

**CHAPTER 3**  
**HEALTH AND SAFETY**

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## SECTION 1

### NUISANCES

Section:

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**3-1-1: AUTHORITY:** This Section is adopted pursuant to and under the authority of Minnesota Statutes Chapter 412 et.seq. (Ordinance #6, adopted March 10, 2009)

**3-1-2: FINDINGS AND PURPOSE:** The City Council of the City of Nowthen has determined that the health, safety, good order, general welfare, and convenience of the public is threatened by certain public nuisances and/or City Code violations on property within the City limits and finds the need for alternative methods of enforcing the City Codes. The City has generally enforced City Codes and dealt with public nuisances through the criminal justice system. However, this enforcement mechanism carries with it certain negative consequences with for both the City and the accused. The delay inherent in the criminal justice system does not ensure prompt resolution of these issues. Furthermore, the object of the criminal justice system is to punish the offender rather than remedy the nuisance or City Code violation. Thus the criminal justice system often fails to combat these nuisance and City Code violation issues. Accordingly, the City Council finds that the use of abatement, administrative citations, and administrative hearings in addition to other legal remedies is a more cost-effective and productive way to correct public nuisances and City Code violations within the City. (Ordinance #6, adopted March 10, 2009)

**3-1-3: DEFINITIONS:** For the purpose of this Section, the meaning of the following terms, phrases, words, and their derivations shall be construed as set forth in such definition:

**Abandoned building:** Abandoned building shall mean any building or portion thereof which has stood with an incomplete exterior shell for longer than three years or any building or portion thereof which has stood unoccupied for longer than one year and which meets one or more of the following criteria:

- A. Unsecured.
- B. Boarded.
- C. Having multiple exterior Housing Code or Building Violations.
- D. Has been foreclosed upon.

**Abatement deadline:** Abatement deadline shall mean the date by which the nuisance must be abated as specified in a written order.

**Annoyances:** Annoyances shall mean any condition which unreasonably annoys, injures or endanger the safety, health, morals, comfort or repose of any considerable number of members of the public.

**Building:** Any structure, with the exception of enclosed trailers with or without axles, having a roof which may provide shelter, support, protection or enclosure of persons, animals or property of any kind

**Dangerous structure:** Dangerous structure shall mean any structure which is potentially dangerous to persons or property including specifically, but not exclusively:

- A. A structure which is in danger of partial or complete collapse.
- B. A structure which has any exterior parts such as chimneys, eaves, porches, siding, railings or trim which are loose or in danger of falling.
- C. A structure which has any parts such as porches, stairs, ramps, rails, balconies, or roofs which are accessible and which are collapsed, in danger of collapsing, or unable to support a person.

**Enforcement officer:** Enforcement officer shall mean the Building Inspector, Fire Chief, Health Officer, or a duly authorized representative of the City.

**Extermination:** Extermination shall mean the eradication of vermin by methods such as poison, fumigation or trapping.

**Hazardous waste:** Hazardous waste shall mean any material so defined by Minnesota Statutes or Minnesota Code of Agency Rules.

**Illegal activities:** Illegal activities shall mean any action or condition which constitutes a violation of law.

**Interested party:** Interested party shall mean any owner of record, occupying tenant, or lien holder of record.

**Junk:** Junk shall mean accumulations of discarded or disused machinery, household appliances, automobile bodies, broken or unused metal, wood, lumber, cement, electrical fixtures, plumbing fixtures, building materials except for building materials awaiting use in construction or improvement presently in progress on the same premises, trash, debris, rubbish situated outside of a building or if situated inside building stored in such a manner as to constitute a fire, health or safety hazard or in a manner conducive to the harboring of vermin.

**Last known address:** Last known address shall mean the address shown on the records of the Anoka County Auditor or a more recent address known to the enforcement officer. In the case of parties not listed in the auditor's records, the last known address shall be that address obtained by the officer after a reasonable search.

**Noxious substances:** Noxious substances shall mean substances, solid, liquid or gas, which are offensive, detrimental to health, hurtful, or dangerous. Noxious substances shall include specifically, but not exclusively, any dead animal, putrid carcass, decayed animal matter, green hides, or any putrid, spoiled, foul or stinking beef, pork, fish, offal, hides, skins, fat, grease or liquors, human or animal excrement, manure, blood or sewage.

**Nuisance:** Nuisance shall mean any substance, matter, emission, or thing which creates a dangerous or unhealthy condition or which threatens the public peace, health, safety, or sanitary condition of the City or which is offensive or has a blighting influence on the community and which is found upon, in, being discharged or flowing from any street, alley, highway, railroad right of way, vehicle, railroad car, water, excavation, building, erection, lot, grounds, or other property located within the City of Nowthen.

**Obstructions** - Obstructions shall mean objects or conditions which interfere with, endanger or prevent the ordinary or safe use of any property.

**Owner:** Owner shall mean any person shown to be the owner of the property on the public records of Anoka County.

**Personal service:** Personal service shall mean service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence with a person of suitable age and discretion then residing therein.

**Privy:** Privy shall mean any type of non-flush fixture for the receipt and storage of human waste including specifically, but not exclusively, fixed units with vaults as well as portable units.

**Property:** Property shall mean any parcel of land whether vacant or not, whether any structure thereon is occupied or not or whether submerged or not.

**Refuse:** Refuse shall mean putrescible and non-putrescible and combustible and noncombustible waste, including specifically, but not exclusively, paper, garbage, material resulting from the handling, processing, storage, preparation, serving and consumption of food, vegetable or animal matter, offal, rubbish, plant wastes such as tree trimmings or grass cuttings, ashes, incinerator residue, street cleanings, construction debris, detached vehicle parts and unlicensed vehicles which are not stored inside a building, and industrial and market wastes.

**Responsible party:** Responsible party shall mean any one or more of the following:

- A. Agent.
- B. Collector of rents or assignee.
- C. Holder of a contract for deed.
- D. A mortgagee or vendee in possession.
- E. Receiver or executer or trustee.
- F. Lessee.
- G. Other person, firm or corporation exercising apparent control over a property.

**Service by mail:** Service by mail shall mean by depositing the item with the United States Postal Service addressed to the intended recipient at his last known address with first class postage prepaid thereon.

**Unoccupied building:** Unoccupied building shall mean a building which is not being used for a legal occupancy or a building which has been ordered vacated by the City.

**Unsecured:** Unsecured shall mean:

- A. Open to entry by unauthorized persons without the use of tools or ladders.
- B. Open to the elements because of broken, cracked or missing windows, doors, siding, molding, brick, stucco, concrete, metal, roofing or other exterior building surfaces.

**Vermin:** Vermin shall mean specifically, but not exclusively, rats, mice, skunks, raccoons, chipmunks, woodchucks, snakes, bats, grackles, starlings, pigeons, wasps, hornets, cockroaches or flies.

**Weeds:** Weeds shall mean useless and troublesome plants commonly known as weeds including specifically, but not exclusively, noxious weeds such as cocklebur, burdock, tumble mustard, wild mustard, wild oats, Canadian Thistle, oxeye daisy, quack grass, Frenchweed, and Russian thistle. (Ordinance #6, adopted March 10, 2009)

**3-1-4: NUISANCES:** Nuisances, which shall include specifically, but not exclusively, the following, are prohibited:

- A. Junk, refuse, noxious substances, hazardous wastes. Junk, refuse, noxious substances, or hazardous wastes laying, pooled, accumulated, piled, left, deposited, buried or discharged upon, in, being discharged or flowing from, any property, body of water, structure, or vehicle; except for:
  - 1. Junk, refuse deposited at places designated and provided for that purpose in accordance with the regulations of the City.
  - 2. Compost piles established and maintained in accordance with the University of Minnesota's extension service recommendations on the design and maintenance of compost piles. Copies of said recommendations are available for review at the offices of the City Clerk.
  - 3. Sewage discharged in accordance with the regulations of the City.
- B. Firewood. Piles of firewood in excess of two hundred (200) cubic feet stored closer than ten (10) feet to buildings used for human habitation, piles of firewood higher than six (6) feet from point of elevation from ground, or piles of firewood harboring vermin.
- C. Weeds. Grass or weeds which have grown upon any property to a height of eight (8) or more inches or which have gone to seed.
- D. Stagnant water. Stagnant water standing on any property and any property, container, or material kept in such a condition that water can accumulate and stagnate. Stagnant water shall not include man-made or natural ponds, wetlands, or marshlands.
- E. Vermin harborage. Conditions which are conducive to the harboring or breeding of vermin including specifically, but not exclusively, materials stored less than twelve (12) inches off the ground.
- F. Vermin infestations. Infestations of vermin except for those kept in accordance with the regulations of the City.

- G. Sanitary Structures. Structures for sanitation such as privies, vaults, sewers, private drains, septic tanks, cesspools and drain fields that are not permitted per the Ordinances or Regulations of the City.
- H. Unsecured building. Building or portion thereof which is unsecured.
- I. Dangerous structure. Dangerous structure as defined by this Chapter.
- J. Abandoned building. Abandoned building as defined by this Chapter.
- K. Safety hazard. Anything or condition on property which may contribute to injury of any person present on the property. Safety hazards shall include specifically, but not exclusively, open holes, open foundations, open wells, wires which are too close to the ground or in violation of any applicable safety code, dangerous trees or limbs, abandoned refrigerators, or barbed wire fences less than six feet above the ground and within three feet of a public sidewalk, way, or trail; dangerous and unguarded machinery in any public place or so situated, stored or operated on private property so as to attract the public, antennae erected or maintained in a dangerous manner, or trapping devices
- L. Fire hazard. Anything or condition on property which creates a fire hazard or which is a violation of the Fire Code.
- M. Health hazard. Anything or condition on property which creates a health hazard or which is a violation of any health or sanitation law including specifically, but not exclusively the following:
  - 1. Public exposure of persons having a contagious disease that would normally require quarantine.
  - 2. Diseased animals not under treatment.
  - 3. Diseased animals running at large.
- N. Statutory and Common Law nuisance. Anything or condition on property which is known to the common law of the land, the Statutes of Minnesota, or the Nowthen City Code including specifically, but not exclusively, the Nowthen Zoning Ordinance, as a nuisance.
- O. Obstructions. Obstructions shall include specifically, but not exclusively, the following: (Ordinance 2016-06, adopted December 13, 2016)
  - 1. Snow and ice not removed from the public sidewalks within twenty-four (24) hours after the precipitation has ceased to fall.



