

RAMSEY COUNTY PUBLIC HEALTH NUISANCE ORDINANCE

Ordinance 2006-371

Adopted November 21, 2006

Effective January 1, 2007

WHEREAS, Ramsey County desires to continue to protect and ensure the public health, safety, welfare and environment of the County's residents and businesses by regulating public health nuisances and clandestine drug labs; and

WHEREAS, Ramsey County has statutory responsibilities and authorities related to clandestine drug labs and public health nuisances; and

WHEREAS, On June 13, 2006, the Ramsey County Board of Commissioners discussed the question: "How can Ramsey County best address health and safety issues related to clandestine drug labs and public health nuisances?" and

WHEREAS, A Clandestine Drug Lab/Public Health Nuisance Ordinance is one option for the County to address health and safety issues associated with clandestine drug labs and public health nuisances; and

WHEREAS, It is very important that municipal and County regulation of clandestine drug labs and public health nuisances be coordinated and consistent, that roles be well defined, and that bureaucracy be minimized, and the municipalities of Ramsey County have participated in the development of this ordinance.

WHEREAS, Section 5.02 of the Ramsey County Home Rule Charter requires that every proposed ordinance receive two full readings: the first at the time the amendment is presented, and the second at the time of the public hearing; and

WHEREAS, On October 17, 2006 the Ramsey County Board of commissioners waived the first reading of the proposed Ramsey County Public Health Nuisance Ordinance; and

WHEREAS, On November 7, 2006 the Ramsey County Board of commissioners waived the second reading of the proposed Ramsey County Public Health Nuisance Ordinance. Now therefore be it

ORDAINED, The Ramsey County Board of Commissioners hereby approves the following Ordinance:

**PUBLIC HEALTH NUISANCE ORDINANCE
FOR RAMSEY COUNTY**

Section 1 Purpose and Authority

Subsection 1. The purpose of this Ordinance is to establish standards and authority to protect the public health, safety and general welfare of the people of Ramsey County pursuant to powers granted under Minnesota Statutes Chapters 145A, 375, and 152,

the Home Rule Charter for Ramsey County, and other applicable state law, as they may be amended from time to time.

Subsection 2. This ordinance establishes minimum standards for the health, safety and protection of parties who may be exposed to Public Health Nuisances by:

- A. Establishing responsibility for involved parties to assure that people are not unnecessarily exposed to the dangers of Public Health Nuisances;
- B. Preventing injury and illness to Occupants of the property and the public, especially Children and Vulnerable Adults.
- C. Requiring that proper steps are taken to remove Public Health Nuisances; and
- D. Requiring that appropriate tests be done to demonstrate that affected Structures and media (air, water, soil) are sufficiently cleaned for human contact.

Subsection 3. The provisions of this Ordinance shall be interpreted and applied as the minimum requirements necessary to protect public health, safety and welfare.

Section 2 Jurisdiction

Subsection 1. This Ordinance applies throughout all of Ramsey County but does not preempt ordinances related to Clandestine Drug Labs adopted by a statutory or home rule charter city or a town.

Subsection 2. This Ordinance applies throughout all of Ramsey County but does not preempt ordinances related to housing or public nuisance adopted by a statutory or home rule charter city or a town.

Section 3 Definitions

Subsection 1. For the purpose of this Ordinance, the following terms or words shall be interpreted as follows:

- A. Abatement means the proper removal and/or containment of substances or materials hazardous to humans and/or the environment. Abatement is part of remediation.
- B. Acceptable Environmental Hazard Testing and/or Cleaning Firm means a firm that has provided written assurance to the State of Minnesota or the Health Authority that they have appropriate equipment, procedures, and personnel to accomplish clean-up and that they are an experienced HAZMAT contractor.
- C. Board of Health shall have the meaning given to it by Minnesota Statutes section 145A.02, subd. 2.
- D. Child means any person less than 18 years of age.

- E. Cleanup means the proper removal and/or containment of substances or materials hazardous to humans and/or the environment. Cleanup is a part of Remediation.
- F. Clandestine Drug Lab means any structure or conveyance or outdoor location occupied or affected by the conditions or chemicals typically associated with the manufacturing of methamphetamine or other unlawful manufacture of a controlled substance.
- G. Controlled Substance means a controlled substance or immediate precursor as defined in Minnesota Statutes section 152.01, Subd. 4. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco
- H. County Protection Unit shall mean the department and/or section of a department assigned the responsibilities for child protection and/or adult protection.
- I. Health Authority means the Saint Paul–Ramsey County Department of Public Health.
- J. Occupant means 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 owner resides or is located elsewhere.
- K. Owner means any person, firm, partnership or corporation who owns, in whole or in part, real property and/or fixtures or is the purchaser of the property under a contract for deed or personal property such as a motor vehicle, trailer, boat or other appliance.
- L. Personal Property means all property other than real estate or Structures.
- M. Professional Remediation Firm means a firm that has provided written assurance to the Health Authority that they have appropriate equipment, procedures, and personnel to accomplish remediation and that they are an experienced HAZMAT contractor.
- N. Property Agent means a legal or natural person authorized by an owner to act in transacting business matters or in managing real estate.
- O. Public Health Nuisance shall have the meaning given to it by Minnesota Statutes section 145A.02, subd. 17 and shall include, but not be limited to, any condition which poses an immediate and direct hazard to human health if left unremedied due to the existence of the condition itself or due to the immediate threat of transmission of disease through insects, animals, or other means of transmission or infections. A Clandestine Drug Lab is Public Health Nuisance.

