

**CITY OF JORDAN
ORDINANCE 2020-06**

**AN ORDINANCE AMENDING CITY CODE CHAPTER 90 NUISANCES; HEALTH
AND SAFETY BY AMENDING SECTIONS 90.001 – 90.011 and 90.999**

Subdivision 1. Purpose. Scott County revised various County Ordinances associated with nuisances and remediation of public health nuisances and has requested that cities within Scott County amend their city codes to be consistent therewith. The City Council for the City of Jordan, Minnesota finds that an amendment to Chapter 90 of the Jordan City Code is necessary to make it consistent with the revisions made by Scott County.

Subdivision 2. Amendment. NOW BE IT ORDAINED AND ENACTED by the City Council of the City of Jordan that Sections 90.001 – 90.011 and 90.999 of the Jordan City Code are hereby amended to read as follows:

§ 90.001 DEFINITIONS.

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

ABANDONED BUILDING. Any building or portion of a building which has stood with an incomplete exterior shell for longer than 1 year or any building or portion thereof which has stood unoccupied for longer than 1 year which meets one or more of the following criteria:

- (1) Unsecured;
- (2) Boarded;
- (3) Having multiple exterior Housing Code or Building Code violations; and/or
- (4) Placarded as “Unfit for Human Habitation.”

ABATEMENT. The proper removal, containment, cleanup, and/or remediation of a nuisance. Abatement may include but shall not be limited to removal, cleaning, extermination, cutting, mowing, grading, sewer repairs, draining, securing, boarding unoccupied structures, barricading or fencing, removing dangerous portion of structures, and demolition of dangerous structures or abandoned buildings.

ABATEMENT DEADLINE. The date on which the nuisance must be abated by as specified in a written order.

CHEMICAL INVESTIGATION SITE. A drug lab site (such as a clandestine drug lab site as defined in M.S. § 152.0275) that is under notice and order for cleanup and/or remediation as a public health nuisance, as authorized by M.S. Ch. 145A and/or this ordinance.

CHILD. Any person under the age of 18.

CLANDESTINE DRUG LAB OR OPERATION. The unlawful manufacture or attempt to manufacture a controlled substance within any area of a structure such as a dwelling, building, motor vehicle, trailer, boat, or other structure or appliance, as determined by a licensed law enforcement officer.

CLEANUP. The proper removal and/or containment of substances or materials hazardous to humans and/or the environment. Cleanup can also be referred to as abatement and is part of remediation.

CONTROLLED SUBSTANCES. A drug, substance or immediate precursor in Schedules I through V of M.S. § 152.02. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.

DANGEROUS STRUCTURE. Any structure which is potentially dangerous to persons or property including but not limited to:

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

ENFORCEMENT OFFICER. The Director of the Department of Public Works, the Building Inspector, the Fire Chief, the Chief of Police, or their duly authorized representative designated by the City Administrator to determine if a nuisance exists and administer Chapter 90 of the Jordan City Code. The city further authorizes the , Scott County Public Health Authority to undertake the responsibilities of enforcing the public nuisance provisions of the City Code when investigating a public health nuisance located in the city.

EXTERMINATION. The eradication of rodents or other vermin by any or all approved methods such as poisoning, fumigation, or trapping.

FIREWOOD. Firewood, split wood or unsplit wood logs cut into lengths not exceeding three feet for the purpose of burning for a fireplace or a recreational fire on the real property. FIREWOOD shall not include milled or prepared lumber.

HAZARDOUS WASTE. Any waste material so defined by M.S. § 116.06, or described or listed as hazardous waste in Minn. Rules Chapter 7045.

INTERESTED PARTY. Any owner of record, occupant, or lien holder of record.

LAST KNOWN ADDRESS. The address shown on the records of the Scott County Department of Property Taxation or a more recent address known to the enforcement officer. In the case of parties not listed in these records, the last known address shall be that address obtained by the enforcement officer after a reasonable search.

MAIL. Depositing the item with the United States Postal Service addressed to the intended recipient at his or her last known address with first class postage prepaid thereon.

NOXIOUS SUBSTANCES. Substances, solid or fluid, which are offensive, detrimental to health, hurtful, or dangerous. Noxious substances shall include but not be limited to any dead animal, or portion thereof, putrid carcass, decayed animal matter, green hides, or any putrid, spoiled, foul, or stinking meat, poultry, fish, offal, hides, skins, fat, grease, liquors, human or animal excrement, or manure.

OCCUPANT. A natural or legal person who occupies real property, whether with or without any right, title or interest in the property, or who is in possession or charge of such property, in the event the property owner resides or is located elsewhere.