2. Rain, ice, or snow or wastewater falling or flowing from private property or buildings onto public property except gutters, drainage ways and storm sewers.
  3. Use of a public street or sidewalk or use of property abutting a public street or sidewalk which caused large crowds of people to gather, obstructing traffic, streets or sidewalks, except in accordance with the regulations of the City.
  4. Excavations obstructing public property except in accordance with the regulations of the City.
  5. Placing or storing boxes, good, wares, merchandise, building materials, machinery, business or trade articles on public property except for the purpose of immediately transferring the same to some other proper place.
  6. Signs, awnings, vegetation or other objects located on private property which are not constructed and maintained as required by law, which prevent persons from having a clear view of all traffic approaching intersection, or which overhand and obstruct public property.
  7. Obstructing the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other substances.
  8. Digging, excavating, placing culverts, placing dams or doing any act which alters or affects the drainage of property or alters or affects flows of the public storm sewer and drainage ditch system except in accordance with the regulations of the City.
- P. Littering and Illegal Dumping Prohibited. Unless otherwise authorized by law or permit, it is unlawful for any person to dump litter in any manner or amount: (Ordinance 2016-06, adopted December 13, 2016)
1. In or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands including, but not limited to city parks, public trails, city hall, city offices/maintenance building, and recycling center except in containers or areas lawfully provided therefore. When any litter is thrown or discarded from a motor vehicle, the operator or owner of the motor vehicle, or both, shall be deemed in violation of this section.
  2. In or on any freshwater lake, river, canal, or stream within the City. When any litter is dumped from a vessel, the operator or owner of the vessel, or both, shall be deemed in violation of this section.

3. In or on any private property, unless prior consent of the owner has been given and unless such litter will not cause a public nuisance or be in violation of any other state or local law, rule, or regulation.
  4. For purposes of this section, "*Litter*" means any garbage, rubbish, trash, refuse, can, bottle, box, container, paper, leaflets, circulars, advertising material, tobacco product, glass, nails, tacks, wire, cans, bottles, paper, ashes, debris from fireworks, refuse, carcass of any dead animal, furniture, mattresses, building materials, tires, appliances, mechanical equipment or parts, tools, machinery, wood, yard waste including tree trimmings, motor vehicle or motor vehicle parts, farm machinery or equipment, sludge or waste from a septic treatment system, or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations; or items not authorized by the governing body for recycling or any other form of offensive matter; or any other item or substance likely to injure any person, animal, or vehicle or thereby create a nuisance on any public or private property.
  5. In the trial of a person charged with violating this section, the City shall not have the burden of proving that the person did not have the right or authority to dump the litter or that litter dumped on private property causes a public nuisance. The defendant has the burden of proving that he or she had authority to dump the litter and that the litter dumped does not cause a public nuisance.
  6. This section does not limit the authority of the City, State or other local agency to enforce other laws, rules, or ordinances relating to litter or solid waste management.
- Q. Burial. The burial or entombment of any remains of a deceased human being except within a public or private cemetery established under law.
- R. Open Burning. Burning of rubbish, trash, paper or other combustible material without a permit except in accordance with the regulations of the City.
- S. Annoyances. Annoyances shall include specifically, but not exclusively, the following:
1. Noises, odors, vibrations or emissions of smoke, fumes, gas, soot, cinders, ash or otherwise which exceed the standards of the Minnesota Pollution Control Agency, or if no standards is then in effect, which have an unreasonable and adverse effect.
  2. Any artificial lighting upon private property without an effective shade or equivalent device to protect nearby residential premises from glare and other unreasonable and adverse effects.

3. Any offensive trade or business as defined by law and not otherwise licensed by the City.
- T. Illegal activities. Illegal activities shall include specifically, but not exclusively, the following:
1. Gambling devices, slot machines, and punch boards except as permitted by law.
  2. Betting, bookmaking and all apparatus used in such occupations except as permitted by law.
  3. Houses kept for the purpose of prostitution or promiscuous sexual conduct, gambling, houses of ill fame, and bawdy houses.
  4. Places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining such a place.
  5. Vehicles used for the illegal transportation of intoxicating liquor, or for the promiscuous sexual conduct or any other illegal purpose.
- U. Vehicle Violations. Vehicle violations shall include specifically, but not exclusively, the following:
1. The parking of vehicles in violation of the Zoning Ordinance.
  2. The parking of passenger vehicles and trucks on the street in an inoperative state for a period exceeding seven (7) days; inoperative shall mean incapable of movement under their own power and in need of repairs.
- V. Noise Violations. For the purposes of this section, Minnesota Rules Chapter 7030 is incorporated by reference. Minnesota Rules Chapter 7030 is available from the Office of the Revisor of Statutes, State of Minnesota, 700 State Office Building, 100 Rev. Dr. Martin Luther King Blvd., St. Paul, Minnesota 55155 or at through the State of Minnesota website, [www.revisor.leg.state.mn.us/arule/7030/](http://www.revisor.leg.state.mn.us/arule/7030/).
- W. Any other act or omission declared by law to be a nuisance and for which no penalty is specifically provided.

(Ordinance #6, adopted March 10, 2009; Ordinance 2016-06, adopted December 13, 2016))

**3-1-5: VIOLATIONS:**

- A. No person shall, directly or indirectly or by omission, create a nuisance.
- B. No responsible party shall allow a nuisance to remain upon or in any property, structure or vehicle under his control.
- C. No owner of any truck, trailer, or railroad car, or other vehicle shall leave the vehicle standing on or along any street, highway, freeway, or railroad track, or other public or private property within City of Nowthen carrying or containing any refuse, noxious substance, or hazardous waste. (Ordinance #6, adopted March 10, 2009)

**3-1-6: DISCLOSURE OF RESPONSIBLE PARTY:** Upon the request of the enforcement officer, a responsible party or owner shall disclose the name of any other responsible party or owner known to them. This shall include specifically, but not exclusively, the persons for whom they are acting, from whom they are leasing the property, to whom they are leasing the property, with whom they share joint ownership or with whom they have any conveyancing contract. (Ordinance #6, adopted March 10, 2009)

**3-1-7: ORDER TO CEASE:** In the event that an enforcement officer observes a person creating a nuisance, the officer may, after presenting proper identification, order that the person cease creating a nuisance. (Ordinance #6, adopted March 10, 2009)

**3-1-8: ABATEMENT AND COSTS:**

- A. Actions. Abatement may include specifically, but not exclusively, removing, cleaning, exterminating, cutting, mowing, grading, repairing, draining, securing, boarding, barricading, fencing and demolishing.
- B. Costs. Abatement costs shall include specifically, but not exclusively, the costs of the abatement; the cost of investigation, such as title searches, inspection and testing; the cost of notification; filing costs; and administrative costs.
- C. Record of Abatement Costs and Billing. The enforcement officer shall keep a record of the costs of abatement performed under this Section and shall report monthly to the City Council all work performed for which the property owners shall be billed. The invoices shall state and certify the description of the land, lots or parcels involved and the amount assessable to each.
- D. Certification of Unpaid Abatement Costs to County Auditor. On or before September 1 of each year, the City Clerk shall list the total unpaid charge for

each abatement against each separate lot or parcel to which they are attributable under this Section. After notice and hearing as provided in Minnesota Statutes Section 429.061, the Council may then spread the charges against property benefited as a special assessment under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year, or in annual installments, not exceeding ten, as the Council may determine in each case. (Ordinance #6, adopted March 10, 2009)

**3-1-9: SERVICE:** When service of an order or notice is required, any one or more of the following methods of service shall be adequate.

- A. Personal service
- B. Service by mail, unless it is a written order which gives three (3) days or less for the completion of any act required by the order.
- C. If the appropriate party or address cannot be determined after reasonable effort, by posting a copy of the order in a conspicuous place on the property.
- D. If a mailed order or notice is returned by the United States Postal Service, a good faith effort shall be made to determine the correct address, unless the order or notice orders abatement and that abatement has been completed. (Ordinance #6, adopted March 10, 2009)

**3-1-10: ABATEMENT PROCEDURE:**

- A. Hearing Examiner.
  - 1. The position of Hearing Examiner is hereby created. The Hearing Examiner shall have the following duties:
    - a. Hear all contested cases following appeals of orders of the enforcement officer
    - b. Take testimony from all interested parties.
    - c. Make a complete record of all proceedings.
    - d. Affirm, repeal or modify the order of the enforcement officer, and prepare written findings of fact.
  - 2. The City Council shall contract with third parties for the furnishing of all services of Hearing Examiner as contained in this subsection. The

selection of the third party used to provide Hearing Examiner services shall be in the complete discretion of the City Council.

- B. Order. Upon determining that a public nuisance exists on a property within the City, the enforcement officer shall serve a written order upon the owner and any responsible party known to the officer. The order may also be served upon any party known to have caused the nuisance. The order shall contain
1. A description of the property sufficient for identification which shall include the legal description.
  2. The location of the nuisance.
  3. A description of the nuisance and the basis upon which it is declared to be a nuisance.
  4. The remedial action required to abate the nuisance.
  5. The abatement deadline, as determined by the enforcement officer allowing a reasonable time for the performance of any act required.
  6. A statement that the order may be appealed and a hearing before the City Council obtained by filing a written request with the City Clerk before the appeal deadline.
  7. A statement that unless the remedial action is taken before the abatement deadline or unless a request for a hearing is filed with the City Clerk within the time specified, the City may abate the nuisance and charge all costs incurred against the property as a special assessment to be collected in the same manner as taxes.
- C. Request for Hearing. Any owner or responsible party who feels aggrieved by an order of the enforcement officer may request a hearing in front of either the City Council or a Hearing Examiner. The request for hearing shall be in writing and shall identify with specificity the basis for the hearing, and whether the hearing should be in front of the City Council or a Hearing Examiner. The request for hearing shall be accompanied by a filing fee as established by Section 1-2-2 of the City Code. This request and the filing fee shall be filed with the City Clerk seven (7) calendar days after the date of the order of the enforcement officer, whichever comes first.
1. Set Settlement Conference and Hearing Dates. In the event that a request for hearing is filed with the City Clerk, the City Clerk shall within three (3) weeks fix a date for both a settlement conference and a hearing.

2. Notice. The City Clerk shall mail a notice of the date, time, place and subject of the settlement conference and the hearing to the owner and known responsible parties.
3. Settlement Conference. The City and the owner/responsible party shall attend or be represented at a settlement conference. Parties or their representatives attending a settlement conference shall be prepared to participate in meaningful settlement discussions. Failure to attend the settlement conference shall constitute a waiver of right to a hearing under this section. At the settlement conference parties may by agreement confirm, modify, or repeal the order of the enforcement officer. Parties may also by agreement fix the time within which the nuisance must be corrected and provide that unless such corrective action is taken, the City may abate the nuisance. If such an agreement is reached, the City Council shall adopt a resolution confirming said agreement. The City Clerk shall mail a copy of the resolution to the owner and known responsible parties.
4. Hearing. If a settlement cannot be reached at the settlement conference, the matter shall proceed to a hearing in front of the City Council or a Hearing Examiner. In that hearing the owner/responsible party and the City may appear with counsel and present such evidence as is determined by the City Council or Hearing Examiner to be relevant. The hearing shall be conducted according to Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time. Within ten (10) days after such hearing, the City Council or Hearing Examiner shall issue an order affirming, repealing, or modifying the order of the enforcement officer. The City Council or Hearing Examiner's order shall be accompanied by written findings of fact.
5. Appeal to City Council. When the hearing is conducted by a Hearing Examiner, any person aggrieved by the decision of that Hearing Examiner may appeal that decision to the City Council by filing a written request with the City Clerk within seven (7) calendar days after receipt of the Hearing Examiner's order. At its next available regular meeting following the filing of such a request, the City Council shall review the decision and findings of fact of the Hearing Examiner and shall affirm, repeal or modify that decision. After the hearing, the City Council shall adopt a resolution confirming, repealing, or modifying the order of the enforcement officer. If the Council's resolution requires abatement, the Council shall fix a time within which the nuisance must be abated and provide that unless

corrective action is taken, the City may abate the nuisance. The City Clerk shall mail a copy of the resolution to the owner and known responsible parties.