- P. Recorder means the Ramsey County Department of Records and Revenue
- Q. Remediation means 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.
- R. Structure means a dwelling, building, motor vehicle, trailer, boat, or any other area or location, either fixed or temporary.
- S. Vulnerable Adult shall have the meaning given to it by Minnesota Statutes section 626.5572, subd. 21.

Section 4 Prohibitions

Subsection 1. The creation or maintenance of a Public Health Nuisance is prohibited.

Subsection 2. The following are hereby expressly declared to be Public Health Nuisances, without limitation by reason of such enumeration:

- A. Failure to keep waste, refuse, or garbage in an enclosed building or properly contained in a closed insect and rodent proof container designed or reasonably adapted for such purpose, except for the immediate time preceding pick-up by a licensed solid waste hauler.
- B. Accumulation of carcasses of animals, birds, or fish by failing to bury or otherwise dispose of a carcass in a sanitary manner within 24 hours after death. This provision shall not apply if the animals, birds or fish are intended for human consumption;
- C. Accumulation of decayed animal or vegetable matter, animal or human feces, trash, rubbish, garbage, rotting lumber, packing material, scrap metal, 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 which are being managed in accordance with acceptable standards;
- D. Any Structure which has become dangerous for further occupancy because of sanitary defects which may include, but are not limited to: accumulation of human or animal feces, evidence of garbage and rotting food, infestation by rodents or insects, environmental conditions that affect children and vulnerable adults and lack of approved potable water supply or sewage disposal;
- E. Infestations of flies, fleas, cockroaches, lice, ticks, rats, mice, fly larvae, and hookworm larvae;

- F. Unnatural breeding grounds which support mosquito larvae and mosquitoes carrying West Nile Virus, LaCrosse encephalitis, or any other disease causing microorganisms;
- G. Accumulations of animal feces or solid waste remaining in any place so as to become injurious and dangerous to the health and safety of any individual or to the public in general;
- H. Causing or allowing improper sewage disposal facilities to be operated, or causing or allowing the effluent from any cesspool, septic tank, drain field or sewage disposal system to discharge upon the surface of the ground or into any body of water;
- I. Maintaining a hole or opening caused by an improperly abandoned cistern, septic system, unused or non-maintained private swimming pool, foundation, mine shaft or tunnel, including an improperly abandoned, sealed, barricaded or backfilled excavation;
- J. A Clandestine Drug Lab.

Section 5 Administration

Subsection 1. This Ordinance shall be administered by the Saint Paul - Ramsey County Department of Public, hereinafter referred to as the "Health Authority".

Subsection 2. It shall be the duty of the Health Authority to determine whether or not a Public Health Nuisance exists.

Subsection 3. In accordance with Minnesota Statutes section 145A.04, subd. 7, the Health Authority has right of entry for inspection of property where a Public Health Nuisance is suspected or known.

- A. The Owner, Occupant or Property Agent shall, upon the request of the Health Authority and after proper identification, permit access to all parts of the site or structure as often as necessary, and at any reasonable time for the purposes of inspection, remediation and abatement, and shall exhibit and allow copying of any and all records necessary to ascertain compliance with this Ordinance.
- B. No person shall in any way interfere with or hinder the Health Authority in the performance of duties, or refuse the Health Authority access to gather information necessary to ascertain compliance with this Ordinance.

Subsection 4. Except where otherwise specified, this Ordinance is subject to all provisions of the Ramsey County Administrative Ordinance (2001-79); Hazardous Waste Management Ordinance(97-174), Solid Waste Management Ordinance (2002-433), and any other applicable County ordinances, as they may be amended from time to time.

Subsection 5. 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, and Ramsey County guidelines, rules and regulations for remediation of a clandestine drug lab, for solid waste, and for hazardous household/other hazardous wastes.

Subsection 6. Fees for the administration of this ordinance may be established and amended periodically by action of the Ramsey County Board of Commissioners.

