

CHAPTER 560

DOGS

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560.01 Purpose and Intent.

Dangerous or potentially dangerous dogs pose a direct threat to the people and domestic animals in the City of Waconia. Further, dogs running at large can create a traffic hazard, damage personal property and bite. Dogs that habitually bark are a nuisance to neighbors and other residents of the City. It is the intent of the City to protect the public against dog related health and safety risks as well as dog related nuisances.

In regard to dangerous or potentially dangerous dogs, this chapter utilizes the statutory framework in Minnesota Statutes §§347.50 through 347.565, which establishes how municipalities are to address reports of dog attacks. Minnesota Statute §347.51, Subdivision 8, and Minnesota Statute §347.565 authorize cities to establish a procedure by which a dog may be declared dangerous or potentially dangerous, including the right to appeal that designation.

560.02 Incorporation of Statutes by Reference.

The provisions of Minnesota Statutes §§347.50 through 347.565 regarding the regulation of dangerous dogs, including any future amendments thereto, are adopted by the City and incorporated by reference into this Chapter 560. When the provisions of this chapter impose greater restrictions than such statutes the provisions of this chapter shall control. Where the provisions of any such statute impose greater restrictions than this chapter, the provisions of such statute shall control.

560.03 Definitions.

061697
03/04/02 Amend Section 560.11
01/01/07 Ord 583, Eliminate Licensing of Dogs
07/21/2009 Ord. 560.10 Cleaning Up Litter
07/21/2009 Ord 560.11 Violations
01/01/2011 Ord. 639, Amending 560 in its entirety

04/03/2006 Ord. 578, Eliminate Licensing of Cats

For the purpose of this Chapter 560, the terms defined in this section shall have the following meanings assigned to them:

ANIMAL CONTROL AUTHORITY means Carver County, Minnesota, which the City hereby appoints to act in such capacity, together with any law enforcement officer or other person acting under Carver County’s direction and control in regard to animal control activities.

BODILY HARM, GREAT BODILY HARM AND SUBSTANTIAL BODILY HARM shall each have the meaning given such phrase by Minnesota Statutes §609.02.

CHAPTER means this Chapter 560.

DANGEROUS DOG means any dog that has:

Without provocation, inflicted substantial bodily harm on a human being on public or private property; or

When unprovoked, engaged in any attack on any person under circumstances which indicated danger to personal safety; or

Killed a domestic animal without provocation while off the owner’s property; or

Been found to be potentially dangerous, and after the owner has received notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals; or

When unprovoked, has bitten one (1) or more persons on two (2) or more separate occasions; or

Been or will be used, trained, or encouraged to fight with another animal; or whose owner has in their custody or possession any training apparatus, paraphernalia, or drugs used to prepare such dog for fighting with another animal.

HEARING means a proceeding conducted by a hearing officer in accordance with the requirements of this Chapter 560.

HEARING OFFICER means a licensed doctor of veterinary medicine, an animal control authority official, the City Administrator, or any otherwise qualified impartial hearing officer appointed by the City Administrator.

KILL, KILLS or KILLED each mean any act in which there is 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” means the death was the direct consequence of the attack, extensive veterinarian assistance would be futile, and that euthanasia merely hastened the inevitable death of the victim animal.

LEASH means a cord, rope or chain affixed to a dog's collar that is of sufficient strength to prevent the dog from escaping by breaking the cord, rope or chain or by chewing through it.

OWNER means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog. Any person in possession of a dog five (5) consecutive days or more shall, for the purposes of this Chapter 560, be deemed to be an owner thereof.

POUND OPERATOR means the operator designated by the City Council to operate a pound at which impounded dogs will be kept

POTENTIALLY DANGEROUS DOG means any dog that:

When unprovoked, inflicts a bite on a human or domestic animal on public or private property; or

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

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

PROPER ENCLOSURE means 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:

The overall floor size shall have a minimum area of thirty-two square feet (32 sq. ft.);

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;

A cover over the entire pen or kennel shall be provided, shall be 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

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 inches (2 in.). 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. The area under the gate shall be constructed and maintained in such a way as to prevent the dog from digging under the gate.