6. City to Refund Filing Fee in Some Instances. If the City Council or a Hearing Examiner repeals the order of the enforcement officer, the City shall refund the filing fee to the owner or responsible party.
7. Abatement. Unless the remedial action is taken or a hearing requested within the required time period, City may abate the nuisance. The City shall take no action to abate any nuisance or violation while the matter is still pending before the Hearing Examiner or the City Council. (Ordinance #6, adopted March 10, 2009)

**3-1-11: PENALTY:** Any person, association, firm, corporation or other legally recognized entity violating any of the provisions of this Ordinance shall be guilty of a misdemeanor punishable by up to the maximum sentence allowed by law for such offense, unless the City Council has by resolution has set a fine schedule for particular offenses hereunder. If the City Council has set a fine schedule for particular offenses hereunder. If the City Council has set a fine schedule for particular offenses hereunder, then sentences for such violations shall be imposed consistent with said fine schedule. (Ordinance #6, adopted March 10, 2009) (Ordinance 2016-06, adopted December 13, 2016).

**3-1-12: RESERVED** (Administrative Citation Ordinance #6, adopted March 10, 2009; Ordinance 2013-07, repealed April 9, 2013 and moved to Chapter 1)

**3-1-13: OTHER REMEDIES:** The City, in its sole discretion, may criminally prosecute any violations, issue administrative citations, and/or seek abatement of any nuisance, as outlined herein. Nothing in this chapter shall be construed to limit the authority of the City under other City Codes. (Ordinance #6, adopted March 10, 2009)



## SECTION 2

### DOGS

Section:

3-2-1	Definitions
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3-2-11	Microchip Identification
3-2-12	Confiscation
3-2-13	Destruction of Dogs in Certain Circumstances
3-2-14	Interference
3-2-15	Penalty
3-2-16	Restrictions

**3-2-1: DEFINITIONS:** The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

**Animal Control Authority:** The City of Nowthen or any Law Enforcement agent or other public official acting under its direction and control. Additionally, "Animal Control Authority" shall mean any individual, organization, partnership, or entity operating under contract to perform animal control operations pursuant to a written agreement authorized and approved by the City Council of Nowthen.

**Animal, Domestic:** Any animals normally kept within the home, but not exclusive of the home, such as fish, dogs, cats, potbelly pigs and household birds.

**Animal, Non-Domestic:** Any animals normally kept outside of the home for the purposes of food or pleasure, such as cattle, hogs, sheep, horses, bees, goats, birds such as fowl, pigeons, falcons, and similar animals.

**City Council:** The City Council of the City of Nowthen.

**Dangerous Dog:** Any dog that has:

- A. When Unprovoked, inflicted death, Great Bodily Harm, Substantial Bodily Harm, or permanent disfigurement to any person on public or private property; or
- B. When Unprovoked, engaged in any attack on any person under circumstances which indicated danger to personal safety; or
- C. Killed a domestic animal while off the Owner's property; or
  - 1. When Unprovoked, has bitten one (1) or more persons on two (2) or more separate occasions; or
  - 2. Been found to be Potentially Dangerous, and after the Owner received notice or personal knowledge that the dog is Potentially Dangerous, the dog aggressively bites, attacks, or endangers the safety of a human being or domestic animal; or
  - 3. Been or will be used, trained, or encouraged to fight with another animal; or whose Owner has in custody or possession any training apparatus, paraphernalia or drugs used to prepare such dog for fighting with another animal.

**Dog:** Any canine animal, male or female, altered or unaltered.

**Great bodily harm:** Shall have the meaning given it under Minnesota Statutes Section 609.02, Subdivision 8.

**Hearing:** A proceeding conducted by a Hearing Officer in accordance with the requirements of this Section.

**Hearing Officer:** A licensed doctor of veterinary medicine, an Animal Control Authority official, or any otherwise qualified impartial hearing officer, appointed by the City Council.

**Kennel-Commercial:** A “commercial kennel” is a place where boarding and/or training is offered to any number of dogs not owned by the owner or occupant of the premises. Such boarding and/or training may also include but is not limited to related uses such as selling, breeding, showing, treating or grooming. Pet shops, veterinary clinics, and pet grooming facilities are considered commercial uses but shall not be defined as commercial kennels. A conditional use permit is required in any district where commercial dog kennels are not specifically identified as a permitted use.

**Kennel-Private:** A “private kennel” is a place where a dog owner keeps six (6) or more dogs over six (6) months of age on property occupied by the dog owner for residential purposes and where the keeping of such dogs is incidental to the occupancy of the premises, and may include breeding and selling of dogs as a hobby. A private kennel license must be secured from City staff.

**Killed:** A dog “Killed” or “Kills” a human being or domestic animal if there was a direct causal connection between the act of the attacking dog and the death of the person or other animal. For domestic animals which were euthanized following such an attack, “Killed” or “Kills” shall mean the death was the direct and inescapable consequence of the attack, extensive veterinarian assistance would be futile, and that euthanasia merely hastened the inevitable death of the victim animal.

**Owner:** Any person or persons, firm, corporation, association, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog. Any person keeping or harboring a dog for five (5) consecutive days shall, for the purposes of this Section, be deemed to be an Owner thereof.

**Potentially Dangerous Dog:** Any dog that has:

- A. When Unprovoked, bitten a human or domestic animal on public or private property; or
- B. 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 upon the dog 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.

**Proper Enclosure:** Shall mean securely confined indoors, or in a securely enclosed and locked pen or structure outdoors, suitable to prevent the animal from escaping and providing the dog protection from the elements. A Proper Enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the 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. Such enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel, in order to qualify as a Proper Enclosure, shall meet the following minimum specifications:

- A. The overall floor size shall have a minimum area of thirty-two square feet (32 sq. ft.);
- B. Sidewalls shall have a minimum height of five feet (5 ft.) and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches (2 in.), support posts shall be one and one-quarter-inch (1¼ in.) or larger steel pipe buried in the ground eighteen inches (18 in.) or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of eighteen inches (18 in.) into the ground;

- C. A cover over the entire pen or kennel shall be provided, constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches (2 in.); and
- D. An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two (2) inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

**Substantial Bodily Harm:** Shall have the meaning given to it under Minnesota Statutes Section 609.02, Subdivision 7a.

**Under Restraint:** Shall have the definition as stated in the *New World Dictionary of American Language Second College Edition*:

- A. to hold back from action; check; suppress; curb,
- B. to keep under control,
- C. to deprive of physical liberty, as by shackling, arresting, etc.
- D. to limit; restrict.

**Unprovoked:** Shall mean the condition in which the animal is not purposely excited, stimulated, agitated or disturbed. (Ord. #15, adopted July 12, 2011)

### **3-2-2: LICENSING REQUIREMENTS:**

- A. No owner of a dog shall own, keep or harbor any dog within the City of Nowthen unless such dog is licensed as herein provided. Written application for such license shall be made at the City offices and shall state the name, address and phone number of the owner and the name, breed, color, age and sex of the dog. The license fee shall be paid at the time of making the application, and City staff shall deliver the original receipt to the applicant.
- B. The license fee shall be as set by the City Council by resolution from time to time. All licenses shall be valid for the same length of time as the rabies vaccination and must be renewed within thirty (30) days after the vaccination or a penalty, which shall be set by the City Council, will be assessed. There shall be no discount or prorating of license fees.
- C. In the event that the license tag issued for a dog shall be lost or stolen, the owner may obtain a duplicate tag from the City offices at a cost set forth in Section 1-2-2 of the City Code.

- D. No license shall be required for any dogs under the age of six (6) months.
- E. Any owner, upon first becoming a resident of the City of Nowthen, shall be allowed thirty (30) days from such time within which to obtain a dog license. Any owner having a valid dog license from another municipality shall secure, within thirty (30) days after becoming a resident of the City of Nowthen, a City of Nowthen dog license for which the owner shall pay the license fee as set by the City Council.
- F. If there is change of ownership of a dog, the new owner, must apply within thirty (30) days for a new license and pay the fee as set by the City Council.
- G. No license shall be granted for a dog not currently vaccinated against rabies. The applicant for a dog license must present a certificate of vaccination from a licensed veterinarian. (Ord. #15, adopted July 12, 2011)

**3-2-3: TAGS:**

- A. Upon the payment of the license fee, the owner of a licensed dog shall be furnished a receipt, together with a suitable tag. The owner shall cause the tag to be affixed by a permanent fastening to the collar of the dog so licensed in such a manner that the tag may easily be seen by City Staff, the Animal Control Authority, or Law Enforcement. The owner shall see that the tag is constantly worn by the dog. Tags are not transferable from one dog to another. No refund shall be made of any dog license fee to anyone who leaves the City or in the event the dog dies before expiration of the license.
- B. It shall be unlawful to counterfeit or attempt to counterfeit tags provided for in this section or take from any animal a tag legally placed upon by its owner, or to place such tag upon another animal. (Ord. #15, adopted July 12, 2011)

**3-2-4: DOGS AND CATS IN MOTOR VEHICLES:** A person may not leave a dog or cat unattended in a standing or parked motor vehicle in a manner that endangers the dog's or cat's health or safety. A person who violates this section is guilty of a misdemeanor. The Animal Control Authority or a representative of the Animal Control Authority may use reasonable force to enter a motor vehicle and remove a dog or cat which has been left in a vehicle in violation of this Section. A person removing a dog or cat under this section shall use reasonable means to contact the owner of the dog or cat to arrange for its return home. If the person is unable to contact the owner, the person may take the dog or cat to an animal shelter. (Ord. #15, adopted July 12, 2011)

**3-2-5: KENNEL LICENSE:** The maximum number of dogs over six (6) months of age allowed on parcels of two and one half (2 ½) acres or less is three (3). On

parcels over two and one half (2 ½) acres up to five (5) dogs are allowed. For six (6) to ten (10) dogs a private kennel license is required. For over ten (10) dogs a Conditional Use Permit must be applied for.