OWNER. Any person, firm, partnership or corporation who owns, in whole or in part, real property, a structure and/or fixtures, or is the purchaser of the property under a contract for deed or owns personal property such as a motor vehicle, trailer, boat or other appliance.

PERSONAL PROPERTY. All property other than real property or structures located on real property.

PERSONAL SERVICE. Service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence or place of business with a person of suitable age and discretion.

PRIVY. Any type of no-flush fixture for the receipt and storage of human waste including fixed units with vaults as well as portable units.

PROPERTY. Publicly or privately owned real or personal property, including buildings and other structures, and motor vehicles as defined in M.S. § 609.487, subd. 2a, as amended in the future.

PROPERTY AGENT OR AGENT. A legal or natural person authorized by an owner to act in transacting business matters or in managing the property.

PUBLIC HEALTH HAZARD OR PUBLIC HEALTH NUISANCE. Any activity or failure to act that adversely affects the public health, and shall include, but not be limited to, any condition that poses an immediate and direct hazard to human health if left unremediated due to the existence of the condition itself, or due to the immediate threat of transmission of disease through insects, animals or other means for the transmission of infection.

REAL PROPERTY. Any parcel of land whether vacant or not, whether any structure thereon is occupied or not, or whether submerged or not.

REFUSE. Putrescible or non-putrescible and combustible or non-combustible waste, including paper, garbage, material resulting from the handling, processing, preparation, cooking, storage, 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 solid industrial and market wastes.

REMEDIATION. Methods employed in dealing with public health nuisances and include, but are not limited to, assessment, evaluation, testing, venting, detergent scrubbing, enclosure, encapsulation, demolition, and/or removal of materials.

RESPONSIBLE PARTY. Any one or more of the following:

- (1) An owner;
- (2) Agent;
- (3) Assignee or collector of rents;
- (4) Holder of a contract for deed;
- (5) A mortgagee or vendee in possession;
- (6) Receiver or executor or trustee;
- (7) Lessee;
- (8) Those listed as owners on a vacant building registration form submitted to the Building Inspector under the City Code; and
- (9) Other person, firm, or corporation exercising apparent control over the property, including occupants.

STRUCTURE. A dwelling, building, motor vehicle, trailer, boat, or any other area or location, fixed or temporary, indoors or outdoors.

UNOCCUPIED. A building which is not being used for a legal occupancy or a building which has been ordered vacated by the city.

UNSECURED. Open to entry by unauthorized persons without the use of tools or ladders.

VULNERABLE ADULT. Shall have the meaning set out in M.S. § 626.5572, subd. 1, as amended in the future.

§ 90.002 NUISANCES.

(A) The creation or maintenance of a public nuisance is prohibited. A public nuisance shall mean: (1) any act or failure to perform a legal duty that results in the maintaining or permitting of a condition which unreasonably annoys, injures or endangers the safety, morals, comfort or repose of any considerable number of members of the public; (2) any public health hazard/public health nuisance; (3) any thing or condition which creates a dangerous condition; (4) any thing or condition that threatens the public peace, safety, or sanitary condition of the city; (5) any act or failure to perform a legal duty that interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; (6) any thing or condition that 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 real or personal property located within the city; and (7) any act or omission declared by law to be a public nuisance and for which no sentence is specifically provided.

(B) Public nuisances shall include, but not be limited to, those set forth in this section.

(1) *Refuse, noxious substances, hazardous wastes.* Refuse, noxious substances, or hazardous wastes that is not properly contained in a closed, insect- and rodent-proof container designed or reasonably adapted for such purposes, or is laying, pooled, accumulated, piled, left, deposited, buried, or discharged upon, in, being discharged or flowing from any real or personal property; except for:

(a) Refuse deposited at places designated and provided for that purpose by the City Code; or

(b) Refuse stored in accordance with provisions of the City Code or vehicle parts stored in an enclosed structure.

(2) *Firewood.* Stacks of firewood in excess of 6 cords, stacks of firewood higher than 6 feet from ground level to the highest point of elevation, or stacks of firewood stored within the required setback.

(3) *Stagnant water.* Water standing on real property and/or allowed to accumulate in or on any personal property, which ceases to flow away from the property. STAGNANT WATER does not include holding areas and ponds and detention/retention ponds or basins permitted or required by the City Code.

(4) *Sanitary defects.* Any structure or real property that has become dangerous for further occupancy in the opinion of the enforcement officer, which may include, but not limited to: accumulation of human or animal feces, evidence of garbage and rotting food, infestation or harborage or breeding of vermin, rodents or insects, environmental conditions that affect children and vulnerable adults, and lack of approved potable water supply or sewage disposal.