Section 6 Investigation and Response to Public Health Hazard or Public Health Nuisance which is not a Clandestine Lab Site

Subsection 1. If the Health Authority determines that a Public Health Nuisance exists, it shall promptly issue a notice and order requiring the Owner, Occupant, or Property Agent to Abate the Public Health Nuisance as provided in Minnesota Statutes section 145A.04, Subd. 8, and this Ordinance.

Subsection 2. The Owner or Occupant or Property Agent shall abate such Public Health Nuisance within such time as determined by the Health Authority.

Subsection 3. The Health Authority shall leave a posted warning sign at the PHN site. It shall be unlawful for any person to remove this sign.

Subsection 4. The notice and order for Abatement must be served on the Owner, Occupant, or Property Agent, if applicable, in one of the following ways:

- A. by U.S. mail at the last known address; or
- B. by an officer authorized 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.

If the Owner of the property is unknown or absent and has no known representative upon whom notice can be served, the Health Authority shall post a written or printed notice on the property stating that, unless the threat to the public health is abated or removed within a period of ten days, the Health Authority will have the threat abated or removed at the expense of the Owner under Minn. Stat., section 145A.08, this Ordinance, or other applicable state or local law.

Subsection 5. Pursuant to Minnesota Statutes section 145A.04, subd. 8, if the Owner, Occupant, or Property Agent fails or neglects to comply with the requirements of the notice and order provided under Section 6 Subsection 1 of this Ordinance, then the Health Authority may abate the Public Health Nuisance. The Health Authority may recover the costs of abatement as provided in Section 8 of this Ordinance.

Subsection 6. Following the service of a notice of abatement the Health Authority may send written notice describing the condition of the property and the action required to the following parties:

- A. The local municipal clerk;
- B. Local law enforcement; and
- C. Other state and local authorities that may have public and environmental protection responsibilities with regards to the situation.

Subsection 7. If after the expiration of the time provided in the notice and order, the Health Authority is unable to obtain reasonable assurance from the Owner, Occupant, or Property Agent that the Public Health Nuisance is being Abated or Remediated the Health Authority may provide a copy of the Public Health Nuisance notice and order to the County Recorder who shall file that information with the property record.

Subsection 8. The Health Authority may modify conditions of the notice and order, including timelines.

Section 7 Investigation and Response to a Clandestine Lab Site

Subsection 1. Law Enforcement authorities who identify a Clandestine Drug Lab Site shall notify the Health Authority and, if it appears that a Child or Vulnerable Adult is thought or known to have been associated with a Clandestine Drug Lab the County Protection Unit. The notice required to the County Protection Unit shall include the following information,

- A. Property location by street address and other identifiable location;
- B. The identity of the Owner and Occupant;
- C. The identity of any Child or Vulnerable Adult reasonably thought or known to have been associated with the Clandestine Drug Lab;

Subsection 2. The initial removal and inventory of all chemicals found at a Clandestine Lab Site shall be the responsibility of the responding law enforcement agency in accordance with its procedures. The Health Authority shall be notified of the arrangements made as soon as the peace officer or designated agents makes arrangements.

Subsection 3. The notice provided by law enforcement to the Health Authority above, shall include the following:

- A. Property location by street address or other identifiable locators;

- B. The identity of any Child or Vulnerable Adult reasonably thought or known to be associated with the Clandestine Drug Lab;
- C. A copy of the search warrant affidavit and police report;
- D. A copy of the chemical manifest as provided by the hazardous materials responder (in accordance with Section 7 Subsection 2 of this Ordinance) when that report is provided to Law Enforcement.

Subsection 4. When law enforcement completes its investigation of a Clandestine Drug Lab, a warning sign shall be posted on the Structure. Once this sign is posted, it shall be unlawful for any person to enter the site except by permission of the Health Authority or Law Enforcement. Only the Health Authority may remove this sign.

Subsection 5. The Health Authority shall issue a notice and order requiring the Owner, Occupant, or Property Agent to Abate the Clandestine Drug Lab Public Health Nuisance as provided in Minnesota Statutes section 145A.04, Subd. 8, and this Ordinance.

Subsection 6. The notice and order must be served on the Owner, Occupant, or Property Agent, if applicable, in one of the following ways:

- A. by U.S. mail at the last known address; or
- B. by an officer authorized 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.

If the Owner of the property is unknown or absent and has no known representative upon whom notice can be served, the Health Authority shall post a written or printed notice on the property stating that, unless the threat to the public health is abated or removed within a period of ten days, the Health Authority will have the threat abated or removed at the expense of the Owner under Minnesota Statutes, section 145 A.08, this Ordinance, or other applicable state or local law.