A. Private Kennel License:

1. No person shall maintain a private kennel in the City without securing a license therefore from the City offices. The fee for the license shall be as established by Section 1-2-2 of the City Code.
2. Private kennel licenses do not confer any property rights upon the licensee, and the issuance of said licenses do not assume that future licenses will be granted. Licenses will be issued for a set number of dogs (maximum ten (10) dogs), which shall not be exceeded. Licensees who wish to add a dog/dogs shall need to obtain a new private kennel license. A licensee who relocates to another area of the City shall also need to obtain a corrected private kennel license. Licenses are not assignable to other parties.
3. The term for a private kennel license shall be one (1) year.
4. Upon receipt of a complaint against the kennel licensee, the licensee authorizes City staff to perform an inspection of the kennel for the purpose of determining compliance with the conditions of their license.
5. No party, person, dwelling, or other entity will be allowed more than one (1) private kennel license.

B. Commercial Kennel License:

1. No person shall maintain a commercial kennel in the City without first securing a license from the City Council. The fee for the license shall be as established by Section 1-2-2 of the City Code.
2. Prior to the issuance of a commercial kennel license from the City Council, a hearing before the Planning & Zoning Commission must be held. Notice must be given to all affected property owners within one quarter (¼) mile of the outside dimensions of the parcel where the kennel is contemplated. The Planning & Zoning Commission will make a recommendation to the City Council on the request. The initial term for the kennel license shall be one (1) year; subsequent licenses, if so granted, will also be for a term of one (1) year if no nuisance complaints have been received at the City within the previous twelve (12) months relating to the dogs being kept on the property.

3. Outdoor animal exercise shall be conducted within the confines of the property under the direct supervision of their owners or commercial kennel staff.
4. Indoor housing facilities must be structurally sound with ample heat, light, ventilation and sound control suitable for the surrounding conditions.
5. Dogs kept outside must have continual access to a shelter to protect them from the elements. All dogs shall have access to indoor housing from the hours of 9:00 p.m. to 7:00 a.m.
6. Individual animal enclosures must be of a size to allow each dog to turn around fully, stand, sit and lie in a comfortable condition.
7. Licensees authorize City staff to perform periodic inspections of the kennel for the purpose of determining compliance with the conditions of their license.
8. As per *Minnesota Statutes 346.39 – Subd. 12* - Wastes must be disposed of properly; where applicable, flushing methods and a disinfectant must be used periodically. Disposal facilities are to be provided to minimize virus infestation, odors and disease hazards. Accumulations of feces shall be located at least two hundred (200) feet from any well. All accumulations of feces shall be removed at such periods as will ensure that no leaching or objectionable odors exist, and the premises shall not be allowed to become unsightly.
9. The City Council reserves the right to issue additional conditions on a case-by-case basis in order to maintain the public repose.
10. All applicable City, County and State laws pertaining to the operation of a commercial kennel business are hereby incorporated by reference. (Ord. #15, adopted July 12, 2011)

**3-2-6: DOG ENCLOSURES/SHELTERS:** It is the purpose of this Section to prevent nuisances created by site, odor, noise and sanitation due to construction and placement of dog enclosures on private property.

- A. Placement: A dog enclosure shall not be placed closer than forty (40) feet from an adjacent residential dwelling or principal structure and at least twenty (20) feet from the side and thirty-five (35) feet from the rear lot lines. No dog enclosure shall be placed closer to the centerline of the road than the nearest point of the main structure.

- B. Sanitation requirements: No person shall permit feces, urine, or food scraps to remain in an enclosure for a period that is longer than reasonable and consistent with health and sanitation and the prevention of odor.
- C. Applicability of Section: This Section shall be applicable to all dog enclosures constructed after January 1, 2004, the effective date of this Section. Any pre-existing dog enclosure that the City Council receives a complaint on which is not kept in a clean and sanitary condition or is a nuisance to an adjacent property owner shall be required to comply with this Section by notice of compliance being given by the City Council or their duly authorized agent. Failure to comply with such notice within thirty (30) days of issuance shall be violation of this Section.
- D. As per *Minnesota Statutes 346.39 Subd. 4 - Shelter Size*: A confinement area must provide sufficient space to allow each animal to turn about freely and to easily stand, sit, and lie in a normal position. Each confined animal must be provided a minimum square footage of floor space as measured from the tip of its nose to the base of its tail, plus 25 percent, expressed in square feet. The formula for computing minimum square footage is: (length of animal plus 25 percent) times (length of animal plus 25 percent), divided by 144. A shaded area must be provided sufficient to protect the animal from the direct rays of the sun at all times during the months of May to October. (Ord. #15, adopted July 12, 2011)

**3-2-7: NUISANCE:** The owner of any animal shall prevent it from committing any act which constitutes a public nuisance. It is a public nuisance for any animal to:

- A. Bark, bay, cry, howl or make any other noise repeatedly over at least a five (5) minute period of time, with a thirty (30) second or less lapse of time between each animal noise during the five (5) minute period.
- B. Commit damage to the person or property of anyone other than the owner except as shall be committed in the defense of such owner, or in the defense of their family, or in the defense of their property.
- C. Snarl at persons, bite persons or other animals, or habitually exhibit vicious tendencies, molest or annoy any person away from the property of the owner, or to damage, defile or destroy public or private property.
- D. Run at large.
  - 1. An animal is considered to be at large if off the premises of the owner and is:
    - a. Not on a leash held by a responsible person of sufficient age to adequately control the animal at all times, or



- b. Not accompanied by and under the direct control of such responsible person so as to be effectively restrained by command.
  - 2. A dog shall not be determined to be at large if:
    - a. Lawfully engaged in wild game hunting and is under the control of its owner or other responsible person, or
    - b. When engaged in obedience training and is under the control of its owner or other responsible person.
  - 3. Dogs that are on or directly adjacent to all athletic fields or parks must be leashed. Owners are required to clean up and dispose of their pet's excrement. If any animal is running loose on the owner's property and runs onto adjacent public or private properties and does not respond to a person, then the animal is considered "at large".
- E. Chase vehicles or interfere with persons walking, horseback riding, or persons driving automobiles, bicycles, motorcycles, motorbikes, snowmobiles, or other vehicles on public grounds, streets or highways. (Ord. #15, adopted July 12, 2011)

**3-2-8: INCORPORATION:** This Section expressly adopts and incorporates the provisions of Minnesota Statutes Sections 347.50 – 347.565. When the provisions of this Section impose greater restrictions than those of any other statute, ordinance, rule or regulation, the provisions of this Section shall be controlling. Where the provisions of any other statute, ordinance, rule or regulation impose greater restrictions than this Section, the provision of such statute, ordinance, rule or regulation shall be controlling. (Ord. #15, adopted July 12, 2011)

**3-2-9: DANGEROUS DOGS:**

- A. Designation. The Animal Control Authority or Hearing Officer shall designate any dog as a Dangerous Dog upon receiving evidence that the dog meets any of the criteria of applicable state law or the definition of Dangerous Dog in Section 3-2-1 of this Section.
  - 1. Notice.
    - a. Upon a designation that a dog is Dangerous, the Animal Control Authority shall provide a written Notice of Dangerous Dog to the Owner of record or, if none, to any Owner of such dog by personally serving the Owner or a person of suitable age and discretion at the residence of such Owner or by mailing said written

notice to the Owner of such dog. Service upon any Owner shall be effective as to all Owners. The notice shall state the dates, times, places and facts of the incidents which form the basis for the determination, and include the following:

- (1) Description of the dog deemed to be Dangerous;
  - (2) The factual basis for that determination;
  - (3) The identity of the official who made the determination and the authority by which such determination was made; and
  - (4) If the dog was seized, the address and telephone number of the contact person where the dog is kept.
- b. The Notice shall also set forth the registration requirements and other restrictions imposed upon a Dangerous Dog under this Section or Minnesota Statutes Chapter 347.
- c. The Notice shall also advise the Owner(s) that they have fourteen (14) days to appeal the determination by requesting a Hearing before the Hearing Officer, and shall include a pre-printed form which the Owner can use to request a hearing. The request for a Hearing shall be made directly to the Animal Control Authority, and must be submitted in writing.
- d. The Notice shall state that if the owner does request a hearing, the owner must immediately comply with Minn. Stat. 347.52, subdivisions (a) through (c) until such time as the Hearing Officer issues an opinion. The notice shall further state that if the Hearing Officer confirms the dangerous dog declaration, the owner will have fourteen (14) days from receipt of the decision to comply with all other dangerous dog requirements found in Minn. Stat. 347 or this Section.
- e. The Notice shall state that if the Owner does not request a Hearing within the allotted fourteen (14) days, the designation of Dangerous Dog as issued in the written Notice of Dangerous Dog will stand, and the Owner will be subject to all restrictions and requirements as set forth in the Notice by the Animal Control Authority.
- f. The Notice shall also state that all actual costs of care, keeping and disposition of the dog as well as all actual costs related to any requested review or hearing are the responsibility of the person claiming an interest in the dog, except to the extent a court or

hearing officer finds the seizure or impoundment was not substantially justified by law.

2. Hearing:

- a. If an Owner, within fourteen (14) days of the date of the Notice, requests a Hearing for determination as to the Dangerous nature of the dog, the Hearing shall be held before a Hearing Officer within fourteen (14) days after the Animal Control Authority is notified of the Owner's request for a Hearing. The Hearing Officer may allow the Hearing date to be extended beyond the fourteen (14) day period for good cause. Any dog Owner who requests such a Hearing is liable to the City for all costs and expenses related to the Hearing.
- b. Pending the Hearing, the dog may be seized and kept at animal control unless the Owner shows proof that the dog is properly licensed, if required; has met the requirement for rabies vaccinations; keeps the dog only in a Proper Enclosure unless restrained on a leash with a muzzle; and otherwise demonstrates to the Animal Control Authority that the dog, under its present circumstances, does not present an unreasonable risk of harm to persons or other domestic animals.
- c. The records of the Animal Control Authority, any police reports relating to an attack or bite, medical records, and all reliable hearsay shall be admissible for consideration by the Hearing Officer without further foundation.
- d. The Animal Control Authority shall be represented by the Animal Control Authority or a representative appointed by the City Council. The Owner may be represented by private legal counsel of the Owner's choosing, although the Owner does not have the right to an attorney at public expense.
- e. At the Hearing, both the Owner and the Animal Control Authority may present the testimony of live witnesses, cross-examine witnesses, and present documentary evidence. The Animal Control Authority, and the dog's Owner, may apply to the District Court for subpoenas for Hearings.
- f. The burden of proof shall be upon the Animal Control Authority. The standard of proof shall be clear and convincing evidence if the Authority seeks to destroy the dog; in all other cases it shall be by a preponderance of the evidence.

