dog has been aggressive in the past and an offspring of it has bit him in the past so he is very concerned that this dog may continue to get aggressive

When Officer Fyle advised Bjornaraa-Rose that she was being served potentially dangerous dog paperwork, she requested that her husband (CRAIG ROSE) be served in the residence.Officer Fyle accompanied Bjornaraa-Rose into the residence and met with C. Rose who was served with the paperwork.He read over everything before signing anything and at some point there was mention of him being a lawyer.Officer Fyle took photos of Jax and advised C. Rose that if he wished to have a hearing in front of the city council regarding the potentially dangerous dog, he needed to file the paperwork within 14 days.

Officer Fyle was provided photos of Ryker's injuries by his H. Raduenz while she was at the hospital. H. also filled out a medical release form at Essentia which was provided to Officer Fyle when she returned to her residence that night. Officer Fyle submitted the medical release form to Essentia.

On 03-20-2020 Officer Fyle received photos from Essentia Heath of Ryker's injuries from when he was at the ER. Photos were scanned and attached.

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NOTICE OF POTENTIALLY DANGEROUS DOG

(To be completed by Officer)

Date of Notification: **03-08-2020** ICR#: **20000465**
Dog Owner: **Craig & Jill Rose**
Address: **5100 Edgewater Dr Mound, MN 55364** Phone: **612-309-5128**

You are placed on notice that your dog has been defined by Minnesota State Statute 347.50 as Potentially Dangerous.

Dog's Name: Jax Breed: Black Lab Sex: Male
Description: Black in color Age: 5 years old
Does Dog have current rabies vaccination? ☒ yes ☐ no Vet Clinic: West Tonka Animal Hospital
Photograph taken? ☐ yes ☐ no

Date & Time of Incident: **03-08-2020** at approximately **1600** hours.

(Check one of the following)

☒ On above date, said dog, without provocation bit **Ryker [redacted]** *(Name of victim or type of domestic animal)* at **31092 Lakewood Ave Pequot Lakes, MN 56472** *(Location of incident).*

☐ On above date, said dog, without provocation, while on public or private property, other than dog owner's property, chased or approached in an aggressive manner _____ *(Name of victim)*

☐ Said dog has a propensity to attack, unprovoked, causing injury or threatening the safety of humans or domestic animals as shown by the following incident:

Date of Prior Incident: Prior ICR#: Dog classified as Potentially Dangerous? ☐ yes ☐ no

Your dog has been defined as a POTENTIALLY DANGEROUS DOG and you should familiarize yourself with the State Statutes regarding such dogs. As an owner of a potentially dangerous dog ***you must have a microchip implanted in the dog for identification within 14 days of the receipt of this notice***. Proof of microchip implant must be provided to the Pequot Lakes Police Department and should include the name of the microchip manufacturer and identification number of the microchip. Please note that once a dog has been defined as a potentially dangerous dog, and the owner has been notified as such, and the dog subsequently aggressively bites, attacks, or endangers the safety of humans or domestic animals, it may be classified as a Dangerous Dog. ***You may request a hearing*** to determine the validity of the potentially dangerous dog declaration by filling out the attached *Request for Hearing Form* and presenting it to the Pequot Lakes Police Department within fourteen (14) days of this notice. If a request is made the owner must still comply with the requirements of section 347.515 to have a microchip implanted within 14 days of receipt of this notice.

_____
(Signature of Officer)

STATE OF MINNESOTA

COUNTY OF CROW WING

CERTIFICATE OF SERVICE

I, SHERI FULLE, hereby certify that on the 8th day of MARCH, 2020 at 4, 45 .M., at 31092 LAKEWOOD AVE in the City of PEQUOT LAKES in the County of Crow Wing, State of Minnesota, I duly served the following:

