

**Proposed
CLEANUP OF CLANDESTINE DRUG LAB SITES ORDINANCE**

Goodhue County

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RECEIVED

JUL 29 2004

**GOODHUE COUNTY
AUDITOR/TREASURER**

CLEANUP OF CLANDESTINE DRUG LAB SITES ORDINANCE

ARTICLE I. GENERAL PROVISIONS

SECTION 1.10 Title and Statutory Authority

- 1.11 This ordinance shall be known and referenced as the “Cleanup of Clandestine Drug Lab Sites Ordinance.”
- 1.12 This ordinance is enacted pursuant to the powers specified in Minn. Stat. § 145A.05.

SECTION 1.20 Purpose

- 1.21 Professional reports, based on assessments, testing, and investigations, show that chemicals used in the production of illicit drugs can condense, penetrate, and contaminate the land, water, surfaces, furnishings, fixtures, and equipment in or near structures where clandestine drug labs are located.
- 1.22 These conditions present health and safety risks to occupants and visitors of such structures and land through fire, explosion, and skin and respiratory exposure to chemicals.
- 1.23 This ordinance establishes responsibilities and procedures for involved parties to assure that:
 - a) people, particularly children, are not unnecessarily exposed to the dangers of clandestine drug lab sites,
 - b) proper steps are taken to abate the public health nuisance through cleanup or removal of contaminants or demolition according to Minnesota Department of Health guidelines.
 - c) the costs associated with the cleanup and remediation of clandestine drug lab sites are paid for by the property owner or those responsible for the public health nuisance.

SECTION 1.30 Jurisdiction

- 1.31 This ordinance shall apply to all incorporated and unincorporated municipalities and land (city or township) within the boundaries of Goodhue County.
- 1.32 Where a city or town has lawfully passed an ordinance to regulate and enforce the cleanup of clandestine drug lab sites, or is acting to abate a hazardous building or hazardous property the city or town and the County shall coordinate regulation and enforcement.

SECTION 1.40 Interpretation and Application

- 1.41 The provisions of this ordinance shall be interpreted and applied as the minimum requirements necessary to protect public health, safety, and welfare and are not intended to supercede any other law, ordinance, statute, or rule regulating clandestine drug lab sites or public health.

SECTION 1.50 Disclaimer of Liability

Liability on the part of, or a cause of action against, Goodhue County or any employee or agent thereof for any damages that may result from reliance on this ordinance shall be eliminated or limited as provided by Minn. Stat. § 466.02.

SECTION 1.60 Fees

Fees for the administration of this ordinance may be established and amended periodically by resolution of the County Board of Commissioners.

SECTION 1.70 Definitions, Rules, and Word Usage

For the purpose of this ordinance, the following terms or words shall be interpreted as follows:

- 1.71 Child means any person less than 18 years of age.
- 1.72 Clandestine drug lab operation means the unlawful manufacture or attempt to manufacture a controlled substance on real property or within any area of a structure.
- 1.73 Clandestine drug lab site means any real property or parts of a structure affected by conditions and/or chemicals, associated with a clandestine drug lab operation.
- 1.74 Cleanup means proper removal or disposal of hazardous substances and/or reduction of contaminants to levels that are safe for human contact, pursuant to applicable federal, state, and local guidelines, at a clandestine drug lab site. Cleanup is a part of remediation.
- 1.75 Controlled substance means a drug, substance or immediate precursor in Schedules I through V of Minnesota Statute § 152.02, as amended in the future. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.
- 1.76 Owner means any person, firm, or corporation who owns, in whole or in part, the land, building, vehicle, or other structure where a clandestine drug lab site is located.
- 1.77 Public Health Nuisance shall have the meaning attributed to it in Minnesota Statutes § 145A.02, Subd. 17, and shall include clandestine drug lab sites.
- 1.78 Public Health Authority means the Goodhue County Public Health Service pursuant to the Local Public Health Act, Minnesota Statutes § 145A.
- 1.79 Remediation means methods such as assessment, evaluation, testing, venting, detergent scrubbing, clean up, enclosure, encapsulation, demolition, removal or disposal of contaminated materials from a clandestine drug lab site.
- 1.80 Law Enforcement means any licensed peace officer.
- 1.81 Structure means a dwelling, building, motor vehicle, trailer, boat, ice fishing house, shed, appliance, container or any other area or location, either fixed or temporary.

ARTICLE II. ADMINISTRATION

SECTION 2.00 Declaration of Site as a Public Health Nuisance

Clandestine drug lab sites, as defined herein, are declared by this ordinance to be a public health nuisance.

