

DOC. NO. \_\_\_\_\_  
OFFICE OF REGISTRAR OF TITLES  
STATE OF MINNESOTA, }  
County of Lake } SS.

I hereby certify that the within  
instrument was filed in this office the  
24<sup>th</sup> day of May, 2004  
at 2:15 P. M. and was duly  
registered in Book \_\_\_\_\_ of Register  
of Titles page \_\_\_\_\_

Erina Koski  
Registrar of Titles  
By \_\_\_\_\_  
Deputy

DOC. NO. 154683  
OFFICE OF COUNTY RECORDER  
State of Minnesota, }  
COUNTY OF LAKE } SS.

I hereby certify that the with-  
in instrument was filed for rec-  
ord in this office on the 24<sup>th</sup>  
day of May  
2004 at 9:15 o'clock  
P.M., and was duly recorded  
in book 45 of Minn. Records  
page 415.

Erina Koski  
County Recorder  
By \_\_\_\_\_  
Deputy

### Lake County Ordinance #17

### Cleanup of Clandestine Drug Lab Sites Ordinance

LAKE COUNTY ORDINANCE # 17

CLEANUP OF CLANDESTINE DRUG LAB SITES ORDINANCE

ARTICLE I. GENERAL PROVISIONS

SECTION 1.10: Title

This ordinance shall be known and referenced as the "Cleanup of Clandestine Drug Lab Sites Ordinance".

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 surfaces, furnishings, and equipment, found in the vicinity of a clandestine drug site, wherever located, whether in a building or other structure, motor vehicle, trailer, fish house, boat, temporary shelter, or other form of temporary storage or transport, as well as the premises on which the site is found, whether improved or unimproved.

1.22: These conditions present health and safety risks to occupants and visitors of structures through fire, explosion, skin and respiratory exposure to chemicals.

1.23: This Ordinance establishes responsibilities and guidelines for involved parties to assure the following:

- a) people are not unnecessarily exposed to the dangers of these contaminated structures; and
- b) proper steps are taken to remove contaminants and assure appropriate tests are done to demonstrate that affected structures are sufficiently cleaned for human contact

1.24: This Ordinance assists and guides appropriate authorities, property owners, and occupants to prevent injury and illness to members of the public, particularly children.

1.25: This Ordinance is intended to help assure reduction of people's exposure to chemicals associated with the site of a former clandestine drug lab operation, wherever found, whether in a building or other structure, motor vehicle, trailer, fish house, boat, temporary shelter or other form of temporary storage or transport, as well as the premises on which the site is found, whether improved or unimproved.

1.26: This Ordinance is intended to minimize the cost to Lake County for clean-up of drug lab sites.

SECTION 1.30: Jurisdiction

1.31: This Ordinance shall apply to all incorporated and unincorporated municipalities (city or township) within the boundaries of Lake County.

1.32: Where a municipality has lawfully passed an Ordinance to regulate and enforce in an equivalent or more restrictive manner, the County's administrator of this Ordinance shall coordinate regulation and enforcement with that municipality.

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.

1.42: Where the conditions imposed by any provision of this ordinance are either more restrictive or less restrictive than comparable provisions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are most restrictive or which impose higher standards or requirements shall prevail.

SECTION 1.50: Disclaimer of Liability

Liability on the part of, or a cause of action against Lake County, any employee, or agent of Lake County thereof, for any damages that may result from reliance on this Ordinance, shall be eliminated or limited as provided by Minnesota Statutes section 466.02 (2002).

SECTION 1.60: Fees

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

SECTION 1.70: Definitions, Rules, and Word Usage

1.71: Child means any person less than 18 years of age.

1.72: Chemical investigation site means a clandestine drug lab site that is under notice and order for cleanup and/or remediation as a public health nuisance, as authorized by Minnesota Statute Chapter 145A and this Ordinance.

1.73: Clandestine drug lab operation means the unlawful manufacture or attempt to manufacture a controlled substance.

1.74: Clandestine drug lab site means any parts of a structure such as a dwelling, building, motor vehicle, trailer, fish house, appliance, boat, temporary shelter or premises occupied or affected by conditions and/or chemicals, typically associated with a clandestine drug lab operation.

1.75: Cleanup means proper removal and/or containment of substances hazardous to humans and/or the environment at a chemical investigation site. Cleanup is a part of remediation.