- g. After considering all evidence pertaining to the dog, the Hearing Officer shall make such order as he/she deems proper, including ordering the Animal Control Authority to take the dog into custody, if the dog is not currently in custody. The Hearing Officer must issue his/her order within ten (10) days after the hearing.
  - h. Any person who fails or refuses to release a dog to the Animal Control Authority or law enforcement agent upon demand, or after it has been found by a Hearing Officer to be Dangerous and ordered into custody, shall be guilty of a misdemeanor.
- 3. Authority to order destruction. The Hearing Officer, upon finding that a dog is Dangerous hereunder, is authorized to order, as part of the disposition of the case, that the dog be destroyed based on a written order containing findings of fact establishing that each of the following criteria are present:
  - a. The dog is Dangerous, as demonstrated by a vicious attack, an unprovoked attack, an attack without warning, or multiple attacks; and
  - b. The Owner of the dog has demonstrated an inability or unwillingness to sufficiently control the dog in order to prevent injury to persons or other animals; and
  - c. The Owner cannot, will not, does not, or otherwise refuses to provide proof of the liability insurance for the dog as required by Section 3-2-9.B.3.a of this Section.
- 4 The decision of the Hearing Officer is a quasi-judicial determination that is subject to review by writ of certiorari to the Minnesota Court of Appeals.
- 5. The Owner or person claiming an interest in the dog is liable for all actual costs of care, keeping, and disposal of the dog as well as all actual costs related to any review or hearing as allowed by law, except to the extent that a court or Hearing Officer finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full, or a mutually satisfactory arrangement for payment must be made between the City and the person claiming an interest in the dog, before the dog is returned to the person.
- 6. Exemption. A dog may not be declared Dangerous if the threat, injury, or damage was sustained by a person who:
  - a. Was committing, at the time, a willful trespass or other tort upon the premises occupied by the Owner of the dog; or

- b. Was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
  - c. Was committing or attempting to commit a crime against the Owner or the Owner's property.
- 7. Review of designation. Beginning one (1) year after a dog is declared a Dangerous Dog; an Owner may request annually in writing that the Animal Control Authority or the Hearing Officer review the designation. The Owner must provide evidence that the dog's behavior has changed due to the dog's age, sterilization, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the Animal Control Authority or Hearing Officer finds sufficient evidence that the dog's behavior has changed, the Authority may rescind the Dangerous Dog designation. If a review of designation is conducted by the Hearing Officer, the burden of proof shall be upon the dog's Owner and the standard of proof is clear and convincing evidence. If a review is conducted the person requesting the review is responsible for all actual costs incurred by the City, the Animal Control Authority, or the Hearing Officer in performing the review.

B. Registration:

- 1. Requirements. For any dog determined or declared to be Dangerous by operation of this Section, state statute, court order, ordinance or regulation from another jurisdiction, or valid declaration from an Animal Control Authority, the dog shall, at all times during the dog's life, be registered as a Dangerous Dog pursuant to this Section or state law.
- 2. Registration. No person may own or possess a Dangerous Dog in this City unless the dog is registered as provided in this Section or applicable state law. All dogs deemed Dangerous by the Animal Control Authority or Hearing Officer, as applicable, shall be registered as a Dangerous Dog with the Animal Control Authority within thirty (30) days after the date the dog was so deemed.
- 3. Registration requirements. The Animal Control Authority shall issue a Certificate of Registration to the Owner of a Dangerous Dog only if the Owner presents sufficient evidence that all of the following are met:
  - a. The Owner provides and maintains a Proper Enclosure for the Dangerous Dog, as defined in Section 3-2-1 of this Section; and
  - b. The Owner posts clearly visible warning signs, understandable to children, that there is a Dangerous Dog on the property. These

warning signs must be posted on the front and the rear of all buildings on the property and upon the Proper Enclosure for the dog. The warning signs must meet the requirements set forth in Minnesota Statute Section 347.51, and Section 3-2-9.C of this Section; and

- c. The Owner provides, and annually shows proof of, public liability insurance pre-paid in full in the minimum amount of five-hundred thousand dollars (\$500,000.00) per person and one-million dollars (\$1,000,000.00) per incident, payable to any person or persons injured by the Dangerous Dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least five-hundred thousand dollars (\$500,000.00) per person and one-million dollars (\$1,000,000.00) per incident insuring the Owner for any personal injuries inflicted by the Dangerous Dog; and
  - d. The Owner pays the annual registration fee set forth by Section 1-2-2 of the City Code in accordance with Section 3-2-9.B.5 of this Section; and
  - e. An identification microchip was implanted in the dog as required under Minnesota Statutes Section 347.515 and Section 3-2-11 of this Section; and
  - f. The dog must have a lifetime license, if required, and must be up to date on all vaccinations including rabies; and
  - g. The dog must be sterilized. If not done within thirty (30) days, Animal Control Authority shall seize the dog and have it sterilized at the owner's expense.
4. Release. If a Dangerous Dog was impounded by the Animal Control Authority, or upon order of a Hearing Officer, the dog shall not be released until the Owner demonstrates to the Animal Control Authority that all applicable requirements of this Section, including all registration requirements imposed by this Section or applicable state law, have been complied with. The Owner shall have a maximum of thirty (30) days to comply with all requirements. The Owner must pay the City for all costs incurred in the seizure and boarding of the dog prior to its return.
  5. Fee. The City will charge the Owner of a Dangerous Dog an annual fee, in addition to any regular dog licensing fees, to obtain a Certificate of Registration for a Dangerous Dog under this Section. This annual fee will be set by the Council following a public hearing, in an amount not to

exceed five-hundred dollars (\$500.00) pursuant to Minn. Stat. 347.51, subd. 2.

6. Revocation.
    - a. Any Certificate of Registration for a Dangerous Dog may be revoked, following Hearing, if the Owner fails to maintain compliance with any registration requirement, or fails to keep or maintain the Dangerous Dog as required by any provision of this Section or applicable state law. The provisions of Sections 3-2-12 and 3-2-13 of this Section, applicable to the seizure and disposition of dogs, shall apply.
    - b. The Animal Control Authority shall serve upon the Owner a written Notice setting forth the alleged reasons why the dog is not being kept in conformance with this Section, and shall also notify the Owner of the date, time, and location of the Hearing. Any Hearing to revoke a Certificate of Registration shall be held before a Hearing Officer within twenty (20) days of the date of the Notice, and shall comply with all the requirements as set forth in Section 3-2-9.A.2 of this Section. The Hearing Officer may allow the Hearing date to be extended beyond the twenty (20) day period for good cause.
    - c. If a Dangerous Dog Certificate of Registration is revoked following Hearing, the Hearing Officer shall order the dog disposed of immediately or, in the alternative, permit the Owner a reasonable time period, not to exceed thirty (30) days, to obtain the dog if the Owner is in compliance with all registration requirements.
  7. Registration renewal. An Owner of a Dangerous Dog shall renew the registration of the dog annually until the dog is deceased.
- C. Death or relocation of Dangerous Dog. An Owner of a Dangerous Dog shall notify the Animal Control Authority, in writing, of the death of the dog, or if the dog relocates or transfers out of the City to a new location or new jurisdiction, within thirty (30) days of the death or relocation. An Owner shall, if requested by the Animal Control Authority, execute an affidavit, under oath and penalty of perjury, setting forth either the circumstances of the dog's death and disposition; or the complete name, address, and telephone number of the person to whom the dog was transferred.
- D. Sale or transfer of Dangerous Dogs. A person who sells or otherwise transfers ownership or control of a Dangerous Dog must notify any potential purchaser or transferee, prior to the consummation of the transaction, that the dog was previously designated as Dangerous. The seller must also notify the Animal

Control Authority, in writing, of the sale and provide the Animal Control Authority with the new Owner's name, address, and telephone number.

E. Requirements:

1. For any dog declared Dangerous by operation of this Section, state statute, court order, an ordinance or regulation from another jurisdiction, or by operation of a declaration by an Animal Control Authority, the Owner, in addition to complying with all the registration requirements set forth under Section 3-2-9.B of this Section, shall keep and maintain the dog pursuant to all requirements of this subsection, all other provisions of this section, and all requirements of any applicable state statute.
2. An Owner of a Dangerous Dog shall keep the dog, while on the Owner's property, in a Proper Enclosure as defined by Section 3-2-1 of this Section. The dog shall, at all times, be kept in such Proper Enclosure unless the dog is, at any and all times the dog is outside a Proper Enclosure, muzzled and restrained by a substantial chain or leash not to exceed six feet (6 ft.) in length and under the physical restraint of a responsible person eighteen (18) years of age or older. The muzzle, chain, and leash must all be of such a design, manufacture, and maintained in a condition that will prevent the dog from biting any person or animal, but that will not cause injury to the dog or interfere with its vision or respiration.
3. A person who owns a Dangerous Dog and who rents property from another where the dog will reside shall disclose to the property owner prior to when the dog begins to reside on the property, or prior to entering the lease agreement, and at the time of any lease renewal, that the person owns a Dangerous Dog that will reside at the property.
4. If the City issues a Certificate of Registration to the Owner of a Dangerous Dog pursuant to this Section, the City must provide, for posting on the Owner's property, an adequate number of a warning symbol to inform all persons, including children, that there is a Dangerous Dog on the property. The design of the warning symbol must be uniform with any specifications for such a sign as issued by the Minnesota Commissioner of Public Safety, if any, and shall otherwise be obtained by the City from the Commissioner of Public Safety. The City will charge the Owner a reasonable fee to cover its administrative costs and the cost of the warning symbol.
5. A Dangerous Dog registered under this section shall have a standardized, easily identifiable tag identifying the dog as Dangerous and containing the uniform Dangerous Dog symbol, as developed by the Commissioner of



Public Safety or the Animal Control Authority, affixed to the dog's collar at all times.

6. The Owner of a Dangerous Dog shall permit the Animal Control Authority and/or Law Enforcement to enter the property where a Dangerous Dog is kept or located, at all hours reasonable under the circumstances, without a warrant or other advance judicial process, to inspect the premises so as to ensure compliance with the provisions of this Section, applicable state statutes, order from a hearing officer, or directive from the Animal Control Authority. The failure of an Owner to permit such inspection is, by itself, a ground to immediately seize the dog pursuant to Section 3-2-12 of this Section and revoke the Dangerous Dog registration pursuant to Section 3-2-9.B.6 of this Section.
7. If, in reviewing the conditions for keeping a Dangerous Dog there have been no ordinance violations for a period of two (2) years, the Animal Control Authority or Hearing Officer may use discretion in determining whether the conditions set forth above are still required. (Ord. #15, adopted July 12, 2011)

**3-2-10: POTENTIALLY DANGEROUS DOGS:**

- A. Designation. The Animal Control Authority or Hearing Officer shall designate any dog as a Potentially Dangerous Dog upon receiving evidence that the animal meets any of the criteria in the Definition of Potentially Dangerous Dogs found in Section 3-2-1 of this Section.
  1. Notice. Upon determination that a dog is Potentially Dangerous, the Animal Control Authority shall provide a written Notice of Potentially Dangerous Dog by mailing said Notice to the Owner of record or if none by mailing said Notice to the property where the dog is located. Service upon any Owner shall be effective as to all Owners. The Notice shall state the following:
    - a. A factual basis for the determination including dates, times, places and facts of the incidents which are the basis for the determination;
    - b. A description of the dog deemed potentially dangerous;
    - c. If the dog was seized, the address and telephone number of the contact person where the dog is kept; and
    - d. Any requirements the Animal Control Authority deems necessary under Section 3-2-12.B of this Section.

