Community Development Committee Meeting
4:45 pm, Thursday, June 28, 2012
Conference Room No. 1
City Office Building

Chair:	Jim Dokken
Members:	Bruce DeBlieck
	Ron Christianson
	Steve Ahmann

AGENDA

1. Public comments
2. Animal Ordinance
3. Rental Housing Inspection Schedule
4. Miscellany
5. Adjourn

1. Comments will be received from the public.

2. The Chief of Police will be present to discuss a proposed animal ordinance for the City of Willmar. Information is included with the agenda showing the current ordinance, permit history, issues with the current ordinance, and observations for drafting a new ordinance. It is anticipated that the Committee will review and approve the proposed ordinance or will offer staff direction to make changes.

3. Staff will lead discussion of the rental housing inspection schedule and how it relates to the rental program in the City of East Grand Forks (see attachment). The inspection schedule for types of units will be reviewed as will be fees. It had been suggested that the City look at the East Grand Forks rental program to provide a grace period for units that have good inspection reports. That information will be presented and discussed that the Committee meeting.

4. Any items of miscellany will be presented by staff and the Committee.

5. The Chair will call for adjournment.

Current City Ordinance

Sec. 4-1. - Keeping of livestock, fowl or swine.

(a) *Keeping without permit declared nuisance.* The keeping, harboring or permitting of cattle, horses, sheep, goats, fowl or swine in the city without a permit constitutes a public nuisance unless they are to be kept only temporarily in stockyard or farm produce establishment awaiting transportation or slaughter, or for exhibition purposes.

(b *Permit.* A person desiring to keep cattle, horses, sheep, goats, fowl or swine within the city shall obtain a permit, which shall include such conditions of shelter and maintenance as may be prescribed by the city. If the designated city officer, after viewing the premises and the conditions, approves such permit for the keeping and harboring of animals or fowl within the city, the application for the permit shall be submitted to the city council for its consideration, and the council may either grant or deny such application. If granted, the permit shall permit the keeping and harboring of the animals or fowl within the city only at the pleasure of, in the discretion of, and until the further order of the council.

(Code 1978, ? 1410.02(o))

Sec. 4-2. - Allowing livestock, fowl or swine to run at large.

It shall be unlawful for any owner or any person having the control of any cattle, horses, mules, donkeys, sheep, swine, goats, poultry or geese to allow or permit the same to run at large within the city.

(Code 1978, ? 505.01)

10-Year Permit History

- 2012 - $110.00 – 4 permits approved / 1 denied.
- 2011 - $70.00 – 2 permits approved / 1 denied.
- 2010 - $60.00 – 2 permits approved / 0 denied.
- 2009 - $25.00 – 2 permits approved / 0 denied.
- 2008 - $25.00 – 1 permit approved / 1 denied.
- 2007 - $25.00 – 1 permit approved / 1 denied.
- 2006 - $45.00 – 1 permit approved / 2 denied. (Denied 2 horses).

- 2005 - $25.00 – 1 permit approved / 0 denied.
- 2004 - $30.00 – 2 permits approved / 0 denied.
- 2003 - $25.00 – 0 permits approved / 1 denied.

Amount of revenue generated in 10 years has been $440.00 or an average of $44.00 per year.

16 permits were approved over 10 years, 7 permits were denied.

Permits currently are non-refundable even if not approved. The money is held as the cost for processing the permit. The maximum amount a charged for any permit is $30.00. Permits cost $5.00 per animal with a maximum of $30.00 for each permit if the animal number exceeds six.

Current Ordinance Issues

- Permits are currently being charged on an annual basis which conflicts with the current livestock/swine and fowl ordinance that states; "If granted, the permit shall permit the keeping and harboring of the animals or fowl within the city only at the pleasure of, in the discretion of, and *until the further order of the council.*"
- The ordinance does not define what the "conditions of shelter and maintenance as may be prescribed by the city" are.
- The ordinance is 32 years old, does not address current animal issues, it is outdated and essentially ineffective.
- The ordinance does not address society's current desire to keep animals that either attract attention or are unusual or exotic in nature.
- The ordinance does not address:

    1. What should be done with an animal if one is found to be in violation of the ordinance?
    2. Whether or not the animal should be impounded?
    3. Who is responsible for the impound fees?
    4. Who pays for impound costs if the owner is unknown?
    5. How long an animal should remain impounded?
    6. How the animal should be disposed of?

7. What rights an owner has regarding an impounded animal and the length of time they have to claim the animal while making other living arrangements for it?