RESTRAINT means any of the following:

Keeping a dog in a proper enclosure;

Keeping a dog on a leash six (6) feet or less in length securely held by a person;

Keeping a dog on a leash securely fastened to a fixed object of such strength as to prevent the escape of the dog by either pulling or chewing through the fixed object provided the leash is of sufficient length to allow the dog freedom to move about, but not off the owner's property; or

Actively and continuously controlling a dog by means of either voice or hand commands or by means of an active electronic containment system specifically designed to contain a dog within the boundaries of an owner's property; provided, however, that allowing a dog to be off a leash or out of a proper enclosure while the owner is not then present does not qualify as active and continuous control even if an electronic containment system is used.

UNPROVOKED means the condition in which the dog is not purposely excited, stimulated, agitated, or disturbed. Any attack on a child fourteen (14) years of age or younger is presumed to be unprovoked. This presumption can be rebutted if sufficient evidence is shown to prove beyond a reasonable doubt that the child was engaged in the commission of a crime or illegal activity, including activities classified under Minnesota Statute Chapter 343 as cruelty to animals.

560.04 Identification Tags Required.

No owner shall keep or harbor a dog within the corporate limits of the City unless the dog is wearing an identification tag with the name and telephone number of at least one (1) owner. Dogs less than six (6) months old are exempt from this requirement.

560.05 Cleaning Up Litter.

It is unlawful for the owner of any dog to cause or permit the dog to defecate on public property or the private property of another without immediately cleaning up the dog's feces and properly disposing of them in a sanitary manner. It is also unlawful for the owner of any dog to permit dog feces to accumulate for a period exceeding seven (7) days on any property owned, leased or occupied by the dog's owner. The owner of any dog, or any person having custody or control of any dog, shall carry appropriate equipment and supplies for picking up and disposing of dog feces in a sanitary manner whenever the dog is on public property or the private property of another.

560.06 Disturbing the Peace.

No owner shall keep or harbor a dog that barks for repeated intervals of at least five minutes with less than one minute of interruption which can be heard by any person, including a law enforcement officer or animal control officer, from a location outside of the owner's property.

560.07 Running at Large.

No the owner shall allow his, her or its dog to run at large within the corporate limits of the City. For the purposes of this chapter, a dog shall be considered to be running at large if the dog is not under restraint.

560.08 Impoundment.

Subd. 1. Pound. The City Council shall designate, on an annual basis, a pound at which impounded dogs will be kept. Such pound may be within or without the corporate limits of the City.

Subd. 2. Impoundment. Any dog disturbing the peace or running at large may be taken and impounded by the animal control authority. The pound operator shall be responsible for the care and feeding of any impounded dog for a period of up to five (5) days. This includes, but is not limited to: vaccinations, including Bordetella (kennel cough) and Rabies, flea-killing medication, and any necessary medical attention as determined by an exam of the dog. Additionally, any impounded animal without a permanent ID will be microchipped. Prior to the release of the dog, the dog's owner shall:

- A. Provide the pound operator with proof of a rabies shot within the last two years or cause the same to be given;
- B. Provide the pound operator with proof of payment of the fines as established in accordance with the schedule set forth in Chapter 1100 of this Code; and
- C. Pay to the pound operator keeper the fees associated with the boarding and care costs for the impounded dog.

Subd 3. Notice of Impoundment. Public notice of the impounding of a dog shall be given by posting one copy of the description of such dog and the date of impoundment in at least two conspicuous places within the corporate limits of the City, such public notice to include the statement that, unless such dog is claimed and redeemed on or before a date certain, the dog will be sold or destroyed. When the owner of a dog is known, the owner shall be notified by telephone of the impoundment of the dog.

Subd. 4. Unclaimed Dogs. Any dog not claimed by its owner within five (5) days after the date of impoundment shall be and hereby is declared to be a public nuisance and the pound operator, the animal control authority or a designee of either may dispose of such dog in such manner as the City deems necessary and advisable. Any unclaimed dog may be

surrendered to any licensed educational or scientific institution pursuant to Minnesota Statutes §35.71.