(5) *Vermin infestations and harborage.* Infestations and/or harborage of vermin such as rats, mice, skunks, snakes, bats, grackles, starlings, pigeons, bees, wasps, cockroaches, lice, ticks, fleas, flies, fly larvae and hookworm larvae; except for bees or pigeons kept with written permission from, and in accordance with the City Code and the regulations of the Division of Public Health.

(6) *Carcasses.* Accumulation of carcasses of animals, birds or fish by failing to bury or otherwise dispose of a carcass in a sanitary manner within 72 hours after death. This provision shall not apply if the animals, birds, or fish are intended for human consumption.

(7) *Decaying matter.* Accumulation of decayed animal or vegetable matter, animal or human feces, trash, rubbish, garbage, tires or any other substances in which flies, mosquitoes, other disease-carrying insects, rodents or other vermin can harbor: this definition does not include compost bins or compost sites that are being managed in accordance with acceptable standards.

(8) *Mosquito breeding grounds.* Unnatural breeding grounds that support mosquito larvae and mosquitoes carrying West Nile Virus, LaCrosse encephalitis, or any other disease-causing microorganisms.

(9) *Sanitary structures.* Structures for sanitation, such as privies, vaults, sewers, private drains, septic tanks, cesspools, drain fields, which have failed or do not function properly, or which are overflowing, leaking, or emanating odors. Septic tanks, cesspools, cisterns which are abandoned or no longer in use unless they are empty and filled with clean fill. Any vault, cesspool, or septic tank which does not meet the following criteria:

- (a) The bottom and sides are cemented to make impervious to water;
- (b) The bottom is at least 6 feet below grade;
- (c) Proper ventilating pipes and covers are provided;
- (d) It is located at least 20 feet from any house, residence, building, or public street;
- (e) It is cleaned at least once a year; and

(f) The real property served is located such that connection to the public sewer is impractical.

(10) *Manure vaults.* Manure vaults which have become offensive. Manure vaults for stables where more than 2 animals are kept which are not cleaned twice in each week.

(11) *Unsecured unoccupied buildings.* Unoccupied buildings or unoccupied portions of buildings which are unsecured.

(12) *Dangerous structures.* Dangerous structures, whether or not registered pursuant to the City Code.

(13) *Abandoned buildings.* Abandoned buildings, whether or not registered pursuant to the City Code.

(14) *Hazards.*

(a) Any thing or condition on property which, in the opinion of the enforcement officer, may contribute to injury of any person present on or near the property.

(b) Hazards shall include, but not be limited to, open holes, open foundations, open wells, improperly abandoned cistern, unused or non-maintained private swimming pool, mine shaft or tunnel, dangerous trees or limbs, abandoned refrigerators, or dangerous animal trapping devices.

1. Animal trapping devices such as live traps may be utilized, but shall be designed to be non-lethal, humane, and safe to the general public.

2. Under no circumstances may conibear-type, body-gripping or steel-jaw leg-hold traps be used anywhere in the city, except when deemed necessary for public safety by the Chief of Police in coordination with the Animal Control Officer.

(15) *Fire hazards.* Any thing or condition on property which, in the opinion of the enforcement officer, creates a fire hazard or which is a violation of the Fire Code.

(16) *Health hazards.* Any thing or condition on or in property which, in the opinion of the enforcement officer, creates a health hazard or which is a violation of any health or sanitation law, including but not limited to, a chemical investigation site and/or clandestine drug lab or operation.

(17) *Statute and common law nuisances.* Any thing or condition on or in real or personal property which is known at common law, Minnesota Statutes, or the City Code as a nuisance.

§ 90.003 VIOLATIONS.

(A) It is unlawful for any person to create or maintain a public nuisance as defined in § 90.002 herein, by his or her act or failure to perform a legal duty.

(B) It is unlawful for any person to permit property under his or her control to be used to create or maintain a public nuisance as defined in § 90.002 herein, or let the same to another knowing it is to be so used.

(C) It is unlawful for any owner of any truck, trailer, railroad car or flat, or other vehicle to leave the vehicle standing on or along any street, highway, freeway, or railroad track, or other real property within the city carrying or containing any refuse, noxious substance, or hazardous waste, except as otherwise permitted in the City Code.