1.76: Controlled substance means a drug, substance or immediate precursor in Schedules I. Through V. of Minnesota Statute 152.02 and as amended in the future. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.

1.77: Owner means any person, entity, or trust who owns, in whole or in part, the land and/or structures such as buildings, temporary shelter, motor vehicle, trailer, boat, or other appliance at a clandestine drug lab site.

1.78: Public health nuisance shall have the meaning attributed to it in Minnesota Statutes 145A.02, Subd. 17.

1.79: Remediation means methods such as assessment, evaluation, testing, venting, detergent scrubbing, enclosure, encapsulation, demolition, and/or removal of contaminated materials from a chemical investigation site.

1.80: Premises means the real property on which a clandestine lab site is located or operated together with any building or structure, motor vehicle, trailer, fish house, boat, temporary shelter or other form of temporary storage or transport found thereon.

## ARTICLE II. ADMINISTRATION

### SECTION 2.00: Declaration of a Site as a Chemical Investigation Site Public Health Nuisance

Clandestine drug lab sites as defined above are declared by this Ordinance to be "Chemical Investigation Site Public Health Nuisances".

### SECTION 2.10: Medical Guidelines for Assessing Health Status of Exposed Persons

Medical guidelines for assessing the health status and determining medical care needs of persons – particularly children – that are found or known to be occupants or frequent visitors at a clandestine drug lab site, may be established and updated as necessary by the Health Officer who provides consultation services under contract to the Lake County Department of Public Health.

### SECTION 2.20: Law Enforcement Notice to Affected Public, Public Health, and Child Protection Authorities

2.21: Law Enforcement authorities who identify a clandestine drug lab site or clandestine drug lab operation shall promptly notify the Lake County departments responsible for Public Health and Child Protection within one working day of identifying

the lab site. The obligation to promptly notify may be delayed to accomplish appropriate law enforcement objectives, but only to the extent that Public Health and Child Protection responsibilities are not unnecessarily compromised. The notice shall include sufficient information to inform the recipients of the following:

- a) property location by street address and other identifiable location;
- b) property owner's and occupant's identities – especially the identities of any children and women of child-bearing age found or known to be associated with the site;
- c) chemicals found and indications of chemical residues;
- d) presumed duration of the lab;
- e) equipment in a dwelling or structure that is typically associated with the manufacture of a controlled substance;
- f) conditions typically associated with a clandestine drug lab site or operation including, weapons, illicit drugs, defined filth, fire, or electrical shock and other harmful conditions as determined by Minnesota law

2.22: Upon identification of the clandestine drug lab site or operation, Law Enforcement agencies or designee may treat, store, transport or dispose of all hazardous waste found at the site in a manner consistent with Minnesota Department of Health, Minnesota Pollution Control Agency, and Lake County rules and regulations.

2.23: When Law Enforcement completes its work under Sec 2.22 and is prepared to leave such sites, they shall leave a warning sign posted on the entrance of the affected part of the structure. 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 city officials, if applicable. The warning sign shall be of a size and contain information sufficient to alert visitors or returning occupants to the site that the area is a chemical investigation site, 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 2.30: Notice of Chemical Investigation Site Public Health Nuisance to Owner and Occupant

2.31: After Public Health receives adequate information from Law Enforcement that they have identified a clandestine drug lab site and posted the appropriate Chemical Investigation Site Public Health Nuisance sign, Public Health shall act to serve the known lawful occupants and owners of the site to also inform them of their responsibilities relative to the Chemical Investigation Site Public Health Nuisance.

2.32: The Public Health Authority shall notify and order the property owner of record and known occupant or agent to submit within ten (10) days a written plan stipulating a time frame and course of action detailing the proper cleaning, remediation, and testing of the Chemical Investigation Site Public Health Nuisance. Public Health shall include the following as part of the notice and order:

- a) A replica of the Chemical Investigation Site Public Health Nuisance declaration that is posted at the site's entrance(s).
- b) Information about the potentially hazardous condition of the dwelling.
- c) A summary of the property owner's and occupant's responsibilities under this Ordinance.
- d) Information that can help locate appropriate services necessary to remove and resolve the Chemical Investigation Site Public Health Nuisance status as provided in this Ordinance and Minnesota Statute 145A.04.