- ☐ Bank Levy
- ☐ Dangerous Dog Notice
- ☒ Potentially Dangerous Dog Notice
- ☐ Eviction Summons and Complaint in Unlawful Detainer
- ☐ Dangerous Dog Notice of Seizure
- ☐ Notice of Cancellation of Contract for Deed
- ☐ Notice of Default and Right to Cure
- ☐ Notice of Hearing
- ☐ Notice of Mortgage Foreclosure Sale, Help for Homeowners, Homestead Designation Notice, Advice to Tenants, Notice of Redemption Rights
- ☐ Notice of Motion, Motion, Affidavit
- ☐ Notice to Establish Child Support, Summons and Complaint, Affidavit, Supporting Documents
- ☐ Order for Apprehension, Confinement, Notice of Hearing, Petition for Judicial Commitment, Statement of Rights
- ☐ Order to Show Cause, Judge's Signature Exhibited
- ☐ Statement of Claim and Summons
- ☐ Subpoena: Witness Fees $ _____
- ☐ Summons and Complaint
- ☐ Summons and Petition
- ☐ Wage Levy
- ☐ Writ of Recovery
- ☐ Other _____

Orders for Protection

- ___ **Emergency (Exparte) OFP, Affidavit, Instruction Sheet, Blank Petition for Hearing**
- ___ **Order for Hearing, Affidavit, Petition for OFP**
- ___ **OFP Following Hearing**

Harassment Restraining Orders

- ___ **Order on Petition for HRO – Granted or Denied (circle one)**
- ___ **HRO Following Hearing**
- ___ **Order for Dismissal**

UPON THE FOLLOWING PARTY: (Party Named On Document) CRAIG ROSE

☒ By personally leaving a copy with CRAIG ROSE

☐ By leaving a copy at the place of _____'s usual abode with _____ a person of suitable age and discretion residing therein.

ACKNOWLEDGEMENT OF SERVICE

I, _____, hereby acknowledge that I received the above papers, from the named officer.

Signature*

**Signing this acknowledgement is only an admission that you have received the papers and does not waive any other defenses.*

CERTIFICATE OF UNSERVED PROCESS

I, _____, hereby certify that after diligent search, I have been unable to find the within named person, _____, within the City of Pequot Lakes.

- ___ Person Unknown at Address
- ___ No Such Address
- ___ Person Moved, New Address Unknown
- ___ Vacant and Unoccupied
- ___ Service Cancelled by Litigant
- ___ Person Avoiding Service
- ___ Address is not in Crow Wing

Eric Klang, Chief of Police

By: _____, Officer

Fee $_____

Dated this _____ day of _____, 20__

THE ROSE LAW FIRM, PLLC

Attorneys at Law

921 Main
Hopkins Law Center
P.O. 5560
Hopkins, MN 55343
OFFICE (952) 238-1100
FAX (952) 238-1099

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
City of Pequot Lakes	Craig Rose
COMPANY:	DATE:
	3-9-20
FAX NUMBER:	TOTAL NO. OF PAGES, INCLUDING COVER:
218-568-5647	3
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
612-309-5128 Cell	
RE:	YOUR REFERENCE NUMBER:
Notice of Potentially Dangerous Dog	ICR 20000465

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

Please schedule a hearing to determine the validity of the potentially dangerous dog declaration recently issued stemming from an unfortunate dog bite incident occurring on March 8, 2020.

If possible, I would request this hearing take place the week of March 16, 2020 or the week beginning March 30, 2020. I will be out of the country March 11 - 15 and again March 21 -28, 2020.

I have attached the rabies vaccination and the current implanted microchip information. Other issues are being addressed. Do not hesitate to contact me if you have additional questions.

Regards,

CRAIG ROSE

Confidentiality Statement: The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the addressee listed on this cover sheet. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this telecopy is strictly prohibited. If you have received this facsimile in error, please notify us by telephone at the number listed on this cover sheet and return the original message to us at the above-listed address via the US Postal Service. Any reasonable costs that you incur in notifying us and returning the material to us will be reimbursed. Thank you. Rose Law Firm PLLC.

