

Chapter 8

An ordinance declaring clandestine drug labs to be a public nuisance, providing for their removal and clean-up and assessing costs against the property owner, and amending the municipal code of the City of Lauderdale by adding Chapter 8 Clandestine drug lab sites to Title 5.

5-8-1 **PURPOSE AND INTENT:** the purpose of this Chapter is to reduce public exposure to health risks associated with hazardous chemicals or residue from a clandestine drug lab site. Professional testing and investigations show that chemicals used in the production of illicit drugs can condense, penetrate, and contaminate surfaces, furnishings and equipment of surrounding structures. The City Council finds that such sites and the personal property within such sites may contain suspected chemicals and residues that place people, particularly children or adults of child bearing age, at risk when exposed through inhabiting or visiting the site or being exposed to contaminated personal property.

5-8-2 **INTERPRETATION AND APPLICATION:** the provisions of this chapter must be construed to protect the public health, safety and welfare. When the conditions imposed by this chapter conflict with comparable provisions imposed by another law, ordinance, statute or regulation, the regulations that are more restrictive or that impose higher standards will prevail.

5-8-3 **DEFINITIONS:** unless the context clearly indicates otherwise, the words and phrases below are defined for the purposes of this chapter as follows:

- 1) "Chemical Dump Site" means a place or area where chemicals or other waste material used in a clandestine drug lab operation has been located.
- 2) "City" means the City of Lauderdale.
- 3) "Clandestine Drug Lab Operation" means the unlawful manufacture or attempt to manufacture a controlled substance.
- 4) "Clandestine Drug Lab Site" or "Sites" means a place or area where law enforcement personnel determined conditions associated with an unlawful clandestine drug lab operation exists. A clandestine drug lab

site may include dwellings, accessory buildings, structures or units, a chemical dumpsite, a vehicle, boat, trailer, or other appliance.

- 5) "Controlled Substance" means a drug substance or immediate precursor specified in Minnesota Statute §152.02, Schedules I through V, and as the same may be amended. The term does not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.
- 6) "Manufacture", in other places other than a pharmacy, includes the production, cultivation, quality control, or standardization, by mechanical, physical, chemical or pharmaceutical means, and the packaging, re-packaging, tableting, encapsulating, labeling, re-labeling, or filling of drugs, by any other process.
- 7) "Owner" means a person, firm, corporation or other entity who or which owns, in whole or in part, the land, building, structure, vehicle, boat, trailer or other location associated with clandestine drug lab site. Unless information is provided to prove otherwise, the owner of real property is deemed to be the property taxpayer of record in the Ramsey County files, and the owner of a vehicle, boat or trailer is deemed to be the person listed as the owner on the most recent title to the vehicle, boat, or trailer.

5-8-4 Declaration of Public Health Nuisance: all dwellings, accessory structures, buildings, vehicles, boats, trailers, personal property, adjacent property or other location, associated with a clandestine drug lab site are potentially unsafe due to health hazards and are declared to be a public nuisance.

5-8-5 Law Enforcement Action:

- 1) Law enforcement authorities that identify conditions associated with a clandestine drug lab site that may place the public or occupants at risk of exposure to harmful contaminants and other associated conditions may:
 - (a) promptly notify the appropriate municipal, child protection, and public health authority, the United States drug enforcement

administration, and the site owner about the site and the conditions found;

- (b) treat, store, transport or dispose of all waste generated from the clandestine drug lab site in a manner consistent with the Minnesota Department of Health and Minnesota Pollution Control Agency regulations;
 - (c) the appropriate county would issue a temporary declaration of public health nuisance for the affected site and post a copy of the declaration on all doorway entrances to the site or, in case of bare land, in several conspicuous places on the property. This temporary declaration will expire after the city inspects the site and determines the appropriateness of issuing a permanent declaration of public health nuisance;
 - (d) notify all people occupying the site that a temporary declaration of public health nuisance has been issued;
 - (e) require all people occupying the site to immediately vacate the site, remove all pets from the site, and not return without written authorization from the city;
 - (f) notify the occupants vacating the site that the personal property at the site may be contaminated with dangerous chemical residue; and
 - (g) put locks on each doorway entrance to the site to prohibit people from entering the site without authorization.
- 2) The notification of the people and organizations mentioned above may be delayed to accomplish appropriate law enforcement objectives.

5-8-6 Inspection and Declaration of Nuisance.

- 1) Within 48 hours of notification that law enforcement authorities have determined the existence of a clandestine drug lab site, the city will contact

Ramsey county and they must inspect the site. The county may then promptly issue a permanent declaration of public health nuisance and a Do Not Enter-Unsafe to Occupy Order for the affected site to replace the temporary declaration. A copy of the permanent declaration and order must be posted on all doorway entrances to the site or, in the case of bare land, in several conspicuous places on the property.

- 2) Abatement order. After issuing the permanent declaration, the city must send written notice to the site owner ordering abatement of the public health nuisance. The abatement order must include the following:
 - (a) a copy of the declaration of public health nuisance and Do Not Enter-Unsafe to Occupy Order;
 - (b) information about the potentially hazardous condition of the site;
 - (c) a summary of the site owner's and occupant's responsibilities under this title; and
 - (d) information that may help the owner locate appropriate services necessary to abate the public health nuisance.
- 3) Notice to other parties. The city must also mail a copy of the permanent declaration of public health nuisance and a copy of this section to the following parties and their last known addresses:
 - (a) occupants of residents of the site if known;
 - (b) neighbors in proximity to the site who may be affected by the conditions found;
 - (c) the appropriate enforcement division of the United States drug enforcement administration; and
 - (d) other city, state, and local authorities, such as the City Public Works Department, the Minnesota Pollution Control Agency, the Minnesota Department of Health, and the Department of Natural Resources, that are known to have public and environmental protection responsibilities applicable to the situation.