§ 90.004 PUBLIC NUISANCE INSPECTIONS

(A) The owner, occupant or property agent may, upon the request of the enforcement officer and after proper identification, permit access to all parts of the property as often as necessary, and at any reasonable time for the purpose of inspection and may exhibit and allow copying of any and all records necessary to ascertain compliance with this ordinance. If the owner, occupant or property agent refuses consent to an enforcement officer's entry or access to property for purposes of enforcement of this chapter of the City Code, the enforcement officer is authorized to take the necessary steps to obtain a warrant or other order from the court authorizing entry and/or access.

(B) If the city is notified of a public nuisance concern or complaint, it shall be authorized to investigate to determine if a public nuisance exists. Notifications and complaints may be received from law enforcement, city staff, State or County government agency staff, the public, or any other party deemed to have sufficient information regarding the situation. The enforcement officer shall have discretion to determine if a complaint provides a sufficient basis to investigate a situation as a public nuisance.

(C) Upon the request of the enforcement officer, a responsible party or owner may disclose the name of any other responsible party or owner known to him or her. This shall include but not be limited to the persons for whom he or she is acting, from whom he or she is leasing the property, to whom he or she is leasing the property, with whom he or she shares joint ownership, or with whom he or she has any conveyancing contract.

§ 90.005 NOTICE AND ORDER.

(A) In the event that an enforcement officer observes a person creating, maintaining or permitting a public nuisance, the officer may, after presenting proper identification, verbally order that the person cease creating, maintaining and/or permitting a nuisance. If after receiving a concern or complaint and completing an investigation, the enforcement officer determines a public nuisance exists, a notice and order shall be issued requiring the owner, occupant and/or property agent (individually or jointly) to abate and/or remediate the public nuisance.

(B) *Contents of Notice and Order.* The City shall include the following as part of notice and order:

(1) Property location by street address, property identification number, or other property description.

(2) Information identifying the nature of the public nuisance on or in the property.

(3) A summary of the owner's and occupant's responsibilities under state law and/or this ordinance.

(4) Specific orders of abatement and/or remediation of the public nuisance.

(5) Completion dates for abatement and remediation, as prescribed by § 90.006 (A) herein.

(6) Notice that unless the public nuisance is abated and/or remediated in accordance with the terms of the order or appealed by the completion date designated in the order, the city will have the nuisance abated and remediated at the expense of the owner under the provisions of M.S. § 145A.08, M.S. Ch. 463, this ordinance, or other applicable state or local law and assess the costs against the real property where applicable as a special assessment to be collected in the same manner as property taxes.

(7) Notice of a right to appeal the order by submitting a written request with the City Administrator before the abatement/remediation completion date set forth in the order.

(8) An order that the property may not be occupied or used until the public health nuisance is assessed and remediated by an approved contractor when a public health nuisance exists and where the public health nuisance includes a chemical investigation site or a clandestine drug lab or operation contaminated by substances, chemicals, or items used in the manufacture of methamphetamine or any part of the manufacturing of

methamphetamine or any part of the manufacturing process, the by-products or degradants of manufacturing or other public nuisances including hazardous waste, solid waste, rodents, vermin, disease-carrying insects or other unsanitary conditions.

(9) When applicable, a copy of the chemical investigation site public health nuisance warning sign that is posted at the site's entrance(s).

(C) *Service.*

(1) The notice and order for abatement and/or remediation shall be served on the owner, occupant, or property agent, if applicable, in one of the following ways:

(a) By certified mail, return receipt requested;

(b) By an officer authorized to service to serve a warrant; or

(c) By a person aged 18 years or older who is not reasonably believed to be a party to any action arising from the notice.

(2) If the owner of real property is unknown or absent and has no known representative upon whom notice can be served, an enforcement officer shall post a written or printed notice on the real property, stating that, unless the nuisance is abated or appealed within 10 days, the city will have the public nuisance abated at the expense of the owner under M.S. § 145A.08, M.S. Ch. 463, this ordinance, or other applicable state or local law.

(3) Where it is determined that a child neglect, child endangerment or vulnerable adult situation may exist as a result of a public health nuisance, the enforcement officer shall notify the Scott County divisions responsible for responding to potential child neglect, child endangerment or vulnerable adult situations. The notice should include the following:

(a) Real property location by street address;

(b) Owner's and occupant's identities known to be associated with the real property;

(c) Conditions found that make this home or residence a public health nuisance; and

(d) Any other conditions that may be associated with the real property that could present harmful conditions as determined by state law.

(D) The enforcement officer may leave a posted warning sign at a public health nuisance site. It shall be unlawful for any person, except for authorized city personnel, to remove

this sign once posted. Any person, other than an enforcement officer, who willfully removes a warning sign may be charged with a misdemeanor interference with performance of duties pursuant to M.S. § 145A.04, subd. 10.