THIS COMMUNICATION IS FROM A DEBT-COLLECTOR, AS PER THE FDCPA

POTENTIALLY DANGEROUS DOG
REQUEST FOR HEARING
(To be completed by Dog Owner)

Date of Request: 3-9-20	Dog's Name: Jax
Owners Name: Craig + Jill Rose	Dog's Description: Black Lab
Owner Address: Winter/US 5100 Edgewater Dr Mound MN 55364	Owner Telephone: 612 309 5128

- Request for hearing must be made within (14) days of receipt of notice of potentially dangerous dog determination.
- Hearing must be held within fourteen (14) days of receipt of this request.
- The hearing officer shall issue a decision on the matter within ten (10) days after the hearing.
- If a request is made the owner must still comply with the requirements of section 347.515 to have a microchip implanted within 14 days of receipt of the notice of potentially dangerous dog.

I hereby request a hearing to determine the validity of the potentially dangerous dog declaration regarding said dog.

(Signature of Owner)

FOR OFFICE USE ONLY: Received by:	Date:	ICR#
Date of Service:		

CERTIFICATE OF VACCINATION

Date printed: 03-09-20
Previous Rabies Vaccination:

VETERINARY CLINIC
Westonka Animal Hospital
2125 Commerce Blvd.
Mound, MN 55364

952 472-4900

OWNER OF ANIMAL
Craig Rose
5100 Edgewater Drive
Mound, MN 55364
612 819-3990
County: Hennepin

Microchip Info

This is to certify...

THAT I HAVE VACCINATED THE ANIMAL DESCRIBED BELOW.

Patient information...

PATIENT: Jax
SPECIES: Canine
BREED: Labrador Retriever
SEX: Male

TAG NO: 60048
Microchip or Tattoo#: 985112004370451
WEIGHT: 76.00
AGE: 5 years

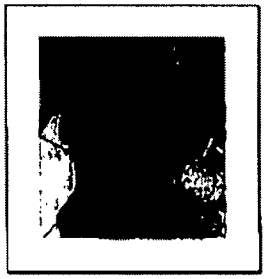
Manufacturer Home 4 Again

Color and markings... Black

Signed Jacqueline W. Piepkorn

Jacqueline W. Piepkorn, DVM

License: Minnesota 17389



Vaccinations done...			Vaccinations due...
05-20-19	OF	Lyme Vaccination 1 year	05-19-20
05-20-19	RXJ	Canine Rabies, 3 year	05-19-22
06-04-18	AC	DHPP Administration 5 year	06-03-23
05-25-16	AC	Lyme Vaccination Admin, #2of2	
05-25-16	AC	DHPP Administration 2 year	
07-14-15	OF	Bordetella Vac Admin/Infectiou	07-13-16
05-04-15	DRJ	Canine Rabies, 1 year	
05-04-15	DRJ	Lyme Vaccination Admin. #1of2	
05-04-15	DRJ	DHPP Administration 1 year	

Rabies Vaccine Information...

MFG BY: MERIA
LOT EXP: 12/19/20
Next Rabies Vaccine Due: 05-19-20

SER.NO: 42235
ADM: SQ

347.50 DEFINITIONS.

Subdivision 1. **Terms.** For the purpose of sections 347.50 to 347.56, the terms defined in this section have the meanings given them.

Subd. 2. **Dangerous dog.** "Dangerous dog" means any dog that has:

(1) without provocation, inflicted substantial bodily harm on a human being on public or private property;

(2) killed 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 dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

Subd. 3. **Potentially dangerous dog.** "Potentially dangerous dog" means any dog that:

(1) when unprovoked, inflicts bites on a human or domestic animal on public or private property;

(2) when unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or

(3) has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

Subd. 4. **Proper enclosure.** "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 dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog 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 dog from exiting.

Subd. 5. **Owner.** "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog.

Subd. 6. **Substantial bodily harm.** "Substantial bodily harm" has the meaning given it under section 609.02, subdivision 7a.

Subd. 6a. **Great bodily harm.** "Great bodily harm" has the meaning given it under section 609.02, subdivision 8.