2.33: The Public Health Authority shall endeavor to provide information, in writing, about the Chemical Investigation Site Public Health Nuisance declaration and potential hazard(s) to the following parties:

- a) known occupants of the affected structure;
- b) neighbors within proximity that can be reasonably affected by the conditions found;
- c) the local municipal clerk;
- d) local Law Enforcement;
- e) the Lake County Recorder's Office;
- f) other state and local authorities, such as the Minnesota Pollution Control Agency and Minnesota Department of Health, that may have public and environmental protection responsibilities applicable to the situation

**SECTION 2.40: Notice Filed with Property Record and/or Motor Vehicle Record**

2.41: Public Health shall provide a copy of the Chemical Investigation Site Public Health Nuisance notice and order to the Lake County Recorder and to the lien and mortgage holders of the affected structure and/or properties. The Lake County Recorder is authorized to file that information with the property record, to help assure that persons with interest in the property have access to information about the property's Chemical Investigation Site Public Health Nuisance status.

2.42: When the affected property is a motor vehicle, boat, or trailer, Public Health shall notify the appropriate state and local agency that maintains motor vehicle, boat, or trailer records, and to the lien and mortgage holders of the affected properties.

**SECTION 2.50: Property Owner's and Occupant's Responsibility to Act**

2.51: Property owner(s) and occupant(s) provided with a notice, which may include the posted warning notice informing them about the Chemical Investigation Site Public Health Nuisance, shall immediately act to vacate occupants from those parts of a premises that are a Chemical Investigation Site Public Health Nuisance.

2.52: Within ten (10) business days of receiving the Public Health notice and order to clean up the Chemical Investigation Site Public Health Nuisance, the property owner(s) and/or occupant(s) shall act to accomplish the following:

- a) Contract with one or more acceptable environmental hazard testing and cleaning firms (acceptable firms are those that have provided the Minnesota and/or Lake County Departments of Health assurance of appropriate equipment, procedures, and personnel) to accomplish the following:
  - 1. conduct a detailed on-site assessment;
  - 2. determine the extent of contamination;
  - 3. carry out and/or direct remediation operations;
  - 4. perform and/or direct follow-up sampling and testing; and
  - 5. determine that the risks are sufficiently reduced, according to Minnesota Department of Health guidelines, to allow re-occupancy of the dwelling
- b) provide the Public Health Authority with the identity of the testing and cleaning firm the owner has contracted with, for remediation of the structure(s) as described above;
- c) provide the Public Health Authority with the firm's plan and schedule for remediation leading to removal of the Chemical Investigation Site Public Health Nuisance declaration;
- d) submit a written plan stipulating a time frame and course of action detailing the proper cleaning, remediation, and testing of the Chemical Investigation Site Public Health Nuisance

2.54: The property owner or occupant may also seek authorization for an extension of time to allow the owner time to consider options for arranging cleanup or removal of the affected parts of the structure. Owner or occupant must show good cause for any such extension. Any such extension shall be dependant on the owner's assurance that the affected parts of the structure will not be occupied pending appropriate cleanup or demolition. The Public Health Authority may authorize extensions, up to ninety (90) calendar days but will make extensions beyond ninety (90) days only with approval of the Lake County Human Services Board.

SECTION 2.60: Property Owner's Responsibility for Costs and Opportunity for Recovery

261: Consistent with Minnesota Statutes Chapter 145A, the property owner shall be responsible for:

- a) private contractor's fees, cleanup, remediation, and testing of Chemical Investigation Site Public Health Nuisance conditions; and
- b) County's fees and costs of enforcing this ordinance and abating the Chemical Investigation Site Public Health Nuisance

2.62: Nothing in this Ordinance is intended to limit the property owner's, occupant's or County's right to recover costs, referenced in this section, from persons contributing to the damage, such as the operators of the clandestine drug lab and/or other lawful sources.

2.63: The County's Administrative and Enforcement Services, as referenced in Subsection 2.61 above, as they pertain to fees and costs of enforcing this Ordinance and abating the Chemical Investigation Site Public Health Nuisance, include but are not limited to, the following:

- a) posting the site;
- b) notification of concerned parties;
- c) remediation services;
- d) laboratory fees;
- e) expenses related to the recovery of costs, including the property assessment process;
- f) administrative fees; and
- g) other services associated with assessing, vacating, and remediation of property

**SECTION 2.70: Special Assessment to Recover Public Costs**

2.71: The County is authorized to proceed ten (10) business days after mailing or posting notification, to initiate the assessment and cleanup when:

- a) the property owner is not located; or
- b) the property owner is located but fails to respond appropriately; or
- c) the property owner notifies the Public Health Authority that he or she refuses to, or cannot pay the costs, or arrange timely assessment and cleanup that is acceptable to the designated Public Health Authority

2.72: The Lake County Human Services Director (or the Human Services Director's formally identified designee) shall be fully authorized to act, consistent with Minnesota law, on behalf of the County to direct funds to assure prompt remediation of chemical investigation sites.