(E) *Notice to public.* When an order requires, exclusively or as an option, the demolition of a building, the public shall be put on notice as follows:

(1) A copy of the order shall be placed on file in the office of the City Administrator.

(2) The enforcement officer shall notify the Council of each parcel of real property subject to a demolition order as follows: Each month the enforcement officer shall send to the Council a list of the real properties that have become subject to a demolition order. The list shall be in the form of a resolution declaring that an enforcement action has been commenced and that as a result of the public nuisance status of a building on the real property an order has been issued detailing the violations and requiring, exclusively or as an option, that the building be demolished and that a copy of this order is on file in the office of the City Administrator.

(F) *Recording.* Where a public health nuisance includes a chemical investigation site or a clandestine drug lab or operation contaminated by substances, chemicals, or items used in the manufacture of methamphetamine or any part of the manufacturing of methamphetamine or any part of the manufacturing process, the by-products or degradants of manufacturing or other public nuisances including hazardous waste, solid waste, rodents, vermin, disease-carrying insects or other unsanitary conditions, the city shall:

(1) Record an affidavit with the County Recorder Office for Scott County, Minnesota as required by M.S. § 152.0275 subd. 2(h) if the affected property is real property.

(2) Notify the registrar of motor vehicles as required by M.S. § 152.0275 subd. 2(g) if the affected property is a motor vehicle, boat, or trailer.

(G) *Chemical investigation site property owner's and occupant's additional responsibilities.*

(1) Property owner(s) and occupant(s) provided with notice, which also includes the posted warning sign informing them of the chemical investigation site public health nuisance, shall promptly act to vacate occupants and animals from those parts of a structure that are a chemical investigation site or other public health nuisance. This includes dwellings, buildings, motor vehicles, trailers, boat, appliances or any other affected area or location.

(2) Property owner(s) and occupant(s) shall contract with one or more approved remediation, environmental hazard testing and cleaning firms on the Minnesota

Department of Health's list that will verify work is completed according to the Minnesota Department of Health's Clandestine Drug Labs General Cleanup Guidelines (in coordination with the Minnesota Pollution Control Agency) and best practices, to accomplish ordered work which may include, but is not limited to, the following:

(a) A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein. This includes dwellings, buildings, motor vehicles, trailers, boat, appliances or any other affected area or location.

(b) Soil testing of the site and testing of all property and soil in proximity to the site that the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site including testing the well and septic system.

(c) A complete cleanup of the site (including, but not limited to, the cleanup or removal of contaminated plumbing, ventilation systems, fixtures and soil, well and septic system), or a demolition of the site and a complete cleanup of the demolished site including abandonment of the well and septic system if necessary.

(d) A complete cleanup, or disposal at an approved dumpsite, of all personal property in the site.

(e) A complete cleanup of all property and soil in proximity to the site that is found to have been affected by the conditions found at the site.

(f) Remediation testing and follow-up testing to determine that all health risks are sufficiently reduced, according to Minnesota Department of Health and Minnesota Pollution Control Agency guidelines, to allow safe human occupancy and use of the site, and use of the personal property therein.

(3) Property owner(s) and occupant(s) shall provide both local law enforcement and the Scott County Public Health Authority with the identity of the professional remediation firm the owner, occupant or property agent has contracted with for remediation of the structure(s) as described above.

(4) Property owner(s) and occupant(s) shall provide both local law enforcement and the Scott County Public Health Authority with the selected contractor's plan and schedule for remediation that will satisfy the abatement and remediation order(s).

(5) The property owner(s) and occupant(s) may request an extension of time for the abatement and remediation completion date(s) set forth in the order to consider options for arranging cleanup or removal of the affected parts of the property. The owner(s) or occupant(s) must show good cause for any such extension. Any such extension shall be

dependent on the assurances of the owner(s) that the affected parts of the property will not be occupied pending appropriate cleanup or demolition.

(H) Modification and Removal.

(1) The city may modify conditions of an abatement and remediation order, including timelines, and may order removal of a declaration of a public health nuisance.

(2) Such modification or removal shall be only after the city has determined the public nuisance is sufficiently reduced or abated through remediation to warrant modification or removal of the declaration in the notice and order. The city may rely on information from competent sources, including those supplied by the property owner(s) and others, including but not limited to state and local health, safety, law enforcement and pollution control authorities, to reach such decisions.