Subd. 7. **Animal control authority.** "Animal control authority" means an agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.

Subd. 8. **Provocation.** "Provocation" means an act that an adult could reasonably expect may cause a dog to attack or bite.

History: *1988 c 711 s 1; 1989 c 37 s 3-5; 1994 c 550 s 1; 1Sp2001 c 8 art 8 s 14,15; 2008 c 325 s 2*

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347.515 MICROCHIP IDENTIFICATION.

The owner of a dangerous or potentially dangerous dog must have a microchip implanted in the dog for identification, and the name of the microchip manufacturer and identification number of the microchip must be provided to the animal control authority. If the microchip is not implanted by the owner, it may be implanted by the animal control authority. In either case, all costs related to purchase and implantation of the microchip must be borne by the dog's owner.

History: *1Sp2001 c 8 art 8 s 19*

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Any dog which is not claimed as provided in this Chapter after seven (7) days of impounding may be sold to anyone desiring to purchase the animal. The Animal Control Officer shall determine the price, which shall reflect the breed of dog and the impoundment cost. Any animal which is not claimed by the owner or sold may be euthanized and buried at the direction of the pound master.

Section 9-2.9. POUND

The City Council may designate as the pound or animal shelter, a suitable kennel or other animal facility, either within or outside the City limits of the City of Pequot Lakes.

Section 9-2.10. DANGEROUS DOGS

1. The provisions of Minn. Stat. §§ 347.50 to 347.565 are adopted by reference and govern dangerous dogs and potentially dangerous dogs in the City of Pequot Lakes, and the Chief of Police, or his/her designee, shall be responsible for enforcing those statutes, as the same may be amended from time to time.
2. The Chief of Police or his/her designee, upon concluding that a dog is a dangerous dog or potentially dangerous dog, shall proceed as follows:

A. Notify the owner by personal delivery or registered mail that the dog has been declared to be dangerous or potentially dangerous as defined in Minnesota Statutes and the factual basis for such determination. Notices of dangerous dog declaration shall advise the owner of the dog of any applicable registration requirements or other restrictions or requirements imposed by statute, and shall additionally advise the owner of the dog that he/she may request a hearing before the City Council to contest the declaration by requesting such a hearing in writing submitted to the City Clerk within fourteen (14) days after the owner's receipt of the notice.

B. If the owner does not request a hearing to contest a dangerous dog declaration, or any prior potentially dangerous dog declaration for the dog, as applicable, within fourteen (14) days after receipt of said notice, and does not otherwise comply with the registration and other requirements of Minn. Stat. §§ 347.50 to 347.565, as amended, then the Chief of Police or his/her designee shall immediately seize the dangerous dog and dispose of the same as authorized by law.

C. If the owner does request a hearing to contest a dangerous dog declaration pursuant to subparagraph A herein or any prior potentially dangerous dog declaration for the dog, as applicable, then the City Clerk shall place the matter before the City Council within fourteen (14) days after the City's receipt of such request. The owner may present evidence in opposition to the designation of his/her dog as dangerous. The Chief of Police or his/her designee shall present evidence to the City Council that supports his determination that the dog is dangerous or potentially dangerous. Following the hearing, the City Council shall make a determination of

facts and issue an order as to whether such dog is properly characterized as dangerous. If the City Council affirms the dangerous dog declaration, the owner shall comply with the registration and other requirements of Minn. Stat. §§ 347.50 to 347.565, as amended, within fourteen (14) days of such order.

Section 9-2.11. VARIOUS OFFENSES

1. No person shall keep or harbor a dog which habitually barks, yelps, howls, cries or whimpers so as to unreasonably disturb the peace and quiet of any person in the vicinity. The phrase "unreasonably disturb the peace and quiet" shall include but is not limited to, the creation of any noise by a dog which can be heard by any person, including a law enforcement officer, from a location at least 75 feet from the building or premises where the dog is being kept, and such noise occurs over at least a five (5) minute period of time, with one (1) minute or less lapses of time between each dog noise during the said five (5) minute period.