Subd. 5. Impoundment Fees. Animals may generally be reclaimed by payment to the City of an impounding fee, plus all charges incurred as a result of the impoundment. The impounding fee shall be as set from time to time by the Council in the fee schedule.

Subd. 6. Failure to Reimburse Costs. The failure of the owner of any impounded dog to reimburse the City for costs incurred in the capturing, keeping, and vaccination of such dog, whether or not such dog is claimed by the owner, shall constitute a violation of this chapter and the City may pursue criminal action against such owner or, at the discretion of the City Council, may seek to recover such expenses from the owner in a civil action in any court of competent jurisdiction.

Subd. 7. Adoption Fee. Any person who desires to adopt an impounded dog upon the expiration of the impoundment period shall pay to the City the fee set forth in Chapter 1100 of this Code.

560.09 Dangerous or Potentially Dangerous Dogs.

Subd. 1. Designation of a Potentially Dangerous Dog.

A. Designation. Following the investigation of a dog attack incident, the animal control authority shall review all reports. Following that review, the animal control authority shall designate any dog potentially dangerous if there is a preponderance of evidence that the dog acted in a manner described in in definition of potentially dangerous dog in Section 560.03 above.

B. Notice.

i. Upon determination that a dog is potentially dangerous, the animal control authority shall provide a written notice of the potentially dangerous dog to the owner of record, or if there is no owner of record, any owner of such dog by personally serving the owner or a person of suitable age and discretion at the residence of such owner. 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 shall include the following:

- a. A description of the dog deemed to be potentially dangerous;
- b. The factual basis for that determination; and
- c. The identity of the official who made the determination.

- ii. The notice shall also set forth the restrictions imposed upon a potentially dangerous dog under this chapter.
- iii. The notice shall also advise the owner(s) that they have five (5) days to ask the Office of the Carver County Attorney, acting in its capacity as part of the animal control authority, to review the designation and shall include a pre-printed form that the owner may use to request the review. The request for a review shall be made directly to the animal control authority and Office of the Carver County Attorney and must be submitted in writing.
- iv. If the owner does not request a review within the allotted five (5) days, the designation of potentially dangerous dog as issued in the written notice of potentially 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.

C. Appeal of a Potentially Dangerous Dog Designation.

- i. Within five (5) business days of being notified that his dog has been designated a potentially dangerous dog by the animal control authority, the owner or custodian of the dog may request a review of the designation in writing on a form provided by the animal control authority and may submit written and other documentary evidence that disputes the designation to the Office of the Carver County Attorney. The Office of the Carver County Attorney shall make a decision within seven (7) days following the receipt of the written request, based only upon the written evidence.
- ii. Within five (5) business days after a potentially dangerous dog designation is confirmed by the Office of the Carver County Attorney, the owner or custodian of the dog may request a hearing to contest the designation. The request for a hearing shall be made in writing on a form provided by the Office of the Carver County Attorney.
- iii. The hearing shall be held before the City Administrator or by an independent hearing examiner selected by the City Administrator, not more than fifteen (15) days after receipt of the request for hearing. The hearing officer may allow the date to be extended beyond the fifteen (15) day period for good cause. Any dog owner who requests such a hearing is liable to the City and the animal control authority for all costs and expenses related to the hearing.
- iv. The hearing officer shall hear testimony of the parties and their witnesses and shall consider exhibits offered by the parties. 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 party offering an exhibit shall mark the party's name on the exhibit in a manner that will not obscure the exhibit. All exhibits will be returned to the parties at the conclusion of the hearing unless otherwise ordered by the hearing officer. The hearing officer shall normally receive only evidence admissible under the rules of evidence, but in the exercise of discretion and in the interests of justice, may receive otherwise inadmissible evidence. 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. The animal control authority and the dog's owner may apply to the district court for subpoenas for hearings.