- 4) Modification and removal of declaration. The city may modify or remove the declaration of public health nuisance after the city receives documentation from a city-approved environmental hazard testing and cleaning firm stating that the suspected health and safety risks, including those to neighbors and potential occupants, either do not exist or have been sufficiently abated or corrected to justify amendment or removal of the declaration.

5-8-7 Site Owner's Responsibility to Act.

- 1) Within ten (10) business days after the abatement order is mailed to the site owner, the owner must accomplish the following:
 - (a) provide the city, in writing with:
 - i. confirmation that all persons and their pets have vacated the site;
 - ii. the names of all children who the owner believes were residing at the site during the time period the clandestine drug lab is suspected to have been at the site; and
 - iii. confirmation that the site will remain vacated and secured until the public health nuisance is completely abated, as required by this Title.
 - (b) contract with one or more city approved hazard testing and cleaning firms to conduct the following work in accordance with the most current state guidelines:
 - i. a detailed on-site assessment of contaminates at the site, including personal property in the site;
 - ii. soil testing of the site and testing of all property and soil in proximity to the site which the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site;
 - iii. a complete clean-up of the site (including the clean-up or removal of plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of

- the structures on the site and complete clean-up of the demolished site;
 - iv. a complete clean-up, or disposal at an approved dump site, of all personal property in the site that is found to have been affected by the conditions at the site;
 - v. a complete clean-up of all property and soil in proximity to the site that is found to have been affected by the conditions at the site; and
 - vi. remediation testing and follow-up testing, including testing of the ventilation system and plumbing, to determine that all health risks are sufficiently reduced to allow safe human occupancy and use of the site, use of the personal property in it, and use of all property and soil in proximity to the site.
- (c) provide the city with the identity of the testing and cleaning firm with which the owner has contracted for abatement of the public health nuisance as required above; and
 - (d) sign an agreement with the city establishing a clean-up schedule. The schedule must establish reasonable deadlines for completing all actions required by this title for abatement of the public health nuisance. The city will consider practical limitations and the availability of contractors in approving the clean-up schedule.
- 2) The owner must meet all deadlines established in the clean-up schedule. The owner must provide the city with written documentation of the clean-up, including a signed statement from a city approved environmental hazard testing and cleaning firm that the site, all personal property in it, and all property and soil in proximity to the site is safe for human occupancy and use and that the clean-up was conducted in accordance with the most current state guidelines.

5-8-8 Site Owner's Responsibility for Costs. The site owner is responsible for all costs of dealing with and abating the public health nuisance, including

contractor's fees and the city's cost for services performed in connection with the clandestine drug lab site clean-up. The city's costs may include;

- (a) posting of the site;
- (b) notification of affected parties;
- (c) securing the site, providing limited access to the site, and prosecution of unauthorized persons found at the site;
- (d) expenses related to the recovery of costs, including the special assessment process;
- (e) laboratory fees
- (f) clean-up services;
- (g) administrative fees
- (h) legal fees; and
- (i) other associated costs.

5-8-9 City Action and Recovery of Costs.

- 1) If the site owner fails to comply with any of the requirements of this title, the city is authorized to take all reasonable actions necessary to abate the public health nuisance, including contracting with a city-approved environmental hazard testing and cleaning firm to complete the necessary clean-up. The city is also authorized to provide a copy of the declaration of public health nuisance to the holders of the mortgage or lien interests in the affected site.
- 2) If the costs to clean the site or to clean the personal property at the site are prohibitively high in relation to the value of the site or the personal property, the city is authorized to remove or demolish the site, structure or building and dispose of the personal property in it. These actions must be taken in accordance with the provisions of Minnesota Statute § 463.15 through 463.261.
- 3) If the city abates the public health nuisance, the city is entitled to recover all of its actual costs, plus an additional 25% of such costs for administrative expense, in addition to any other legal remedy. The city may recover costs by a civil action against the site owner or by assessing the costs against the site as a lien against the

property and certifying the same to Ramsey/Hennepin County for collection in the same manner as ad valorem taxes and special assessments are collected.

5-8-10 Recovery of Costs from Persons Causing Damage.

Nothing in this ordinance limits the rights of the site owner or the City to recover clean-up costs from the tenant or operators of the clandestine drug lab.

5-8-11 Entry Into or Onto the Site.

While a declaration of public health nuisance for a site is in effect and has been posted at the site, no persons, other than a law enforcement officer or a person authorized by the city is permitted to be inside or on a site.

5-8-12 Removal of Personal Property from the Site.

While a declaration of public health nuisance for a site is in effect and has been posted at the site, no personal property may be removed from the site without prior written consent from the city. Consent to remove personal property may be granted at the reasonable discretion of the city, and only in cases of hardship after:

- 1) a city-approved environmental hazard testing and cleaning firm has advised the city, in writing, that the item(s) of personal property can be sufficiently cleaned to remove all harmful contamination; and
- 2) the owner of the personal property agrees in writing that the owner:
 - (a) is aware of the danger of using the contaminated property;
 - (b) will thoroughly clean the property to remove all contamination before the property is used; and
 - (c) releases and agrees to indemnify the city from all liability to the owner and third parties for injuries or damages alleged to have been caused by the contaminated property.

5-8-13 Violations and Penalties. Any person convicted of violating any provision of this title is guilty of a misdemeanor.