(3) If notice of a public health nuisance was filed with the County Recorder Office for Scott County, Minnesota, notice that the declaration in the order or the order itself has been removed shall be forwarded to the County Recorder Office for Scott County, Minnesota for addition to the property record.

(4) If notice of a public health nuisance was filed with the state registrar, notice that the declaration in the order or the order itself has been removed shall be provided to the motor vehicle or other license records agencies and lien holders.

§ 90.006 AUTHORITY TO ABATE AND REMEDIATE.

(A) Owner Abatement and Remediation. It shall be the primary responsibility of a property owner or occupant to abate any public nuisance that exists on or in the owner's or occupant's property. Unless an emergency abatement or remediation occurs at the direction of the city, the owner, occupant, and/or property agent shall abate and remediate the public nuisance by the completion date(s) set forth in the notice and order. Completion dates for abatement and remediation shall be set as follows unless a shorter time is required due to the enforcement officer's determination that a quicker abatement is necessary to protect public health and safety (in such cases, the reasons for a shortened abatement period shall be specified):

(1) A date at least 30 days from service of the notice and order upon the owner(s), occupant(s), or agent of the property where a public nuisance exists.

(2) A date no longer than 10 days from service of the notice and order upon the owner(s), occupant(s), or agent of the property where a public health nuisance exists.

(B) *Public Health Nuisance Handling.* Waste generated through cleanup or remediation of a site that is considered a public health nuisance shall be treated, stored, transported and disposed in accordance with applicable Minnesota Department of Health, Minnesota Pollution Control Agency, Scott County and City of Jordan guidelines, rules and regulations for remediation of a chemical investigation site and/or clandestine drug lab or operation, for solid waste, and for hazardous household/other hazardous wastes.

(C) *City Abatement and Remediation.* The city is authorized to abate and/or remediate public nuisances in accordance with the procedures set forth in this section upon expiration of the time provided in the notice and order.

(1) The city shall be authorized to contract services of a third party to abate any public nuisance on a property when the property owner, occupant or property agent has provided written consent.

(2) If written consent is not provided, the city may proceed with any legal remedies available to cause the abatement of the declared public nuisance.

(3) The City Administrator, or his/her designee, shall be fully authorized to direct funds to assure prompt abatement and remediation of public nuisances.

(D) *Cost of Abatement and Remediation to be Assessed.* Abatement and remediation costs shall include the cost of the abatement and/or remediation, including but not limited to personnel costs and equipment costs and depreciation; the cost of investigation and verification, such as title searches, inspection, assessment, evaluation, and testing; the cost of contractors, venting, detergent scrubbing, enclosure, encapsulation, demolition, and/or removal of materials; the cost of notifications, postings, and vacating and securing the site; filing costs; legal costs, including attorney fees; and administrative costs, including fees for Council meetings and expenses related to the recovery of costs, including the assessment process. All costs incurred shall be charged against the real property as a special assessment to be collected in the manner provided for in M.S. Chapter 429.

(E) Nothing in this ordinance is intended to limit the rights of the property owner(s), agent(s), occupant(s), or the enforcing government agency, including the city, to recover costs or damages from persons contributing to the damage or condition created by the public nuisance, such as operators of a clandestine drug lab site.

§ 90.007 ADDITIONAL REQUIREMENTS FOR CLANDESTINE DRUG LABS AND OPERATIONS.

(A) *Notifications.* Law enforcement officers, who identify and confirm a clandestine drug lab or operation, shall notify the Scott County Public Health Authority and the Scott County department responsible for child protection and vulnerable adults within one business day of identifying and confirming the lab or operation location.

(B) *Disposal.* Upon identification of a clandestine drug lab or operation, law enforcement agencies may treat, store, transport or dispose of all hazardous material or hazardous waste found at the site in a manner consistent with Minnesota Department of Health, Minnesota Pollution Control Agency, and Scott County rules and regulations, including but not limited to Scott County Ordinance 12, Hazardous Waste Management.

(C) *Securing Affected Areas.* The law enforcement agency responding to the clandestine drug lab or operation shall install locks on all entry doors of the affected area of a structure(s) after all occupants and animals have vacated the site.

(D) *Warning Sign.* When the responding law enforcement agency completes its work and is prepared to leave such sites, the agency shall affix a warning sign to all entrances of the affected part of the structure or in a conspicuous place(s) on bare land.

(1) The warning sign shall be consistent with those deemed appropriate by local law enforcement and Scott County law enforcement. The warning sign shall alert visitors or returning occupants that the site is a chemical investigation site public health nuisance, may be dangerous to enter, and must not be entered.