- v. The City shall have the burden of proving the dog is potentially dangerous by a preponderance of the evidence. 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. The animal control authority may be represented by the Office of the Carver County Attorney.
- vi. The hearing officer shall make a final decision within seven (7) days of the hearing. After considering all evidence pertaining to the dog, the hearing officer shall issue a written order which rejects or upholds the determination. If the hearing officer upholds the determination as potentially dangerous, the order may affirm or modify the conditions recommended by the animal control authority. If, as a result of testimony or other evidence at the hearing, there are grounds for declaring the dog to be a dangerous dog pursuant to Section 560.09, Subd. 2, A, of this chapter, the hearing officer may change the designation and issue the appropriate orders. The petitioner shall pay the hearing officer's fees, unless the City's designation is set aside.
- vii. 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.
- viii. Except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law, the owner or person claiming an interest in the dog is liable for all actual costs of care, keeping, and disposal of the dog. The costs must be paid in full, or a mutually satisfactory arrangement for payment must be made between the county and the person claiming an interest in the dog, before the dog is returned to the person. If the owner or person claiming an interest in the dog does not pay the costs in full or enter into a payment schedule,

the owner or person claiming an interest in the dog shall forfeit all rights and interests in the dog.

- ix. 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 chapter 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. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. This designation may be reviewed again no sooner than one year following the hearing officer's most recent order regarding the designation of the dog as dangerous. An administrative hearing fee shall be required prior to such a review. In the event that the potentially dangerous dog designation is upheld by the hearing officer, all actual expenses of the hearing will be the responsibility of the dog's owner.
- x. If the hearing officer confirms the potentially dangerous dog designation, the owner or custodian of the dog shall complete the potentially dangerous dog registration form and file it with the Carver County Sheriff with evidence as set forth in Section 560.09, Subd. 2, D, i through vii, of this chapter within fourteen (14) days of the final decision.

D. Potentially Dangerous Dog Requirements.

- i. Any dog determined to be potentially dangerous shall be microchipped in accordance with Section 560.09, Subd. 3, of this chapter.
- ii. 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;
- iii. The dog may be required to be kept in a proper enclosure, or restrained by 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;
- iv. The owner may be required to post the property where the dog resides with a warning symbol that children can understand, 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

Minnesota Statute §347.51, subdivision 2(a) and Section 560.09, Subd. 2, L, iv, of this chapter;

- v. The owner may be required to show proof of up-to-date rabies vaccination and, if required, licensing;
- vi. The dog may be required to wear, at all times, a tag or marker identifying it as a potentially dangerous dog; and
- vii. The dog may be required to be sterilized within thirty (30) days of the owner receiving notice.

Subd. 2. Designation of a Dangerous Dog.

- A. Designation. Following the investigation of a dog attack incident, the animal control authority shall review all reports. Following that review, the animal control authority shall designate any dog dangerous if a preponderance of evidence exists that the dog acted in a manner described in in definition of dangerous dog in Section 560.03 above.
- B. Impound. The animal control authority may impound, at the dog owner's expense, any dog determined to pose a threat to public safety pending a final dangerous dog designation order. The animal control authority shall quarantine, at the animal owner's expense, any dog without proof of current rabies vaccination upon receiving evidence that the dog has bitten any person or domestic animal. 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, at any time in the investigation, review or requirement stages as described in any part of this Section 560.09 shall be guilty of a misdemeanor.
- C. Notice.
 - i. Upon determination 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. 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:
 - a. A description of the dog deemed to be dangerous;
 - b. The factual basis for that determination; and
 - c. The identity of the official who made the determination.

- ii. The notice shall also set forth the registration requirements and other restrictions imposed upon a dangerous dog under this Section 560.09 or Minnesota Statutes Chapter 347.
- iii. The notice shall also advise the owner(s) that they have five (5) 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 Office of the Carver County Attorney and must be submitted in writing.
- iv. If the owner does not request a Hearing within the allotted ten (10) 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.