2. Exemption. A dog may not be declared Potentially Dangerous if the threat, injury, or damage was sustained by a person who:
  - a. Was committing, at the time, a willful trespass or other tort upon the premises occupied by the Owner of the dog; or
  - b. Was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
  - c. Who was committing or attempting to commit a crime against the Owner or the Owner's property.
3. Review of designation. The Animal Control Authority, or Hearing Officer, may, upon the written request of the Owner, review the status of a dog which has been determined to be Potentially Dangerous if a period of two (2) years has passed without any further incidents or violations of this Section, and may use discretion in determining whether any conditions which have been ordered are still required. If the review is conducted by the Hearing Officer, the burden of proof shall be upon the dog's Owner and the standard of proof shall be by clear and convincing evidence. If a review is conducted the person requesting the review is responsible for all actual costs incurred by the City, the Animal Control Authority, or the Hearing Officer in performing the review.

B. Requirements:

1. Microchipping. Any dog that has been determined to be Potentially Dangerous shall be microchipped in accordance with Minn. Stat. 347.515 and Section 3-2-11 of this Section.
2. Other restrictions. Any dog determined to be Potentially Dangerous may be subject to any or all of the following restrictions, as determined by the Animal Control Authority or the Hearing Officer:
  - a. The Owner of a dog may be required to complete an approved dog obedience class within a designated period of time, and provide proof of completion to the Animal Control Authority;
  - b. The dog may be required to be kept in a Proper Enclosure, or restrained by chain or leash not to exceed six feet (6 ft.) in length, and/or muzzled, and under the control of a responsible person eighteen (18) years of age or older at all times it is outdoors and not inside a Proper Enclosure;

- c. The Owner may be required to post the property where the dog resides with warning signs, readable to children, containing a written notice and warning that a Potentially Dangerous Dog is present on the property. Such signs shall conform to the requirements set forth in Section 3-2-9.B.3.(b) of this Section;
  - d. The Owner may be required to show proof of up-to-date rabies vaccination and, if required, licensing;
  - e. The dog may be required to wear, at all times, a tag or marker identifying it as a Potentially Dangerous Dog;
  - f. The dog may be required to be sterilized within thirty (30) days of the owner receiving notice; and
  - g. Any other restriction the Animal Control Authority or Hearing Officer deems necessary to protect the public.
- C. Leased premises. A person who owns a Potentially Dangerous Dog and who rents property from another where the dog will reside shall disclose to the property owner prior to when the dog begins to reside on the property, or prior to entering the lease agreement, and at the time of any lease renewal, that the person owns a Potentially Dangerous Dog that will reside at the property. (Ord. #15, adopted July 12, 2011)

**3-2-11: MICROCHIP IDENTIFICATION:** Pursuant to Minn. Stat. 347.515, it shall be the responsibility of each Owner of any dog kept or harbored within the City and determined to be a Dangerous or Potentially Dangerous Dog under this Section, court order, state statute, designation from the Animal Control Authority, or a substantially similar ordinance from another jurisdiction, to ensure that a microchip is implanted in the dog for identification. 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 must be implanted by a qualified veterinarian or clinic or shelter staff under the direction and control of 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. (Ord. #15, adopted July 12, 2011)

**3-2-12: CONFISCATION:**

- A. Seizure. The Animal Control Authority shall immediately seize any Dangerous Dog or Potentially Dangerous Dog if:

1. After thirty (30) days after the Owner has notice that the dog is Dangerous or Potentially Dangerous, the dog is not validly registered under this Section or applicable state law;
2. After thirty (30) days after the Owner has notice that the dog is Dangerous, the Owner does not secure the proper liability insurance or surety coverage as required under this Section;
3. The dog is not maintained in a Proper Enclosure, as defined in Section 3-2-1 of this Section;
4. The dog is outside the Proper Enclosure and not under the proper physical restraint of a responsible person as required under this Section or any applicable state law; or
5. The Owner is served with written notice, by certified mail to the Owner's last known address, that the Owner is in violation of any of the requirements of this Section or any applicable state statute, or is in violation of any directive issued by the Animal Control Authority or order from a Hearing Officer; and, within thirty (30) days of service of such written notice, has refused or failed to achieve satisfactory compliance; or
6. The Animal Control Authority has reason to believe the dog is a Dangerous or Potentially Dangerous Dog, and is kept or maintained under conditions or circumstances creating a unacceptable risk of harm to physical persons or other domesticated animals; or
7. For any other reason authorized by law.

B. Additional dogs subject to seizure:

1. Any dog found to be in circumstances which to a reasonable person indicate that the dog has been or will be used, trained or encouraged to fight with another animal, or any animal whose owner has in custody or possession any training apparatus, paraphernalia or drugs used to prepare such dog to be fought with another animal, is hereby declared to be a public nuisance and shall be immediately seized and taken to the designated animal control center.
2. Any dog may be seized and held to determine if rabid.
3. Any dog may be seized and held if suspected of being feral.
4. Any dog which meets the definitions found in Section 3-2-1 of this Section either Dangerous or Potentially Dangerous may be seized and held at

animal control pending a determination whether the animal is Dangerous or Potentially Dangerous.

C. Reclaiming dogs:

1. A dog seized under this Section may be released to the Owner of the dog upon payment of impounding and boarding fees, and presenting proof to the Animal Control Authority that all requirements of this Section and state law have or will be met.
2. A dog not reclaimed under this subdivision within thirty (30) days may be disposed of as provided under Minnesota Statutes Section 35.71, Subdivision 3, and the Owner is liable to the Animal Control Authority for costs incurred in confining and disposing of the dog.

D. Subsequent offenses. If a person has been convicted of a misdemeanor for violating a provision of this Section, and the person is charged with a subsequent violation relating to the same dog, the dog shall be seized by the Animal Control Authority. If the Owner is convicted of the crime for which the dog was seized, the Court shall order that the dog be destroyed in a proper and humane manner and the Owner pay the cost of confining and destroying the dog. If the person is not convicted of the crime for which the dog was seized, the Owner may reclaim the dog upon payment to the Animal Control Authority of a fee for the care and boarding of the dog. If the dog is not reclaimed by the Owner within thirty (30) days after the Owner has been notified that the dog may be reclaimed, the dog may be disposed of as provided under Minnesota Statutes Section 35.71, Subdivision 3. The Owner is liable to the Animal Control Authority for the costs incurred in confining, impounding, and disposing of the dog. (Ord. #15, adopted July 12, 2011)

**3-2-13: DESTRUCTION OF DOGS IN CERTAIN CIRCUMSTANCES:**

- A. Upon infliction of death or bodily harm. A dog that, when Unprovoked, inflicted death or Substantial or Great Bodily Harm on a human being on public or private property, or, when Unprovoked, bit multiple human victims on public or private property in the same attack may be destroyed in a proper and humane manner by the Animal Control Authority. The Animal Control Authority may not destroy the dog until the dog Owner is provided the opportunity for a Hearing before a Hearing Officer, as set forth in this Section.
- B. Suffering beyond cure. Notwithstanding any other provision of this Section, any dog taken into custody may be immediately disposed of when the dog is suffering and is beyond cure through reasonable care and treatment, upon a proper determination by a licensed doctor of veterinary medicine. The City shall recover from the dog's Owner all costs incurred under this section.

- C. Unclaimed dogs. At the expiration of the time a dog is impounded as provided for in this Section, if the dog has not been reclaimed in accordance with the provisions hereof, it shall be the duty of the Animal Control Authority to cause such dog to be destroyed according to the most humane and approved methods, or otherwise disposed of. (Ord. #15, adopted July 12, 2011)

**3-2-14: INTERFERENCE:** It shall be unlawful for any unauthorized person to take or attempt to take from any Animal Control Authority any dog taken up under this Section. It shall be unlawful for any person to interfere in any manner with or hinder any Animal Control Authority in the discharge of their duties under this Section. (Ord. #15, adopted July 12, 2011)

**3-2-15: PENALTY:**

- A. Any person who violates any provision of this Section is guilty of a misdemeanor.
- B. It is a misdemeanor to remove a microchip from a Dangerous or Potentially Dangerous Dog; to fail to renew the registration of a Dangerous Dog; to fail to account for a Dangerous Dog's death, transfer of ownership, or removal from the jurisdiction; to sign a false affidavit with respect to a Dangerous Dog's death, transfer of ownership, or removal from the jurisdiction; or to fail to disclose ownership of a Dangerous or Potentially Dangerous Dog to a property owner from whom the person rents property. (Ord. #15, adopted July 12, 2011)

**3-2-16: RESTRICTIONS:**

- A. Dog ownership prohibited. Except as provided in subdivision 3, no person may own a dog if the person has:
1. Been convicted of a third or subsequent violation of Section 3-2-9.B, Section 3-2-9.C, Section 3-2-10.B, or Section 3-2-11;
  2. Been convicted of a violation under section 609.205, clause (4);
  3. Been convicted of a gross misdemeanor under section 609.226, subdivision 1;
  4. Been convicted of a violation under section 609.226, subdivision 2; or
  5. Has a dog ordered destroyed under Section 3-2-13 and been convicted of one or more violations of Section 3-2-9.B, Section 3-2-9.C, Section 3-2-10.B, or Section 3-2-11, or 609.226, subdivision 2.

- B. Household members. If any member of a household is prohibited from owning a dog in Section 3-2-16.A of this Section, unless specifically approved with or without restriction by an Animal Control Authority, no person in the household is permitted to own a dog.
  
- C. Dog ownership prohibition review. Beginning three (3) years after a conviction under Section 3-2-16.A of this Section that prohibits a person from owning a dog, and annually thereafter, the person may request that the Animal Control Authority review the prohibition. The Animal Control Authority may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the Animal Control Authority deem appropriate. The Animal Control Authority may rescind the prohibition entirely or rescind it with limitations. The Animal Control Authority also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the Animal Control Authority rescinds a person's prohibition and the person subsequently fails to comply with any limitation imposed by the Animal Control Authority or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the Animal Control Authority may permanently prohibit the person from owning a dog in this City. (Ord. #15, adopted July 12, 2011)





**SECTION 3**  
**SOCIAL HOSTS**

Section:

3-3-1	Authority
3-3-2	Purpose and Findings
3-3-3	Definitions
3-3-4	Prohibited Acts
3-3-5	Exceptions
3-3-6	Enforcement
3-3-7	Penalty
3-3-8	Severability

**3-3-1: AUTHORITY:** This Section is enacted pursuant to Minnesota Statute §145A.05, Subdivision 1. (Ord. #28, adopted February 20, 2009)

**3-3-2: PURPOSE AND FINDINGS:**

- A. The City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under twenty one (21) years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplies the alcohol.
- B. The City Council hereby finds that:
  - 1. Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
  - 2. Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
  - 3. Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

4. Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present, and condone the activity, and in some circumstances provide the alcohol.
5. Even though giving or furnishing alcohol to an unrelated underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
6. A deterrent will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption of alcohol occurs. (Ord. #28, adopted February 20, 2009)

**3-3-3: DEFINITIONS:** The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Alcohol:** means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

**Alcoholic Beverage:** means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

**Event or Gathering:** means any group of three or more persons who have assembled or gather together for a social occasion or other activity.