2.73: When the estimated cost of testing, cleanup, and remediation exceeds seventy-five percent (75%) of the County Assessor's market value of the structure, the County Human Services Director (or the Human Services Director's formally identified designee) is authorized to notify the property owner of the County's intent to remove and dispose of the affected property instead of proceeding with cleanup and remediation.

2.74: The property owner will be given up to ten (10) business days to appeal to the County Human Services Director (or the Human Services Director's formally identified designee) and, if appealed, will be given the opportunity to show cause as to why such removal should not occur. The appeal is also the owner's opportunity to assume responsibility, provide acceptable plans and a scheduling time frame for effectively cleaning, remediation, and testing of the structure. If, within ten (10) business days of the Public Health Director's notice, the owner fails to appropriately appeal or assume responsibility, the Human Services Director is authorized to arrange removal and disposition of the hazardous structure.



2.75: The property owner shall reimburse the County for its fees and costs of vacating, securing, and assuring cleanup and testing of the affected parts of the structure. Fees and costs not paid in any other way may be collected through a special assessment on the property, as allowed by applicable Federal, State and County laws, ordinances, and/or applicable County Board Resolution.

2.76: Payment on the special assessment shall be at the annual rate of at One Thousand Dollars (\$1,000.00) or more, as needed, to assure full payment to the County within ten (10) years. This amount shall be collected at the time real estate taxes are due. The amount due and/or payment rate may be adjusted by action of the Lake County Board of Commissioners.

2.77: The County may also seek recovery of costs through other methods allowed by Federal and State law.

SECTION 2.80: Authority to Modify or Remove Declaration of Chemical Investigation Site Public Health Nuisance

2.81: The designated Public Health Authority may modify conditions of the declaration and order removal of the declaration of Chemical Investigation Site Public Health Nuisance.

2.82: Such modification or removal shall be only after the Public Health Authority has determined levels of contamination are sufficiently reduced through remediation 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 other such as State and Local Health, Safety, and Pollution Control authorities to reach such decisions.

2.83: When the declaration is modified or removed, the Public Health Authority shall forward that information to the County Recorder for addition to the property record. Similarly, notice shall be provided to the motor vehicle or other license records agency and lien holders.

SECTION 2.90: Waste Generated from Cleaning Up a Clandestine Drug Lab

Waste generated from Chemical Investigation Site Public Health Nuisances shall be treated, stored, transported, and disposed of in accordance with applicable Minnesota Department of Health, Minnesota Pollution Control Agency, and Lake County rules and regulations for solid waste and for hazardous household and other hazardous wastes.

**ARTICLE III: ENFORCEMENT, EXCEPTIONS, APPEALS AND PENALTIES**

**SECTION 3.10: Misdemeanor**

Any person who fails to comply with the provisions of this Ordinance, or the provisions of any order issued pursuant to the authority of this Ordinance may be charged with a misdemeanor and, upon conviction thereof, shall be punished therefore as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continued.

**SECTION 3.20: Equitable Relief**

In the event of a violation or a threat of violation of this Ordinance, or of any order issued pursuant to the authority of this Ordinance, the County Attorney may take appropriate action to enforce this Ordinance, including requesting injunctive relief, action to compel performance or other appropriate relief in Lake County District Court, if necessary, to prevent, restrain, correct or abate such violations or threatened violations.

**SECTION 3.30: Exceptions, Appeals, and Penalties**

Administration of this Ordinance, including guidance for, challenges to, and penalties shall be according to the authorities provided in Minnesota Statute Chapter 145A, and other applicable Minnesota law.

**SECTION 3.40: 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 effective upon final enactment date.

ADOPTED BY THE LAKE COUNTY BOARD OF COMMISSIONERS THIS 30th  
DAY OF March, 2004

LAKE COUNTY BOARD OF  
COMMISSIONERS

By: [Signature]

Chair

ATTEST:

By: [Signature]

Clerk of the Board