D. Appeal of Dangerous Dog Designation.

- i. Within five (5) days after receiving notice of a dangerous dog designation, the owner or custodian of the dog may request a hearing to contest the designation. The request for a hearing shall be made in writing on a form provided by the animal control authority.
- ii. Except as otherwise described in this section, the hearing shall be conducted pursuant to the requirements of Section 560.09, Subd. 1, C, above.
- iii. Pending a hearing, the dog may be seized and held by the animal control authority at a place of the animal control authority's designation 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.
- iv. After considering all evidence pertaining to the dog, the hearing officer shall make such order(s) as the hearing officer deems proper including ordering the animal control authority to take the dog into custody if the dog is not currently in custody.

E. 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:

- i. The dog is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning, or multiple attacks; and
 - ii. 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
 - iii. The owner cannot, will not, does not, or otherwise refuses to provide proof of the liability insurance for the dog as required by Section 560.09, Subd. 2, G, iii, of this chapter.
- F. Cost. The owner or person claiming an interest in the dog is liable for all actual costs of care, keeping, and disposal of the dog, 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.
- G. Dangerous Dog Registration.
- i. Requirements. For any dog determined or declared to be dangerous by operation of this chapter, 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 chapter or state law.
 - ii. Registration. No person may own or possess a dangerous dog in this County unless the dog is registered as provided in this chapter 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.
 - iii. 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 560.03, Subd. 2, of this chapter; and
 - b. The owner posts clearly visible warning symbol, 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

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dog. The warning symbol must meet the requirements set forth in Minnesota Statute §347.51, Subd. 2(a), and Section 560.09, Subd. 2, L, iv, of this chapter; 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 by the State of Minnesota; and
 - e. An identification microchip was implanted in the dog as required under Minnesota Statutes §347.515 and Section 560.09, Subd. 3, of this chapter; and
 - f. The owner provides proof that all applicable dog licensing requirements are met; and
 - g. The owner provides proof that the dog is current on all commonly required vaccines; and
 - h. The dog must be sterilized. If proof of the sterilization is not delivered to the animal control authority, within thirty (30) days of the designation of a dog as dangerous, the animal control authority shall seize the dog and have it sterilized at the owner's expense. If the owner does not surrender the dog after the thirty (30) day period expires, then the animal control authority may seize the dog pursuant to Section 560.09, Subd. 2, B of this chapter; and
 - i. An owner of a dangerous dog shall renew the registration of the dog annually until the dog is deceased.
- H. 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 chapter, 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 shall

be responsible for all costs incurred in the seizure and boarding of the dog, prior or the dog's return.

I. Revocation.

- i. Any certificate of registration for a dangerous dog may be revoked, 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 chapter or applicable state law. The provisions of Section 560.09, Subds. 4 and 5, of this chapter, applicable to the seizure and disposition of dogs, shall apply.
- ii. The animal control authority shall serve upon the owner a written notice setting forth the alleged reasons how the dog is not being kept in conformance with this chapter 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 560.09, Subd. 1, B of this chapter. The hearing officer may allow the hearing date to be extended beyond the twenty (20) day period for good cause.
- iii. If a dangerous dog certificate of registration is revoked following the 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.

J. 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 corporate limits of the City to a new location or new jurisdiction, within thirty (30) days of the death or relocation. An owner shall, if instructed 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.

K. 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.

L. Dangerous Dog Requirements.

- i. Requirements. For any dog determined or declared to be dangerous by operation of this chapter, 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 chapter or state law.
- ii. Restraint. An owner of a dangerous dog shall, at all times, keep the dog, while on the owner's property in a proper enclosure, as defined by Section 560.03 of this chapter. If for any reason and at any time a dangerous dog is not in a proper enclosure the dangerous dog must be muzzled and restrained by a 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.
- iii. Leased Property. A person who owns a dangerous or 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 dangerous or potentially dangerous dog that will reside at the property.
- iv. Warning Symbol. If the City issues a certificate of registration to the owner of a dangerous dog pursuant to this chapter, the City must provide, for posting on the owner's property, an adequate number of warning symbols 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.
- v. Tag. 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.
- vi. Property Inspection. The owner of a dangerous dog shall permit the animal control authority and 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 chapter, 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 560.09, Subd. 4, of this chapter and revoke the dangerous dog registration pursuant to Section 560.09, Subd. 2, I, of this chapter.