**Host or allow:** means to aid, conduct, entertain, organize, supervise, control, or permit a gathering or event.

**Parent:** means any person having legal custody of a juvenile, such as a natural, adoptive parent, or stepparent, as a legal guardian; or as a person to whom legal custody has been given by order of the court.

**Person:** means any individual, partnership, co-partnership, corporation, or any association of one or more individuals. A person does not include any city, county, or state agency.

**Residence, Premises or Public or Private Property:** means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party

or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

**Underage Person:** means any individual under twenty-one (21) years of age. (Ord. #28, adopted February 20, 2009)

**3-3-4: PROHIBITED ACTS:**

- A. It is unlawful for any person(s) to host or allow an event or gathering at any residence, premises, or on any other private or public property where alcohol or alcoholic beverages are present when the person knows or reasonably should know that an underage person will or does:
  - 1. Consume any alcohol or alcoholic beverage; or
  - 2. Possess any alcohol or alcoholic beverage with the intent to consume it, and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
- B. A person is criminally responsible for violating this Section if the person intentionally aids, advises, hires, counsels, or conspires with another to commit the prohibited act.
- C. A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible for a violation of this Section. (Ord. #28, adopted February 20, 2009)

**3-3-5: EXCEPTIONS:** Section 3-3-4 of this Section does not apply to the following persons or situations:

- A. Conduct solely between an underage person and his or her parents while present in the parent's household.
- B. Legally protected religious observances.
- C. Licensed retail sellers of intoxicating liquor or 3.2 percent malt liquor licenses, municipal liquor stores, or bottle club permit holders who are regulated by Minnesota Statutes 340A.
- D. A landlord, mortgagee, hotel or motel owner or operator who has not actually participated in knowingly furnishing alcohol for an event or gathering.
- E. Medical procedures or treatment authorized by a physician.

- F. Law enforcement activities supervised by a law enforcement agency.
- G. When underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment. (Ord. #28, adopted February 20, 2009)

**3-3-6: ENFORCEMENT:** This Section can be enforced by any police officer or sheriff's deputy in Anoka County. (Ord. #28, adopted February 20, 2009)

**3-3-7: PENALTY:** Violation of Section 3-3-4 of this Section is a misdemeanor. (Ord. #28, adopted February 20, 2009)

**3-3-8: SEVERABILITY:** If any section, subsection, sentence, clause, phrase, word, or other portion of this Section is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect. (Ord. #28, adopted February 20, 2009)

## SECTION 4

### CHARGES FOR EMERGENCY RESPONSE FIRE SERVICES

Section:

- 3-4-1 Findings, Purpose and Intent
- 3-4-2 Definitions
- 3-4-3 Conflicts
- 3-4-4 Fire Service Charges in General
- 3-4-5 Fire Service Charges

**3-4-1: FINDINGS, PURPOSE AND INTENT:** This Section is adopted for the purpose of authorizing the City of Nowthen to establish and charge user service charges for Fire Services as described in this Section.

**3-4-2: DEFINITIONS:** The following terms shall apply in the interpretation and application of this Section:

**Commercial Building and Institutional Building:** mean any structures which are used or intended either by the nature of its construction or by any conditional use permits, interim use permits or business licenses issued to be used for commercial, institutional or industrial purposes. Rental housing of any type is considered to be commercial for the purposes of this Section.

**Emergency Medical Response (Non-Motor Vehicle Incident):** means any medical response not involving a motor vehicle where the Fire Department is able to render aid, provide assistance, or otherwise improve the conditions of any injured persons.

**Excavator:** means a person who conducts excavation.

**Fire Service:** means any deployment of fire fighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life, or property in an area threatened by fire. It also includes the deployment of fire fighting personnel and/or equipment to provide fire suppression, rescue, extrication, or any other services related to fire and rescue as may occasionally occur. Such deployment constitutes fire service regardless of whether these services are actually performed.

**Fire Service Charge:** means the charge imposed by the City for receiving fire service.

**Hazardous Substance:** means any chemical or chemical compound that is listed as a hazardous substance in rules adopted under Minnesota Statutes Chapter 182.

**Illegal Activities:** means any activity in violation of either Minnesota statute, rules and regulations, or city or county ordinances, which may be criminal or merely not in conformity therewith.

**Motor Vehicle:** means any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways, and not operated exclusively upon railroad tracks. It includes any vehicle propelled or drawn by a self-propelled vehicle. This includes semi-trailers, snowmobiles, all-terrain vehicles and campers.

**Motor Vehicle Owner:** means any person, firm, association, or corporation owning or renting a motor vehicle, or having the exclusive use thereof, under a lease or otherwise, for a period of greater than thirty (30) days.

**Person:** means the state, a public agency, a local governmental unit, an individual, corporation, partnership, association, business, public entity or a trustee, receiver, assignee, or personal representative of any of them.

**Residential Building:** means any structure which is used or intended by the nature of its construction to be used by persons for living and sleeping quarters, but shall not include hotels, motels, or other buildings intended primarily for transient lodging. Rental housing of any type is considered to be commercial for the purposes of this Section. Residential Buildings shall also include outbuilding, barns and other structures which are not defined as Commercial or Institutional buildings as defined herein.

**Underground Pipeline Utility:** means an underground line, facility, system, and its appurtenances used to produce, store, convey, transmit, or distribute gas, oil, petroleum products, and other similar substances.

**Vacant Parcel:** means any property parcel that does not include any building improvements.

**3-4-3: CONFLICTS:** In the event of any conflict between the provisions of this Section and applicable provisions of State law, rules or regulations, the latter shall prevail.

**3-4-4: FIRE SERVICE CHARGES IN GENERAL:**

- A. The collection of fire service charges for fire service shall be pursuant to Minnesota Statute §§ 366.011 and 415.01 and any other applicable statute. Collection of unpaid service charges shall be as authorized in Minnesota Statute § 366.012.
- B. Said fees shall be established at a fixed rate for certain specific types of incidents or for actual costs incurred by the fire department in responding to the incident for other specific types of incidents as identified below. For any incidents not listed below the fee shall be for the actual costs incurred by the fire department in responding to the incident.

- C. For incidents for which the actual costs incurred by the fire department in responding to the incident is charged, the fees shall include, but shall not be limited to, actual manpower costs for all personnel that respond to the incident (minimum of one (1) hour) and the cost on a per hour basis for each fire apparatus or other city mechanical equipment that responds to the incident (minimum of one (1) hour per unit).
- D. When a particular service rendered by the Fire Department directly benefits more than one person or property, the owner of each property so benefited and each person so benefited (where the property protection only is not involved) shall be liable for the payment of the full charge for such service to their respective property as hereinbefore outlined.
- E. Parties billed the fire service charge will have thirty (30) days to pay. If the service charge is not paid by that time, it will be considered delinquent and the City will send notice of delinquency.
- F. If the fire service charge remains unpaid for thirty (30) days after this notice of delinquency is sent, the City will use all practical and reasonable legal means to collect the service charge including the provisions of Minn. Stat. § 366.012. The party receiving the service shall be liable for all collection costs incurred by the City including, but not limited to, administrative costs, attorneys' fees, recording fees and court costs.
- G. Any party aggrieved by a charge authorized in this Section may appeal the charge as follows:
  - 1. Within the time period for which a bill is payable, the party shall file a written request with the City Clerk setting forth specific reasons why the charge is improper.
  - 2. The Clerk shall notify the aggrieved party, in writing, of the time, place and date the City Council will hold a hearing on the issue.
  - 3. The City Council may grant relief on appeal if it finds good cause and sufficient proof to satisfy the Council.
  - 4. The City Council may extend the time for payment for a reasonable period.

**3-4-5: FIRE SERVICE CHARGES:** The service charges shall be as follows:

- A. Emergency Medical Response (Non-Motor Vehicle Incident):

1. Emergency Medical Response (Non-Motor Vehicle Incident) is any medical response not involving a motor vehicle where the Fire Department is able to render aid, provide assistance, or otherwise improve the conditions of any injured persons.
2. Except as provided in subparts F, G and H below, there shall be no charge for emergency medical response (non-motor vehicle incident).
3. Should it be determined by the City that the medical response falls within subparts F, G and H then an invoice for the actual costs of the Fire Department to response to the medical emergency will be sent to the property owner or owner's insurance company.

B. Residential Fire:

1. A residential fire is any incident response to a fire involving a residential building as defined in this Section.
2. Except as provided in subparts F, G and H below, there shall be no charge for a residential building fire.
3. Should it be determined by the City that the fire falls within subparts F, G and H then an invoice for the actual costs of the Fire Department to response to the fire will be sent to the property owner or owner's insurance company.

C. Commercial or Institutional Building Fire:

1. A commercial or institutional building fire is any incident response to a fire involving a commercial or institutional building as defined in this Section.
2. Except as provided in subparts F, G and H below, there shall be no charge for a commercial or institutional building structure fire.
3. Should it be determined by the City that the fire falls within subparts F, G and H then an invoice for the actual costs of the Fire Department to response to the fire will be sent to the property owner or owner's insurance company.

D. Grass Fires Within a State Trunk Highway or County Right-of-Way:

1. A grass fire is any incident response to a grass fire within or outside of the right-of-way of a state trunk highway, county road or city road if the fire originated within the right-of-way of a state trunk highway, county road or city road as defined in Minnesota State Statute § 161.465.



2. An invoice will be sent to the commissioner of transportation or county administrator. The invoice amount will follow the Incident Invoice Schedule based on the number of hours on the incident.

E. Underground Pipeline Utility Breaks:

1. An underground pipeline utility break is any incident response to an underground pipeline utility break if caused by an excavator or person other than a homeowner or resident.
2. An invoice will be sent to the excavator or person responsible for the pipeline utility break. The invoice amount will follow the Incident Invoice Schedule based on the number of hours on the incident.
3. In addition, the bill for service shall also include any cost of cleanup of any contaminated equipment and/or repair of any equipment damaged during the incident or its replacement, along with replacement of any disposable equipment, supplies, and/or communication equipment.

F. Hazardous Material:

1. A hazardous material incident is any response to the release of hazardous material from its container, or the threat of a release of a hazardous material from its container, chemical reaction, or other potential emergency as the result of a hazardous material where the Fire Department is able to render aid, provide assistance, or otherwise improve the conditions or protect the public.
2. An invoice will be sent to the person responsible for the hazardous material or transportation of the hazardous material. The invoice amount will follow the Incident Invoice Schedule based on the number of hours on the incident, specialized equipment and material used on the incident.
3. In addition, the bill for service shall include any cost of cleanup of any contaminated equipment and/or repair of any equipment damaged during the incident or its replacement, along with replacement of any disposable equipment, supplies, and/or communication equipment.