- Permits are currently granted or denied based upon how neighbor's feel about the request. This is too subjective and arbitrary. How do you handle it if half the neighbors don't object but the other half do?

- The language is inconsistent and conflicting in identifying the same types of animals within the various sections of the ordinance.

    - Section 4-1 (a) and (b) both specifically refers to cattle, horses, sheep, goats, fowl and swine.

    - Section 4-2 specifically refers to cattle, horses, mules, donkeys, sheep, swine, goats, poultry or geese. It does not mention fowl which has a different definition of animals than poultry.

Observations Made When Considering Drafting a New Ordinance

- Very few people that have ever applied for a permit over the past 10 years. Denying all livestock, fowl or swine would be the simplest thing to do and would only affect 0.03% of the current residents. The greatest numbers of permits (5) were requested in 2012.
- To handle the issue of those who have already received a permit, the new ordinance could be written to allow citizens who currently have an approved permit to continue under that permit's authority until expiration.
- Loss of a revenue source is not an issue. Only $440.00 income has been realized in 10 years.
- People like animals, whether for companionship, as pets, pleasure or food sources.
- People dislike animals due to noise, odor, fear of diseases, and the possibility of affecting property values.
- The City now desires that the numbers of animals to be kept to be stated in the ordinance. If the Council wants to allow responsible residents the opportunity to continue raising chickens as demonstrated by their past history, then that number should be set at 50 chickens and 60 pigeons.

Currently the permits the Council has considered for 2012 are:

Granted Permit - Luther Septon keeps at a minimum, 30 chickens and stated it fluctuates throughout the year but often climbs to 50 depending upon whether he has sold some off, slaughtered, etc. recently. This permit has been granted consistently for many years with no

problems.

Granted Permit - Ken Viaene keeps at a minimum 30 pigeons and up to 60 pigeons depending on whether or not he has sold some recently. His pigeon weighs between 8-10 ozs apiece. This permit has been granted consistently with no problems.

Granted Permit -Marsha Hegreberg was allowed to keep four chickens. This is the first year for Ms. Hegreberg requesting a permit.

Granted Permit - Marie Hernandez was allowed to keep ten chickens. This is the first year for Ms. Hernandez requesting a permit.We are now getting complaints of roosters crowing.

Denied Permit - Kari Hodapp was denied her request of three chickens each. The Chief of Police based his denial, not on the number of chickens, nor the neighbor complaints about not liking chickens but instead on the fact that the neighbors reported that the Hodapp's do not control their cats and dogs. This is the first year for Ms. Hodapp requesting a permit.

Denied Permit - Heather King requested to keep 3 chickens. The Chief of Police approved the permit. The Council approved the permit and it was granted by City Office. Later a letter was sent to her from City Office stating it was denied after a single backyard neighbor voiced objection even though both neighbors on the side didn't mind.

Designing a Well Written Ordinance

If all of these things are to be considered then a properly written ordinance:

- Should consider the impact an animal may have on the general population with thought given to the proper housing, care, treatment, odor, noise, and safety of the animal. Additionally, one will have to consider addressing the cost of impounding on violations where the owner of an animal does not come forward or cannot be determined, the length of keeping the animal impounded and the eventual proper disposal.

- A well written ordinance would not allow public opinion to determine whether or not a permit to keep an animal is granted. A recent ordinance passed in New London, MN requires 80% of the neighbors to approve having chickens. What happens if during the year one neighbor that was in favor of allowing chickens moves and new tenants disapprove?

  In a situation such as this, you have a person who was approved to raise chickens because the neighbors didn't mind. Then the neighbors changed but the manner in which the chickens are being housed, cared for, etc. did not change. So, you now have a permit system that operates

solely on public approval regardless of whether or not the other criteria is being met or not.

- A well written ordinance should take into consideration the size of the animal being kept. Depending on the size of an animal in the same type species (example: chickens) one could conceivably keep 5 pigeons, or 2 bantam chickens in less space than one large laying hen. It takes between 3-5 square feet to raise a chicken depending on size. Bantam breeds weigh 2 lbs. and under and the suggested space per bird is 2 sq. ft., medium breeds weigh 2-4 lbs. with a suggested space of 3-4 sq. ft. per bird and anything over 4 lbs. is considered large with the largest probably being Giant Jersey Hens weighing 9-11 lbs. requiring a minimum of 5 sq. ft. per bird.

  Pigeons weigh 8-15 ounces and can be kept in 1 square foot.