- vii. Violation. The animal control authority shall immediately seize a dangerous dog if requirements imposed by this Section 560.09 are not followed. The owner or custodian may reclaim the dog upon payment of impounding and boarding fees and upon presenting proof to the animal control authority that the requirements of Minnesota Statutes §§347.51 and 347.52 have been met. A dangerous dog not reclaimed under this section within fourteen (14) days may be disposed of as provided by law, and the owner is liable to the animal control authority for costs incurred in confining and disposing of the dog.
- viii. Review of Conditions. 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.
- ix. 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 dangerous if a period of two (2) years has passed without any further incidents or violations of this chapter 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. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. This designation may be reviewed again no sooner than one year following the hearing officer's most recent order regarding the designation of the dog as dangerous. An administrative hearing fee shall be required prior to such a review. In the event that the dangerous dog designation is upheld by the hearing officer, all actual expenses of the hearing will be the responsibility of the dog's owner.

Subd. 3. Microchip Identification. 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 chapter, 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, the animal control authority may seize the dog to have a microchip implanted by a qualified veterinarian, clinic or shelter staff. In either case, all costs related to purchase and implantation of the microchip must be borne by the dog's owner.

Subd. 4. Confiscation.

A. Seizure. The animal control authority shall immediately seize any dangerous dog or potentially dangerous dog if:

- i. 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 chapter or applicable state law;
- ii. 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 chapter;
- iii. The dog is not maintained in a proper enclosure, as defined in Section 560.03 of this chapter;
- iv. The dog is outside the proper enclosure and not under the proper physical restraint of a responsible person as required under this chapter or any applicable state law;
- v. 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 chapter 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
- vi. The animal control authority has reason to believe that the dog is a dangerous or potentially dangerous dog and is kept or maintained under conditions or circumstances creating an unacceptable risk of harm to physical persons or other domesticated animals; or
- vii. For any other reason authorized by law.

B. Additional Dogs Subject to Seizure.

- i. 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 held.

- ii. Any dog may be seized and held to determine if rabid.
- iii. Any dog which meets the definitions of potentially dangerous dog or dangerous dog found in Section 560.03 of this chapter may be seized and held by the animal control authority at a place designated by the animal control authority pending a determination whether the animal is dangerous or potentially dangerous.

C. Reclaiming Dogs. A dog seized under this chapter may be released to the owner upon payment of impounding and boarding fees and upon presenting proof to the animal control authority that all requirements of this chapter and state law have or will be met. A dog not reclaimed under this subdivision within five (5) days may be disposed of as provided under Minnesota Statutes §35.71, Subd. 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 560.09 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 the dog be destroyed in a proper and humane manner and order the owner to 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 §35.71, Subd. 3. The owner is liable to the animal control authority for the costs incurred in confining, impounding, and disposing of the dog.

Subd. 5. Destruction of Dogs.

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 chapter.

B. Suffering Beyond Cure. Notwithstanding any other provision of this chapter, 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 and animal control authority shall recover from the dog's owner all costs incurred under this Section 560.09.

- C. Unclaimed Dogs. At the expiration of the time a dog is impounded as provided for in this chapter, 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 pursuant to Minnesota Statutes Chapter 343.
- D. No Appeal. If no appeal is filed, the dangerous dog designation will stand and the animal may be destroyed. The dog owner shall pay for the cost of the dog's destruction pursuant to Minnesota Statutes §347.56.

Subd. 6. Criminal Penalty.

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.

Subd. 7. Restrictions.