Subsection 7. Following the service of notice and order to Abate about the Clandestine Drug Lab, the Health Authority shall send a copy to the following parties:

- A. The local municipal clerk;
- B. Local law enforcement; and
- C. Other state and local authorities that may have public and environmental protection responsibilities with regards to the Clandestine Drug Lab.

Subsection 8. Owners and Occupants provided with the notice and order, shall vacate the Clandestine Drug Lab within twenty-four (24) hours.

Subsection 9. Within the time specified following receipt of the notice and order to Abate the Clandestine Drug lab, the Owner, Occupant, or Property Agent shall:

- A. Submit a written remediation plan to the Health Authority. The written remediation plan shall be completed by a Professional Remediation Firm on forms approved by the Health Authority. The plan shall provide information on the activities the professional remediation firm will complete within 30 calendar days following the Health Authority's approval of the remediation plan:
 1. A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;
 2. A detailed Remediation schedule of activities;
 3. A complete Abatement of the Clandestine Drug Lab;
 4. A complete cleanup of all property in proximity to the site that is found to have been affected by the conditions found at the site; and
 5. Remediation testing and follow-up testing to determine that health risks are sufficiently reduced, according to the Minnesota Department of Health's Clandestine Drug Lab General Cleanup Guidelines to allow safe human occupancy and use of the site and/or use of the Personal Property therein.
- B. Contract with one or more Professional Remediation Firms to implement the remediation plan and provide the Health Authority with the identity of the Professional Remediation Firm the Owner, Occupant, or Property Agent has contracted with for remediation/cleanup of the Structure(s) or Personal Property as described above.
- C. Upon the Abatement and Remediation of a Clandestine Drug Lab the Professional Remediation Firm shall certify to Owner, Operator, or Property Agent and the Health Authority that the work was completed according to the Minnesota Department of Health's clandestine drug labs general cleanup guidelines. The contractor shall provide the verification to the property owner and the applicable authority within five days from the completion of the remediation.
- D. In its sole discretion the Health Authority may authorize extensions of time to abate the PHN.

Subsection 10. The Health Authority and County Recorder shall comply with all requirements imposed by Minnesota Statutes section 152.0275, subd. 2. The Health Authority shall maintain a list, available to the public of properties to notices and orders issued pursuant section 7.7 .

Prior to signing a lease or rental agreement, the Owner or Property Agent, must

disclose in writing to the renter if, to the Owner or Property Agent's knowledge, methamphetamine production has occurred on the property.

Subsection 11. The Owner, Occupant, or Property Agent shall execute the Remediation plan within the timeline specified by the Health Authority. Pursuant to Minnesota Statutes section 145A.04, subd. 8, if the Owner, Occupant, or Property Agent fails to do so the Health Authority may Abate the Clandestine Drug Lab. The Health Authority may recover the costs of abatement as provided in Section 8 of this Ordinance.

Subsection 12. The Health Authority may modify conditions of the notice and order, including timelines.

Section 8 Costs and Reimbursements

Subsection 1. If the County Abates a Public Health Nuisance, it may recover the costs incurred in a civil action.

Subsection 2. The cost of enforcement action under Minnesota Statutes section 145A.04, subd. 8 and this Ordinance may be assessed and charged against the real property on which the Public Health Nuisance was located. The Health Authority shall calculate the costs, and present them to the Department of Property Records and Revenue, which shall extend the cost as assessed and charged on the tax roll against said real property.

Subsection 3. When the estimated cost of abatement and remediation exceeds seventy-five percent of the County Assessor's market value of the Structure, the Health Authority is authorized to notify the property owner of the County's intent to remove and dispose of it instead of proceeding with Abatement or Remediation. For motor vehicles, the County will use the Kelly Blue Book value or equivalent in determining market value.

Subsection 4. Nothing herein precludes or limits the County from seeking recovery of the costs of Abatement by other methods allowed by federal or state law.

Subsection 5. Nothing in this Ordinance is intended to limit the subrogation rights of any party or the Owner or Occupant. The County shall maintain the right to recover costs of Abatement from persons causing or contributing to the Public Health Nuisance.

Section 9 Enforcement

Subsection 1. Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

Subsection 2. In the event of a violation or a threat of violation of this Ordinance, the County Attorney may take appropriate action to enforce this Ordinance, including application for injunctive relief, action to compel performance, or any other appropriate action in court, to prevent, restrain, correct or abate such violation or threatened violation.

Subsection 3. Whenever the Health Authority discovers a violation of this Ordinance, the Health Authority may issue a citation to the person alleged to have committed the violation. The citation issued shall be issued to the person charged with the violation, or in case of a corporation or municipality, to any officer or agent expressly or impliedly authorized to accept such issuance.

Section 10 Severability

Subsection 1. 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.

Section 11 Effective Date

Subsection 1. This Ordinance shall be effective January 1, 2007.