Proposed City Ordinance

ANIMALS

Sec. 4-1. - Intent

The City of Willmar recognizes a need to balance the desire of persons to introduce, harbor, own, keep, care for, feed, or shelter an animal within the boundaries of the city limits against the general safety, health, peace, and repose of the general population of the city. It is with this intent that the following regulations are imposed.

Sec. 4-2. - Definitions

The following definitions apply for the purpose of this ordinance.

> Animal: Means any living animal, domesticated, semi-domesticated, captive-wild or wild which is not specifically named or having been identified as meeting one of the conditions listed under the "Exclusions" section of this ordinance.

Sec. 4-3. - Keeping of animals declared a nuisance.

It is unlawful to introduce, permit, harbor, keep, care for, feed, or shelter any animal in the city of Willmar. Doing so constitutes a public nuisance unless specified otherwise under the "Allowable Exclusions" section of this ordinance.

Sec. 4-4. - Allowing animals to run at large.

It shall be unlawful for any owner or any person having the control of any animal to allow or permit the same to run at large within the city. This section also applies to the specific animals listed in the "Allowable Exclusions" section of this ordinance.

Sec. 4-5. - Animals found to be in violation.

Animals found in violation of this ordinance shall be confiscated, held for five business days and summarily destroyed if not claimed. During those five business days an owner may arrange for the care and shelter of the animal outside the city limits of Willmar.

If the owner can be determined, they shall pay for all costs incurred for the care, shelter and keep of the animal during the impoundment period prior to the release of the animal. In addition, the owner may also be charged with violation of this ordinance.

Sec. 4-6. – Allowable Exclusions

(a) Animals may be kept temporarily in a designated stockyard or farm produce establishment or processing plant while awaiting further transportation or slaughter.

(b) Animals may be introduced, harbored, kept, cared for, fed, and sheltered in connection with and

during parade, county fair or circus events. The animal(s) must remain in proximity and under the control of the owner in regards to where the event is being held.

(c) Animals may be introduced, harbored, kept, and cared for, fed, and sheltered, within the confines of a licensed pet store or licensed veterinarian business.

(d) Dogs and household cats are regulated elsewhere under other city ordinances and shall be excluded from all regulations created by this ordinance.

(e) The following animals specifically listed under this subsection are allowed. Any person may introduce, permit, harbor, transport, keep, care for, feed, or shelter these animals but only when in compliance of the further restrictions imposed.

1. Fish, reptiles, exotic birds, spiders, rats, mice, hedge hogs, guinea pigs, and hamsters are allowed with the following additional restrictions:
    a. These animals shall remain at and contained within the actual dwelling in which the owner or caretaker resides.
    b. If a dwelling is rented, permission from the landlord or owner to maintain animals must be obtained.
    c. Proper care and treatment of the animal(s) are provided.
    d. There are no restrictions as to the number of these animals kept.

2. Rabbits, pigeons and chickens are allowed with the following additional restrictions:

    Location:

    a. These animals may only be kept in areas zoned R1, R2, AG or Industrial within the city.
    b. These animals must be kept outside the family dwelling.
    c. If the property is rented, permission from the property owner to maintain animals must be obtained.
    d. All shelters or attached fenced enclosures must have a minimum setback of ten (10) feet from the rear property line and five (5) feet from the side property line.
    e. No structure or fenced animal yard shall be closer than twenty-five (25) feet to any residential dwelling on the adjacent lots.
    f. No structures or fenced animal yards will be allowed in the resident's front yard.

    Shelter:

    g. These animals must be provided proper shelter that is fully enclosed with a well-ventilated roof and a source to maintain adequate livable temperatures during extreme heat or cold conditions.
    h. The floors of the structure shall be kept clean and sanitary with body excretions collected daily and removed from the structure.

i. If a fenced animal yard enclosure is erected, the fenced-in area shall share a common wall of the structure, be securely constructed in a manner complying with all other city fencing ordinances, prevent predators from getting into the fenced area, prevent the animal from escaping the fenced area and be well drained so there is no accumulation of moisture.

Care and Treatment

j. No animal shall be allowed outside of either the shelter or properly fenced area.
k. Food materials shall be in closed sealable containers stored inside the structure of the provided shelter.
l. Animals shall maintain all required vaccinations.

Number of Animals Allowed and Minimum Square Footage of Each:

m. Chickens - No more than ten (10) chickens shall be kept in areas zoned R1 or R2. No more than fifty (50) chickens shall be kept in areas zoned AG or Industrial.