(2) It is unlawful for any person, except authorized Scott County personnel, to remove a chemical investigation site public health nuisance warning sign from the posted property. Any person, other than a representative of the Scott County Public Health Authority, who willfully removes a warning sign may be charged with misdemeanor interference with performance and duties pursuant to M.S. § 145A.04, subd. 10.

§ 90.008 APPEAL PROCEDURE.

(A) *Appeal.* Anyone who receives a notice and order shall have the ability to appeal the order to the City Council by filing a written request to the City Administrator on or before the abatement/remediation completion date identified in the order.

(B) *Hearing date.* In the event that an appeal is filed with the City Administrator, the Council shall within 3 weeks fix a date for a public hearing.

(C) *Notice.* The City Administrator, or his/her designee, shall mail a notice of the date, time, place, and subject of the hearing to the owner and known responsible parties. The City Administrator shall also notify the enforcement officer issuing the order.

(D) *Hearing.* At the time of the public hearing, the Council shall hear from the enforcement officer, and any other parties who wish to be heard. After the hearing, the Council may confirm or modify the order of the enforcement officer. In either case, if the Council's determination requires abatement, the Council shall, in the resolution, fix a time

within which the public nuisance must be abated and shall provide that if corrective action is not taken within the time specified, the city may abate the public nuisance. The city Administrator or his/her designee shall mail a copy of this resolution to same parties required to be notified in division (C) above.

§ 90.009 EMERGENCY ABATEMENT PROCEDURE.

(A) *Authority.* When the enforcement officer determines that a public nuisance exists on a parcel of real property and the public nuisance constitutes an immediate danger or hazard which if not immediately abated will endanger the health or safety of the public and there does not exist sufficient time to follow the procedures described herein, the city may abate the public nuisance.

(B) *Order by City Administrator or designee.* The city shall order emergency abatement by an administrative order to be signed by the City Administrator or their designee. A good faith effort shall be made to inform the property owner that the action is being taken.

(C) *Notice of the abatement.* Following an emergency abatement, as soon as the costs incurred are known to the City Administrator, the City Administrator shall serve written notice upon the property owner. The notice shall contain:

- (1) A description of the property sufficient for identification;
- (2) The location and description of the public nuisance;
- (3) The remedial action taken by the city;
- (4) The reasons for immediate action;
- (5) An invoice for the costs incurred in abating the public nuisance; and
- (6) A statement that the property owner may request, by writing to the City Administrator within 20 calendar days of the date of the notice, a hearing at which the Council shall review the actions taken by the city.

(D) *Setting hearing date.* In the event that a property owner files a request for a review of the action with the City Administrator, the Council shall within 3 weeks fix a date for a public hearing.

(E) *Notice.* The City Administrator shall notify the enforcement officer and the property owner of the date, time, place and subject of the public hearing.

(F) *Hearing.* At the time of the public hearing, the Council shall hear from the enforcement officer and any other parties who wish to be heard. After the hearing, the Council may adopt a resolution levying an assessment for all or a portion of the costs incurred by the city in abating the public nuisance. The City Administrator shall give a copy of the resolution to the enforcement officer and shall mail a copy to the property owner.

§ 90.010 VACANT BUILDINGS.

(A) *Order.*

(1) If a building within the city becomes vacant or unoccupied and is deemed hazardous due to the fact that the building is open to trespass and has not been secured and the building could be made safe by securing the building, pursuant to M.S. § 463.251, the Council in its discretion, may order the building secured. SECURE may include, but is not limited to, installing locks, repairing windows and doors, boarding windows and doors, posting “no-trespassing” signs, installing exterior lighting or motion-detecting lights, fencing the real property, and installing a monitored alarm or other security system.

(2) Subject to subdivision (E) of this section, the city will only secure a vacant building if the Council adopts a resolution (a) finding the building is: vacant and unoccupied, hazardous due to the fact it is open to trespass and has not been secured, and could be made safe by securing it; and (b) ordering the building be secured. During the meeting at which the Council considers adopting such a resolution, the individual parcel of real property shall not be referred to by its specific address to avoid encouraging vandalism of the real property.

(B) *Notice.* The Council shall cause notice of the order to be served upon the owner of record of the premises or the owner’s agent, the taxpayer identified in the property tax records for that parcel, the holder of the mortgage or sheriff’s certificate, and any neighborhood association for the neighborhood in which the building is located that has requested notice, by delivering or mailing a copy to the owner or agent, the identified taxpayer, the holder of the mortgage or sheriff’s certificate, and the neighborhood association, at the last known address. Service by mail is complete upon mailing.