SECTION 2.10 Law Enforcement Notice to Affected Public, Public Health, and Child Protection Authorities

- 2.11 Law enforcement authorities, who identify a clandestine drug lab site or clandestine drug lab operation, shall notify the Public Health Authority and, if a child is found at or known to be associated with the site, the Goodhue County departments responsible for child protection, of the existence of the site, as permitted by MN Statute § 13.82. The notice shall include sufficient information to inform the recipients of the following if available:
- a) property or structure location by street address and other identifiable location;
 - b) property or structure owner's and occupant's identities – especially the identities of any children found or known to be associated with the site;
 - c) chemicals found and indications of chemical residues;
 - d) equipment in a dwelling or structure that is associated with the manufacture of a controlled substance; and
 - e) conditions associated with the clandestine drug lab site or operation including weapons, controlled substances and other harmful conditions as determined by Minnesota law.
- 2.12 Upon identification of the clandestine drug lab site, law enforcement authorities or their designee may secure, treat, store, transport or dispose of the site and all hazardous waste found at the site in a manner consistent with rules and regulations adopted by the Minnesota Department of Health, Minnesota Pollution Control, and Goodhue County.
- 2.13 When a law enforcement agency completes its work under 2.12 and is prepared to leave such sites, the agency shall affix a warning sign to the entrances of the clandestine drug lab site. The warning sign shall be those that have been prepared in advance for such situations through the collaboration of County Law Enforcement, Public Health Authority, and other local officials if applicable. The warning sign shall contain information sufficient to alert visitors or returning occupants that the site is a public health nuisance, may be dangerous to enter, and must not be entered except by authorization of the Public Health Authority and/or Law Enforcement agency identified on the sign.

SECTION 2.20 Notice of Public Health Nuisance to Owner and Occupant

- 2.21 After the Public Health Authority receives notice from a law enforcement agency pursuant to section 2.10, the Public Health Authority shall investigate to determine if a public health nuisance exists and take appropriate action. If a public health nuisance exists, the Public Health Authority shall serve a notice of abatement or removal on the owner, occupant, or agent of the property pursuant to Minnesota Statute § 145A.04, Subd. 8(b), informing them of their responsibilities relative to the public health nuisance.
- 2.22 The public health authority shall notify and order the property owner or agent to have the public health nuisance removed, remediated, or abated within a time specified in the notice, but no longer than 10 days as provided in Minnesota Statute § 145A.04, and this ordinance. The public health notice and order should include the following:

- a) Identification of the chemical investigation site(s) including all affected water, sewer, real property, structures, vehicles, or other areas deemed dangerous for human contact or occupancy.
- b) Information about the potentially hazardous condition of the chemical investigation site(s).
- c) A summary of the property owner's and occupant's responsibilities under this ordinance and Minnesota Statute Ch. 145A.
- d) Information on locating professional services necessary to remove and abate the public health nuisance status as provided in this Ordinance and Minnesota Statute § 145A.04.

SECTION 2.30 Property Owner's, Occupant's, and/or Agent's Responsibility to Act

2.31 Property owners, occupants, or agents of the property provided with a notice pursuant to sections 2.10 and 2.20, shall promptly act to vacate occupants from, and prevent further access to, the chemical investigation site(s). This includes real property, dwellings, buildings, motor vehicles, trailers, boats, appliances or any other affected area or location.

2.32 Upon receipt of the public health notice and order for abatement or removal of the Public Health Nuisance, the property owner, occupant, and/or agent of the property shall take the following actions within the time specified in the notice:

- a) Notify Public Health Authority that the affected parts of the dwellings, buildings, and/or motor vehicles have been and will remain vacated and secured until the Public Health Authority provides notice that the public health nuisance has been remediated, abated, or removed.
- b) Contract, at his/her own expense, with one or more acceptable environmental hazard testing and cleaning firms (acceptable firms are those that have provided assurance of appropriate equipment, procedures, and personnel, as determined by the Minnesota Department of Health and/or Goodhue County Public Health) to accomplish the following:
 - 1) A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;
 - 2) Soil, water, and sewer 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;
 - 3) A complete clean-up of the site (including, but not limited to, the clean-up or removal of contaminated fibers, plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the site and a complete clean-up of the demolished site;
 - 4) A complete clean-up, or disposal at an approved dumpsite, of all personal property in the site;
 - 5) A complete clean-up of all property and soil in proximity to the site that is found to have been affected by the conditions found at the site; and
 - 6) Remediation testing and follow-up testing to determine that all health risks are sufficiently reduced, according to Minnesota Department of Health guidelines, to allow safe human occupancy and use of the site and use of the personal property therein.
- c) Provide the Public Health Authority with the identity of the testing and cleaning firm the owner or occupant has contracted with for remediation of the site(s) as described above.
- d) Provide the Public Health Authority with the contractor's plan and schedule for remediation of the public health nuisance, and within thirty (30) days of completion,

provide documentation or a final report from the contractor showing that cleanup or remediation is complete.

- e) The property owner or occupant may request an extension of time from the public health authority to consider options for arranging cleanup or removal of the affected parts of the structure. The owner or occupant must show good cause for any such extension and must comply with any conditions imposed by the public health authority to protect the health and welfare of the public, owners and occupants.

