

Section 625 - Cleanup of Clandestine Drug Lab Sites
and Chemical Dump Sites

625.01. General Provisions. Subd 1. Purpose and Intent. The purpose of this section is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals or residue from a suspected clandestine drug lab site or chemical dumpsite may exist. 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 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 using or being exposed to contaminated personal property.

Subd. 2. Interpretation and Application. In the interpretation and application of this section, the provisions herein shall be construed to protect the public health, safety and welfare. Where the conditions imposed by any provision of this section are either more or less restrictive to the public than comparable provisions imposed by any other law, ordinance, statute, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements on the public shall prevail. Should any court of competent jurisdiction declare any section or subpart of this section to be invalid, such decision shall not affect the validity of the section as a whole or any part thereof, other than the provision declared invalid.

625.03 Definitions. For the purposes of this section, the following terms or words shall be interpreted as follows:

Subd. 1. Building Official: The Building Official for the City of Hopkins or his/her duly authorized representative(s).

Subd. 2. Chemical Dump Site: Shall mean any place or area where chemicals or other waste materials used in a clandestine drug lab operation have been located.

Subd. 3. City: Shall mean the City of Hopkins.

Subd. 4. Clandestine Drug Lab Operation: Shall mean the unlawful manufacture or attempt to manufacture a controlled substance.

Subd. 5. Clandestine Drug Lab Site: Shall mean any place or area where law enforcement has determined that an unlawful clandestine drug lab operation exists or existed. A clandestine drug lab site may include, but is not limited to, dwellings, accessory buildings, structures or units, vehicles, boats, trailers or any other area or locations.

Subd. 6. Controlled Substance: Shall mean any drug, substance or immediate precursor in Schedules I through V of Minnesota Statute §152.02 together with any amendments or modifications thereto. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

Subd. 7. Household Hazardous Waste: Shall mean waste generated from a clandestine drug lab operation.

Subd. 8. Site: Shall mean chemical dumpsite and/or clandestine drug lab site.

Subd. 9. Manufacture: In places other than a pharmacy, shall mean and include the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, and the packing, repacking, tableting, encapsulating, labeling, relabeling, or filling of a controlled substance.

Subd. 10. Owner: Shall mean any person(s), firm(s), corporation(s) or other entity who or which owns, in whole or in part, the land, building, structure, vehicle, boat, trailer or other location associated with a Site.

625.05. Declaration of Site as a Public Health Nuisance. A Site, all areas in proximity to a Site and all personal property located on areas in proximity to a Site, are potentially unsafe due to health hazards and are hereby declared to be a public health nuisance.

625.07. Subdivision 1. Law Enforcement Action. When a law enforcement authority determines the existence of a Site, the Site and all personal property located in proximity to the Site, shall be declared a public health nuisance. Law enforcement authorities who identify conditions associated with a Site are authorized to take the following action:

- a) Promptly notify the Building Official, child protection officials, public health authorities and the appropriate enforcement division of the Drug Enforcement Administration of the U.S. Justice Department. This notice must, at a minimum, identify the location of the Site, the property owner, if known, and the conditions found on the Site;
- b) Treat, store, transport or dispose of all household hazardous waste found at the Site in a manner consistent with Minnesota Department of Health, Minnesota Pollution Control, and Hennepin County Health Department rules and regulations;
- c) Issue a temporary Declaration of Public Health Nuisance for the Site and post a copy of the declaration on all doorway entrances to the Site or, in the case of bare land, post the declaration in several conspicuous places on the property. This temporary Declaration of Public Health Nuisance issued by law enforcement shall not expire until after the Building Official inspects the Site and determines the appropriateness of issuing a permanent Declaration of Public Health Nuisance;
- d) Notify all persons occupying the Site that a temporary Declaration of Public Health Nuisance has been issued;
- e) Require all persons occupying the Site to immediately vacate the Site, to remove all pets from the Site, and not to return to the Site without written authorization from the Building Official;
- f) Notify all occupants vacating the Site that all personal property at the Site may be contaminated with dangerous chemical residue; and
- g) After all occupants have vacated the Site, put locks on each doorway entrance to any buildings located on the Site to prohibit people from entering the Site without authorization.