   Chickens (Bantam size) shall be given a minimum of 2 sq. feet inside structure space for each chicken weighing less than two (2) pounds; (medium size) a minimum of 3.5 sq. feet for each chicken weighing two to four (2-4) pounds; and (large size) a minimum of 5 sq. feet for each chicken weighing more than four (4) pounds.

n. Pigeons - No more than sixty (60) pigeons may be kept. Pigeons shall be given a minimum of 1 sq. feet of space for each pigeon.
o. Rabbits - No more than ten (10) rabbits may be kept. Rabbits shall be given space with a minimum height of 14 inches with 1.5 sq. feet floor space for each rabbit weighing less than 4 lbs. (small), 3 sq. feet floor space for each rabbit weighing 4-8 lbs (medium size); and a minimum of 4 sq. feet floor space for each rabbit weighing more than 11 lbs. (large size).

HOUSING INSPECTION PLAN

Inspections for the purpose of carrying out the provisions of the Rental Housing Maintenance and Occupancy Ordinance shall be conducted pursuant to the following schedule:

Every other year:

(1) All mobile homes, renter-occupied

Once every three years:

(1) Single Family rental property
(2) Duplex or Triplex
(3) Four-plex
(4) Structures containing five to eight units

Once every four years:

(1) Structures containing more than eight units

To begin the inspection process, each owner of the above described properties must register that property with the City of Willmar, 333 SW 6th Street, Willmar, Minnesota. At the time of registration a fee shall be paid in accordance with the following fee schedule:

$25 per building plus $5 per unit
(All building types)

Upon payment of the fee, the Willmar Building Inspector shall schedule an inspection of the applicable property. If the property is found after the inspection to meet all applicable requirements of the Rental Housing Maintenance and Occupancy Ordinance and the applicable rules and regulations pursuant thereto, an operating license shall be issued and effective as follows:

Mobile Home, Renter-Occupied:	Two Years
Single Family Rental Property:	Three Years
Duplex or Triplex:	Three Years
Four-Plex:	Three Years
Five to Eight Unit Structure:	Three Years
More than Eight Unit Structure:	Four Years

Applications to renew the license must be made at least sixty days prior to the expiration date, and the property owners or operators must adhere to provisions of Section XII of the Rental Housing Maintenance and Occupancy Ordinance regarding licensing.

Whenever it is determined that any property upon inspection fails to meet the requirements set forth in the Rental Housing Maintenance and Occupancy Ordinance or in applicable rules and regulations issued pursuant thereto, a notice shall be issued to property owner(s) in the manner prescribed by Section XIII of the aforementioned Ordinance. The property owner(s) by order of the notice shall be given a certain period of time for the correction of any alleged violation and, upon expiration of said time period, the Willmar Building Inspector shall reinspect the property. If, upon reinspection, the violations are determined not to have been corrected, the City shall issue a notice to the property owner(s) or designated representative informing them that: (1) legal proceedings for the immediate correction of the alleged violations shall be initiated; and/or (2) an order shall be issued that the property be vacated within 30 days. In addition, the following penalties shall be imposed upon the property owner(s):

> $50.00 fine, plus $5.00 per day beginning on the day that alleged violation continues after expiration of the specified reasonable consideration period and extending until alleged violations are corrected.

The failure of any owner to comply with the requirements of the Rental Housing Maintenance and Occupancy Ordinance regarding licensing, the undertaking of repairs necessary to correct alleged violations to the Ordinance, and the payment of any penalties assessed shall be referred to the City Attorney of the City of Willmar for appropriate legal action.

Further, any property owner failing to register for a license shall not occupy or let to another person for occupancy any rental housing unit or mobile home for the purposes of living, sleeping, cooking, or eating therein, for such failure shall be construed as a direct violation of the aforementioned Ordinance, and the following fees shall be imposed until such registration occurs or the property is vacated:

> First notification of failure to register property
> (expiration of 30 days) $25.00
>
> Second notification of failure to register property
> (expiration of 15 days) $50.00
>
> Third notification of failure to register property
> (expiration of 15 days) $100.00

After the expiration of the third written notification of failure to register property, the matter shall be referred to the City Attorney of the City of Willmar for appropriate legal action.

CITY OF EAST GRAND FORKS RENTAL REGISTRATION AND INSPECTION PROGRAM

The City ordinance calls for the inspection of 1,000 units/year, representing all rental properties in the City.

There is an annual registration fee paid of $15/unit.

The City Building Official said:

- Units are randomly inspected at the larger complexes, as they cannot do all 1,000 each year.
- Full registration fees are paid regardless if the unit is inspected or not.
- Based on a good inspection report one year, the Inspector may waive the following year inspection although the registration fee is still paid. This act is discretionary, and not spelled out in their ordinance.