SECTION 2.40 County's Authority to Remove or Abate the Public Health Nuisance.

- 2.41 The County is authorized under Minnesota Statute § 145A.04, Subd. 8(c), to proceed within the time specified in the notice for abatement or removal of the public health nuisance to initiate the assessment and cleanup when the property owner is unknown or absent and has no known representative upon which notice can be served.
- 2.42 Pursuant to Minn. Stat. 145A.04, Subd.8(d), if the owner, occupant, or agent fails to comply with the requirements of the notice for abatement or removal of public health nuisance, the Public Health Authority or its designee shall remove or abate the public health nuisance.
- 2.43 The Public Health Director shall be fully authorized to act, consistent with Minnesota Law, on behalf of the County to direct funds to assure prompt remediation of clandestine drug lab sites.
- 2.44 When the estimated cost of testing, cleanup, and remediation exceeds seventy-five percent of the Blue Book or market value of the structure, or the County Assessor's market value of structures located on real property, the Public Health Director is authorized to notify the owner of the County's intent to remove, demolish, and dispose of the affected structure instead of proceeding with cleaning and remediation.
- 2.45 Where the condition of the affected property constitutes both a public health nuisance and a hazardous condition which is subject to remediation or abatement by both the County, under this ordinance, and an affected City or Town, under state law or local ordinance, each jurisdiction shall bear the responsibility and initial cost of cleanup of hazards under its direct jurisdiction unless otherwise agreed upon between the municipalities.

SECTION 2.50 Property Owner's Responsibility for Costs and Special Assessment to Recover Public Costs

- 2.51 Consistent with Minnesota Statutes Chapter 145A, the property owner shall be responsible for any and all costs, fees, or expenses associated with the evaluation, testing, cleanup, remediation, abatement, removal, or demolition of the clandestine drug lab site.
- 2.52 The property owner shall be responsible for all costs incurred by the County, City or Town to abate the public health nuisance. Fees, costs, and expenses incurred by the County that are not paid for in any other way may be collected through a special assessment on the property as allowed by Minnesota Statute § 145A.08, or by any other applicable Federal, State, and County Laws, Ordinances, and/or applicable County Board Resolution.

- 2.53 The cost of remediation or cleanup shall be certified by the Public Health Authority, or its designee. Notice of cost, and demand for payment, shall be forwarded to the property owner by certified mail at the property owner's last known address as shown on property tax records. If payment in full is not made within 30 days of mailing of notice, Goodhue County Public Health may request that all costs be assessed against the property. The amount due, interest rate, and/or payment rate may be adjusted by action of the County Board of Commissioners
- 2.54 Nothing in this ordinance is intended to limit the property owners, agents, occupants, or the County's right to recover costs or damages, from persons contributing to the public health nuisance, such as the operators of the clandestine drug lab and/or other lawful sources.
- 2.55 The County may also seek recovery of costs through other methods allowed by Federal or State law.

SECTION 2.60 Authority to Modify or Remove Declaration of Public Health Nuisance

- 2.61 The Public Health Authority may modify conditions of the declaration and/or order removal of the declaration of Public Health Nuisance.
- 2.62 Such modification or removal may occur after the Public Health Authority has determined that levels of contamination are sufficiently reduced to warrant modification or removal of the declaration. The Public Health Authority may rely on information from competent sources, including those supplied by the property owner and/or others such as state and local health, safety, law enforcement and pollution control authorities to reach such decisions.

SECTION 2.70 Waste Generated From Cleaning up A Clandestine Drug Lab.

Waste generated from clandestine drug lab site public health nuisances shall be treated, stored, transported, and disposed in accordance with applicable rules and regulations adopted by the Minnesota Department of Health, Minnesota Pollution Control Agency, and Goodhue County.

ARTICLE III. EXCEPTIONS, APPEALS, AND PENALTIES

SECTION 3.10 Exceptions, Appeals, and Penalties

- 3.11 Administration of this ordinance, including guidance for, challenges to, and penalties shall be according to the authorities provided in Minnesota Statute Chapter 145A, other applicable Minnesota laws, and the Goodhue County Solid Waste Management Ordinance.
- 3.12 Any person who violates any provision of section 2.30 is guilty of a misdemeanor.

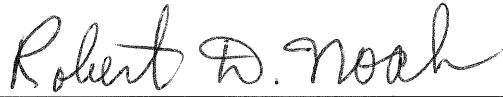
SECTION 3.20 Severability and Savings Clause

If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation of, or affect the validity or enforceability of any other section or provision of this ordinance.

ARTICLE IV. EFFECTIVE DATE


This ordinance shall be in full force and effect upon adoption pursuant to Minnesota law.

Dated this 15th day of June, 2004.



Board Chairperson

ATTEST:



County Administrator