(1) The notice shall include a statement that:

(a) Informs the property owner and the holder of any mortgage or sheriff’s certificate of the requirements of M.S. § 463.251 and that costs may be assessed against the real property if they do not secure the building or structure;

(b) Informs the property owner and the holder of any mortgage or sheriff’s certificate that the person request a hearing before the Council challenging the determination that the property is vacant or unoccupied or hazardous; and

(c) Notifies the holder of any sheriff's certificate of the holder's duty under M.S. § 582.031 to enter the premises to protect the premises from waste and trespass if the order is not challenged or set aside and there is prima facie evidence of abandonment of the property.

(C) *Right of entry.* If the owner of the building fails to either comply or provide to the city a reasonable plan and schedule to comply with an order issued under division (A) of this section within six days after the order is served, the Council shall cause the building to be properly secured. City staff or agents may enter upon the real property at reasonable hours to secure the building after having provided the notice described in division (B) of this section. The cost of securing the building may be assessed against the real property pursuant to division (D) of this section.

(D) *Lien upon real property.* The cost of securing the building may be charged against the real property using the process described in M.S. § 463.21. The city may work with neighborhood associations to develop and implement plans to secure vacant buildings in a timely and cost-effective fashion. The city may use rehabilitation and revitalization funds in implementing this section.

(E) *Emergency securing.* If a building becomes vacant or unoccupied and is deemed by the City Administrator or designee to present an immediate danger to the health and safety of persons in the community, the City Administrator or designee may order the building be immediately secured without following the procedure described in divisions (A) and (B) of this section. The cost of securing the building may be assessed against the real property pursuant to division (D) of this section.

§ 90.011 HAZARDOUS OR SUBSTANDARD BUILDINGS.

If the city determines that removal and disposal of a structure or part thereof located on real property is appropriate, the City Administrator, or his or her designee, shall notify the property owner(s), occupying tenants, and all lienholders of record of the city's intent, and with their consent, may proceed. If consent is not received, the city shall obtain a judgment in accordance with M.S. Ch. 463 authorizing it to carry out the removal and disposal of the property. The Council may adopt a resolution levying an assessment for all or a portion of the costs incurred by the city in abating the public nuisance. The City Administrator shall give a copy of the resolution to the enforcement officer and shall mail a copy to the property owner(s), occupying tenants, and all lienholders of record.

§ 90.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person who violates any provision of §§ 90.001et seq. or fails to comply with a lawful order issued pursuant to this section shall be guilty of a misdemeanor. A separate offense shall be deemed committed upon each day that a violation occurs or continues.

(C) It is a petty misdemeanor for any person to burn or permit the burning of any grass, weeds, leaves, rubbish or other substance upon premises owned or occupied by the person, except as otherwise provided by the City Code.

(D) (1) If the city determines the real property owner is in violation of any section of §§ 90.090et seq., the owner shall be notified, by writing, by the Zoning Administrator to correct the violations within 15 days after the notice has been served. The notice may be served personally or by certified mail, return receipt requested, to the last known address of the real property owner. The Zoning Administrator may grant additional time or an exemption when bona fide efforts to correct the violations are in progress. If the correction has not been made within the time period granted by the Zoning Administrator, and in the Zoning Administrator's opinion sufficient time has been given to correct the violation, a criminal citation shall be issued by the Police Department for the offense.

(2) If the violator has not corrected the condition to the satisfaction of the city within 15 days after receiving the warning notice, the city may remove or cause to be removed the vehicle or other personal property which constitutes the violation, and charge the vehicle owner or vehicle operator, landowner and/or building contractor responsible for the condition the cost of the removal, plus the cost of storage or disposal of the items or items which constituted the violation. If the assessed costs set out in this division are not paid within 30 days after billing by the city, the city reserves the right to assess the costs against the real property on which the violation occurred, on the next real estate tax assessment roll following the violation.

(3) Any violator who is served with a warning notice under division (D)(2) above, who responds to the notice by moving the item which is in violation to a new location within city limits which is also in violation of §§ 90.090et seq., shall be considered to be in continued violation, and the original 15-day warning notice grace period shall continue to run in the same manner as if the violator had not moved the item from the original location.

(4) Any person violating any provision of §§ 90.090et seq. may be charged with a misdemeanor.

Subdivision 3: Effective Date. This ordinance is effective immediately following its publication in the official newspaper of the City.

ORDAINED by the City Council of the City of Jordan, Scott County, Minnesota this
____ day of _____, 2020.

Tanya Velishek, Mayor

ATTEST:

Tom Nikunen, City Administrator