G. Fire as the Result of Illegal Activities:

1. A fire as the result of illegal activities is any incident response to a fire that resulted from illegal activities occurring on the property as defined in this Section. Examples of this would include, but not be limited to, methamphetamine labs, commercial and industrial operations where a necessary permit or license is required but has not been obtained from the City, or the burning of debris without a properly issued burn permit.

2. An invoice will be sent to the property owner or owner's insurance company. The invoice amount will follow the Incident Invoice Schedule based on the number of hours on the incident.
3. In addition, the bill for service shall include any cost of cleanup of any contaminated equipment and/or repair of any equipment damaged during the incident or its replacement, along with replacement of any disposable equipment, supplies, and/or communication equipment.

H. Arson Fire:

1. An arson fire is any incident response to a fire where a person is charged under Minnesota Law.
2. An invoice will be sent to the property owner or owner's insurance company. The invoice amount will follow the Incident Invoice Schedule based on the number of hours on the incident.
3. In addition, the bill for service shall include any cost of cleanup of any contaminated equipment and/or repair of any equipment damaged during the incident or its replacement, along with replacement of any disposable equipment, supplies, and/or communication equipment.
4. The fire investigator responsible for the incident investigation will forward all costs expended by the Fire Department in association with the incident to the court for reimbursement through restitution. (Ord. 2018-04, adopted December 11, 2018)

## SECTION 5

### CLANDESTINE DRUG LAB SITES AND CHEMICAL DUMP SITES

Section:

- 3-5-1 General Provisions
- 3-5-2 Administration
- 3-5-3 City Council Review
- 3-5-4 Violations and Penalties

#### **3-5-1: GENERAL PROVISIONS:**

A. Purpose and Intent:

1. The purpose of this Section is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals from a suspected clandestine drug lab site or associated dumpsite may exist. The City Council finds that such sites may contain suspected chemicals and residues that place people, particularly children or adults of child bearing age, at risk when exposed through inhabiting or visiting the site, now and in the future.
2. Based upon professional reports, assessments, testing and investigations, the City Council finds that such hazardous chemicals can condense, penetrate, and contaminate on the land, surfaces, furnishings, buildings, and equipment in or near structures or other locations where such sites exist; the City Council finds that these conditions present health and safety risks to residents, occupants and visitors through fire, explosion, skin and respiratory exposure and related dangers. The City Council further finds that such sites present health and safety risks to occupied residences, buildings and structures and to the general housing stock of the community.

B. Interpretation and Application:

1. In their interpretation and application, the provisions of this Section shall be construed to protect the public health, safety and welfare.
2. Where the conditions imposed by any provision of this Section are either more or less restrictive than comparable provisions imposed by any other law, ordinance, statute, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

3. Should any court of competent jurisdiction declare any section or subpart of this Section to be invalid, such decision shall not affect the validity of the Section as a whole or any part thereof, other than the provision declared invalid.
- C. Fees: Fees for the administration of this Section may be established and amended periodically as set forth in Section 1-1-2 of the City Code.
- D. Definitions: For the purpose of this Section, the following terms or words shall be interpreted as follows:

**Child:** Any person less than 18 years of age.

**Chemical Dumpsite:** Any place or area where chemicals or other waste materials used in a clandestine drug lab have been located.

**Clandestine Drug Lab:** The unlawful manufacture or attempt to manufacture controlled substances.

**Clandestine Drug Lab Site:** Any place or area where law enforcement determines that conditions associated with the operation of an unlawful clandestine drug lab exist. A clandestine drug lab site may include motor vehicle and trailers, dwellings, accessory buildings, accessory structures, commercial structures, multi-family structures, a chemical dumpsite or any land.

**Controlled Substance:** A drug, substance or immediate precursor in Schedules I through V of Minn. Stat. § 152.02. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

**Hazardous Wastes:** Waste generated, including equipment, from a clandestine drug lab. Such wastes shall be treated, stored, transported or disposed of in a manner consistent with the Minnesota Department of Health, Minnesota Pollution Control, and Anoka County Health Department rules and regulations.

**Manufacture:** In places other than a pharmacy, shall include the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of drugs.

**Owner:** Any person, firm or corporation who owns, in whole or in part, the land, buildings or structures associated with a clandestine drug lab site or chemical dumpsite.

**Public Health Nuisance:** All dwellings, accessory structures and buildings or adjacent property associated with a clandestine drug lab site are potentially

unsafe due to health hazards and are considered a public health nuisance pursuant to Minn. Stat. § 463.15, et seq.; § 412 221, et seq.; and 145A.01, et seq. (Ord. #17, adopted May 11, 2004)

**3-5-2: ADMINISTRATION:**

- A. Law Enforcement Notice to Other Authorities. Law enforcement authorities that identify conditions associated with a clandestine drug lab site or chemical dump site that places neighbors, visiting public, or present and future occupants of the dwelling at risk for exposure to harmful contaminants and other associated conditions, must promptly notify the appropriate City, child protection, and public health authorities of the property location, property owner if known, and conditions found.
- B. Declaration of Property as a Public Health Nuisance. If law enforcement determines the existence of a clandestine drug lab site or chemical dumpsite, the property shall be declared a public health nuisance.
- C. Notice of Public Health Nuisance to Concerned Parties. Upon notification by law enforcement authorities, the Building Official shall promptly issue a Declaration of Public Health Nuisance for the affected property and post a copy of the Declaration at the probable entrance to the dwelling or property. The Building Official shall also notify the owner of the property by mail and notify the following parties:
  - 1. Occupants of the property;
  - 2. Neighbors at potential risk;
  - 3. The Anoka County Sheriff's Office, Anoka County Community Health and Environmental Services; and
  - 4. Other state and local authorities, such as MPCA and MDH, which are known to have public and environmental protection responsibilities that are applicable to the situation.
  - 5. The Building Official may notify any financial institution with an interest of record of the Declaration of Public Health Nuisance and shall notify such financial institution should the property owner timely fail to arrange for timely and appropriate assessment and clean up.
  - 6. The Building Official may notify the insurance company with a policy known to be applicable to the subject property and shall notify such insurance company should the property owner fail to arrange for timely and appropriate assessment and clean up.

7. The Building Official may cause a certified copy of the Declaration of Public Health Nuisance to be filed with the Office of the Anoka County Recorder or Registrar of Titles. Upon abatement of the nuisance as required herein, the Building Official shall cause a notice of successful abatement or removal of Declaration of Public Health Nuisance to be so recorded.
- D. Property Owner's Responsibility to Act - Order for Abatement. The Building Official shall also issue an order to the owner to abate the public health nuisance, including the following:
1. That the owner, tenant, occupants or other persons in possession of the premises shall immediately vacate those portions of the property, including building and structure interiors, or dump site, which may place such persons at risk. No person shall reside in or occupy any premises or property subject to an order for abatement until such time as the Building Official has determined that the contamination has been reduced to an acceptable level and that the cleaning was conducted in accordance with Minnesota Department of Health guidelines.
  2. Promptly contract with appropriate environmental testing and cleaning firms to conduct an on-site assessment, complete clean-up and remediation testing and follow-up testing, and determine that the property risks are sufficiently reduced in accordance with Minnesota Department of Health guidelines. The property owner shall notify the City of actions taken and reach an agreement with the City on the clean-up schedule. The City shall consider practical limitations and the availability of contractors in approving the schedule for clean-up.
  3. Provide written documentation of the clean-up process, including a signed, written statement that the contamination has been reduced to an acceptable level and that the clean-up was conducted in accordance with Minnesota Department of Health guidelines.
- E. Property Owner's Responsibility for Costs. The property owner shall be responsible for all costs of abatement or clean-up of the site, including contractor's fees and public costs for services that were performed in association with a clandestine drug lab site or chemical dump site clean-up. The Building Official shall prepare and provide to the property owner a Statement of itemized public costs which shall be due and payable upon receipt. Public costs may include, but are not limited to:
1. Posting of the site;
  2. Notification of affected parties;

3. Expenses related to the recovery of costs, including the assessment process;
4. Laboratory fees;
5. Clean-up services, including septic systems;
6. Administrative fees;
7. Emergency response costs;
8. Other associated costs; and
9. Any legal costs including attorney fees related to the nuisance abatement.

F. Recovery of Public Costs:

1. If, after service of notification of the Declaration of Public Health Nuisance, the property owner fails to arrange appropriate assessment and clean-up, the Building Official is authorized to obtain judicial authority to proceed in a prompt manner to initiate the on-site assessment and clean-up.
2. If the City is unable to locate the property owner within ten (10) days of the Declaration of Public Health Nuisance, the City is authorized to obtain judicial authority to proceed in a prompt manner to initiate the on-site assessment and clean-up.
3. The City may abate the nuisance by obtaining judicial authority to remove the hazardous structure or building, or otherwise, according to Minnesota Statutes Chapter 463. In cases involving motor vehicles, trailers, boats or other movable property, the City may abate the nuisance by disposal of the property through unlawful authority.
4. If the City abates the public health nuisance, or otherwise incurs public costs, in addition to any other legal remedy, the City shall be entitled to recover all public costs. The City may recover costs by civil action against the person or persons who own the property or by assessing such costs as a special tax against the property in the manner as taxes and special assessments are certified and collected pursuant to Minn. Stat. § 429.101.
5. Nothing herein shall limit the authority of the City to enforce this ordinance or seek any other legal remedy to abate the nuisance through declaratory action, injunction, nuisance declaration or otherwise.

G. Authority to Modify or Remove Declaration of Public Health Nuisance:

1. The Building Official is authorized to modify the Declaration conditions or remove the Declaration of Public Health Nuisance.
2. Such modifications or removal of the Declarations shall only occur after documentation from a qualified environmental or cleaning firm stating that the health and safety risks, including those to neighbors and potential dwelling occupants, are sufficiently abated or corrected in accordance with Minnesota Department of Health guidelines. (Ord. #17, adopted May 11, 2004)

**3-5-3: CITY COUNCIL REVIEW:**

- A. The owner of the property or any party with a legal interest in the property who has been issued a Declaration of Public Health Nuisance, an Order for Abatement, or a Statement of Public Costs may appeal the Declaration of Public Health Nuisance, the Order for Abatement or the Statement of Public Costs to the City Council.
- B. The appeal shall be in writing filed with the City Clerk and Anoka County Community Health and Environmental Services, specifying the grounds for the appeal and the relief requested. The appeal must be filed within ten (10) days of the issuance of the item from which appeal is taken.
- C. The City Council shall hear the appeal within sixty (60) days of the filing. Upon review, the City Council may affirm, modify or reverse the action taken.
- D. The filing of an appeal shall suspend the terms of the Declaration of Public Health Nuisance, Order for Abatement, or Statement of Public Costs, whichever is applicable. However, in the instance of an appeal from an Order for Abatement, the appeal shall not suspend that part of the order prohibiting occupancy of the property. (Ord. #17, adopted May 11, 2004)

**3-5-4: VIOLATIONS AND PENALTIES:** Any person violating any provisions of this Article is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minn. Stat. § 609.02, Subd. 3. (Ord. #17, adopted May 11, 2004)