- A. Dog Ownership Prohibited. Except as otherwise provided by this statute or Minnesota law no person may own a dog if the person has:
 - i. Been convicted of a third or subsequent violation of Section 560.09, Subd. 2, G, Section 560.09, Subd. 2, L , or Section 560.09, Subd. 3 of this chapter;
 - ii. Been convicted of a violation under Minnesota Statute §609.205, Subd. 4;
 - iii. Been convicted of a gross misdemeanor under Minnesota Statute §609.226, Subd. 1;
 - iv. Been convicted of a violation under Minnesota Statute §609.226, Subd. 2; or
 - v. Has a dog ordered destroyed under Section 560.09, Subd. 5, and been convicted of one or more violations of Section 560.09, Subd. 2, G, Section 560.09, Subd. 2, L , or Section 560.09, Subd. 3, of this chapter, or Minnesota Statute §609.226, Subd. 2.

- B. Household Member. If any member of a household is prohibited from owning a dog in Section 560.09, Subd. 7, of this chapter, 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 years after a conviction listed in Section 560.09, Subd. 7, A, of this chapter 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 County.

Subd. 8. Exemptions. Dogs may not be declared dangerous or potentially dangerous if the threat, injury, or damage was sustained by a person:

- A. Who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
- B. Who 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.

560.10. Rabies Quarantine.

Subd. 1. Quarantine. Whenever any dog has bitten any person or domestic animal and the owner or custodian does not provide proof of current rabies vaccination, the owner or custodian of the dog, upon being notified by the animal control authority or local law enforcement, will immediately cause the dog to be quarantined, in either a proper enclosure, as defined in Section 560.03, or if the animal control officer feels it is needed, at a state licensed veterinarian, and in a manner that is in accord with all applicable Minnesota Statutes, administrative rules, and Minnesota Department of Health guidelines, with the animal control authority, or by a veterinarian licensed to practice in the State of Minnesota, for a period of ten (10) days after the dog bite occurred.

Subd. 2. Examination. Within twenty four (24) hours of impoundment, the dog owner or custodian will have the dog examined by a state licensed veterinarian who will observe the animal and examine the animal if necessary to ascertain whether symptoms of rabies exist. At the end of the ten (10) day quarantine period, the dog will again be examined by a state licensed veterinarian. If the veterinarian diagnoses the dog to be free of the signs of rabies, the dog will be released from quarantine. If the dog becomes ill or dies during the period of quarantine, the owner shall immediately notify the animal control authority for examination by a state licensed veterinarian. If the veterinarian determines that the dog has rabies, the dog shall immediately be euthanized in a humane manner. Upon the death of the dog, its head will be sent to the State Department of Health, the University of Minnesota, or another appropriate agency as designated by the State of Minnesota for examination for rabies.

560.11 Exemption for Police Dogs.

The provisions of this chapter do not apply to police K-9 dogs used by law enforcement officials for police work.

560.12. Costs.

The owner is responsible for the cost of seizures, impoundment, quarantine, examination by a veterinarian, veterinarian services, and disposal of the dog or any other cost incurred as a result of enforcement of this chapter, unless otherwise specified herein.

560.13 Enforcement.

The City and its animal control authority shall have full power and authority to enforce the provisions of this chapter and to take such investigatory actions as are necessary to determine violations, remedy prohibited situations or conditions as specified by and directed by this chapter, and to cite those in violation. The City and its animal control authority are also authorized to enter private property when probable cause exists to believe that any dog is being kept or harbored in violation of this chapter for the purpose of enforcement of this chapter. No entry onto private property shall be made, however, until: i) the owner, manager or tenant of the property permits entry; ii) an administrative warrant is secured from a court with jurisdiction; or iii) an emergency exists. It shall be unlawful for any person to threaten, harass, molest, hinder or interfere with any person discharging his or her duties under this chapter.

560.14 Violations; Fines and Penalties.

Any owner or other person who violates Section 560.09 of the chapter shall be guilty of a misdemeanor. Any owner or other person who violates any other provision of this Chapter 560 shall be guilty of a petty misdemeanor; provided, however, that if the offense is specifically listed in Chapter 1100 of this Code the amount of the fine shall be the amount listed in Chapter 1100.