2. It shall be considered a nuisance for any dog to frequent school grounds or parks; to chase vehicles; to worry, chase, or molest any persons, if such person is not on the property of the owner of the dog; to worry, chase, or molest any persons traveling peaceably on the public road; or to molest, defile or destroy any property, public or private. Failure on the part of the owner to prevent his/her dog from committing an act of nuisance shall be subject to the penalties hereinafter provided.

3. It is unlawful for any unauthorized person to break open the pound, to attempt to do so or to take or let out any dog therefrom, or to take or attempt to take from any officer any dog taken up by an officer in compliance with this Chapter, or in any manner to interfere with or hinder such officer in the discharge of duties under this Chapter.

4. It is unlawful to counterfeit or attempt to counterfeit the identification tags required in Section 9-2.7, or to take from any dog a tag legally placed upon it by its owner with the intention of placing it upon another dog.

5. Anyone walking their dog will be responsible for the prompt clean-up of the dogs' excrement and for its proper disposal.

Section 9-2.12. VACCINATION; RABIES; PROCEDURE

1. Vaccination Required. Every dog six (6) months of age and older, at the expense of the owner, shall maintain a current rabies vaccination at all times, and the owner shall comply with the identification and proof of rabies vaccine requirements of Section 9.2-7.

2. Rabies Proclamation. Whenever the prevalence of rabies renders such action necessary to protect the public's health and safety, the City Council, upon advice of the Crow Wing County Health Officer, shall issue a proclamation declaring such emergency. Any dog running at large during the time fixed in the proclamation and suspected of being rabid, may be euthanized by the Pequot Lakes Police Department without notice to the owner.

347.541 DISPOSITION OF SEIZED ANIMALS.

Subdivision 1. **Hearing.** The owner of any dog declared dangerous has the right to a hearing by an impartial hearing officer.

Subd. 2. **Security.** A person claiming an interest in a seized dog may prevent disposition of the dog by posting security in an amount sufficient to provide for the dog's actual cost of care and keeping. The security must be posted within seven days of the seizure inclusive of the date of the seizure.

Subd. 3. **Notice.** The authority declaring the dog dangerous shall give notice of this section by delivering or mailing it to the owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The notice must include:

(1) a description of the seized dog; the authority for and purpose of the dangerous dog declaration and seizure; the time, place, and circumstances under which the dog was declared dangerous; and the telephone number and contact person where the dog is kept;

(2) a statement that the owner of the dog may request a hearing concerning the dangerous dog declaration and, if applicable, prior potentially dangerous dog declarations for the dog, and that failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing under this section;

(3) a statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of section 347.52, paragraphs (a) and (c), and until such time as the hearing officer issues an opinion;

(4) a statement that if the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all other requirements of sections 347.51, 347.515, and 347.52;

(5) a form to request a hearing under this subdivision; and

(6) a statement that all actual costs of the care, keeping, and disposition of the dog are the responsibility of the person claiming an interest in the dog, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

Subd. 4. **Right to hearing.** Any hearing must be held within 14 days of the request to determine the validity of the dangerous dog declaration. The hearing officer must be an impartial employee of the local government or an impartial person retained by the local government to conduct the hearing. In the event that the dangerous dog declaration is upheld by the hearing officer, actual expenses of the hearing up to a maximum of $1,000 will be the responsibility of the dog's owner. The hearing officer shall issue a decision on the matter within ten days after the hearing. The decision must be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy must be provided to the animal control authority.

History: *2008 c 325 s 12*

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[redacted] **Scan on 3/8/2020 of Right cheek**

[redacted] **Scan on 3/8/2020**

[redacted] **Scan on 3/8/2020 of Right 1st Finger**

[redacted] **Scan on 3/8/2020 of Upper gums**

CITY OF PEQUOT LAKES
RESOLUTION 20-___

FINDINGS, CONCLUSIONS AND ORDER OF PEQUOT LAKES CITY COUNCIL ON HEARING REGARDING PEQUOT LAKES POLICE DEPARTMENT'S March 8, 2020 POTENTIALLY DANGEROUS DOG DECLARATION

WHEREAS, the Applicant, Craig Rose, requested a hearing before the City of Pequot Lakes City Council under Section 9-2.10(2)(C) of the City's Code of Ordinances (City Code) seeking review of a potentially dangerous dog declaration notice the City's Police Department issued to him on March 8, 2020 with respect to a Black Lab dog, Jax owned by the Applicant, for an incident that occurred on March 8, 2020; and

WHEREAS, Minnesota Statutes, sec. 347.50, subd. 3 defines a "potentially dangerous dog" as any dog that has:

1. when unprovoked, inflicts bites on a human or domestic animal on public or private property;

2. when unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or

3. has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals; and

WHEREAS, for purposes of the above statutory definition of potentially dangerous dog, "provocation" means "an act that an adult could reasonably expect may cause a dog to attack or bite." Minn Stat. sec 347.50 subd. 8; and

WHEREAS, pursuant to Minn. Stat. sec 347.565, the State of Minnesota's dangerous dog laws must be enforced by the City; and

WHEREAS, City Code sec. 9-2.10(2)(C) sets forth the following procedure for an owner of a dog declared to be a dangerous dog to challenge the City's declaration:

> If the owner of the dog requests a hearing as to the dangerous nature of his/her dog, then the City Administrator shall place the matter before the City Council at its next regular meeting. The owner may present evidence in opposition to the designation of his/her dog as dangerous or potentially dangerous. The Chief of Police or his/her designee shall present evidence to the City Council that supports his determination that the dog is dangerous or potentially dangerous. Following the hearing, the City Council shall make a determination of facts and issue an order as to whether such dog is properly characterized as dangerous or potentially dangerous…; and

WHEREAS, Applicant submitted a written request for a hearing on the City's March 8, 2020 potentially dangerous dog declaration which was received by the City on March 9, 2020; and

WHEREAS, all required notices that the requested hearing to review the City's March 8, 2020 potentially dangerous dog declarations would be conducted in a special meeting of the City Council to be held on April 7, 2020 at 6:00 p.m. at the City Council Chambers at City Hall were duly made by the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEQUOT LAKES, MINNESOTA, that based upon the record, testimony and evidence presented at said hearing, the City Council makes the following:

FINDINGS

1. Applicant resides at 31092 Lakewood Ave in the City Mound.
2. Applicant is the owner of a Black Lab named Jax.
3. On March 8, 2020, Jax bit a 5 year old child unprovoked at a residence in the city of Pequot Lakes.
4. On March 8, 2020, the City's Police Department issued Applicant a Notice of Potentially Dangerous Dog for Jax – which notified him of the City's declaration that Jax is a potentially dangerous dog and provided him with the opportunity to request a hearing before the City Council to challenge the City's declaration within 14 days from the date of the notices. On March 9, 2020 the applicant did make that request.
5. The City Council conducted a hearing on April 7, 2020 and received public testimony regarding the potentially dangerous dog declarations from the representatives of Applicant and the City.
6. All required notices regarding the April 7, 2020 City Council hearing to review the City's March 8, 2020 potentially dangerous dog declarations were properly made by the City.
7. The individuals who testified at the April 7, 2020 hearing are shown on Exhibit A, which is attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEQUOT LAKES, MINNESOTA, that based upon the record, testimony and evidence presented at said hearing and the above findings, the City Council makes the following:

CONCLUSIONS AND ORDER

1. That Jax inflicted a bite on a 5 year old child without provocation, Applicants' dog Jax is a potentially dangerous dog as defined in Minn. Stat. sec. 347.50, subd. 3(1).
2. That the City Police Department's March 8, 2020 potentially dangerous dog declaration with respect to Jax is hereby affirmed in its entirety.

Dated this 7th day of April, 2020.

James Tayloe
Mayor

ATTEST:

Nancy Malecha
City Administrator