Subd. 2. Prompt notification of the persons and organizations mentioned above 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.

625.09. Seizure of Property. When the Site is inside a vehicle, boat, trailer or other form of moveable personal property, law enforcement authorities shall immediately seize it and not allow it to be transported except to a more secure location. In such circumstances, all other requirements of this section shall be followed as closely as possible given the specific type of property in which the Site is discovered.

625.11. Action by Building Official. Subd. 1. Inspection and Declaration of Nuisance. Within forty-eight (48) hours of notification that law enforcement authorities have determined the existence of a Site, the Building Official shall cause the Site to be inspected to determine whether to issue a permanent Declaration of Public Health Nuisance. Based on the results of the inspection, the Building Official may then promptly issue a permanent Declaration of Public Health Nuisance and a Do Not Enter – Unsafe to Occupy Order for the Site to replace the temporary declaration issued and posted by law enforcement. A copy of the permanent declaration and order shall be posted on all doorway entrances to the Site or, in the case of bare land, shall be posted in several conspicuous places on the property.

Subd. 2. Abatement Order. Within 24 hours after the permanent Declaration of Public Health Nuisance has been issued and posted, the Building Official shall send written notice to the Site owner ordering abatement of the public health nuisance. The abatement order shall include the following information:

- a) A copy of the Declaration of Public Health Nuisance and Do Not Enter – Unsafe to Occupy Order and a copy of this section;
- b) Information about the potentially hazardous condition of the Site;
- c) Notification of the immediate suspension of the Site’s rental license if applicable; and
- d) Information that may help the owner locate appropriate services necessary to abate the public health nuisance.

Subd. 3. Notice to Concerned Parties. Within three (3) days after the permanent Declaration of Public Health Nuisance has been issued and posted, the Building Official shall also mail a copy of the permanent Declaration of Public Health Nuisance, a copy of this section, and a notification of the suspension of the Site’s rental licenses, if applicable, to the following concerned parties at their last known address:

- a) Occupants or residents of the Site if the identities of such persons are known;
- b) Neighbors in proximity to the Site who may be affected by the conditions found, as determined by the Building Official pursuant to 625.11 (Subd. 1);
- c) The Hopkins City Manager;
- d) The City of Hopkins Chief of Police or his/her duly authorized representative(s); and
- e) The Drug Enforcement Administration of the U.S. Justice Department; the Minnesota Pollution Control Agency, the Minnesota Department of Health, and the Department of Natural Resources.

Subd. 4. Modification or Removal of Declaration. The Building Official is authorized to modify or remove the permanent Declaration of Public Health Nuisance after the Building Official 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 dwelling occupants, either do not exist or have been sufficiently abated or corrected to justify amendment or removal of the declaration.

625.13. Site Owner's Responsibility to Act. Within ten (10) business days of the date the abatement order is mailed to the owner of the Site, the owner shall accomplish the following:

- a) Provide the Building Official with written notification:
 1. That the owner has confirmed that all persons and their pets have vacated the Site;
 2. Of the name(s) of all children who the owner believes were residing at the Site; and
 3. That the Site will remain vacated and secured until the public health nuisance is completely abated as required by this section;
- b) Contract with one or more City approved environmental hazard testing and cleaning firms to conduct the following work in accordance with the most current Minnesota Department of Health guidelines:
 1. A detailed on-site assessment of the extent of contamination at the Site and the contamination of the personal property therein;
 2. 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;
 3. A complete clean up of the Site (including but not limited to the clean up or removal of 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 dump site, of all personal property in the Site;
 5. A complete clean up of all property and soil in proximity to the Site which is found to have been affected by the conditions found at the Site;
 6. Remediation testing and follow-up testing, including but not limited to testing of the ventilation system and plumbing, 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 and of all property and soil in proximity to the Site;
 7. Provide the Building Official 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
 8. Provide the Building Official with a written cleanup schedule with reasonable deadlines for completing all actions required by the abatement order.

625.15. Site Owner's Verification of Compliance. The Site owner must meet all deadlines established on the cleanup schedule. Pursuant to the deadlines established by the cleanup schedule, the Site owner is required to provide the Building Official with a signed statement from a City approved environmental hazard testing and cleaning firm that the Site, all personal property therein and all property and soil in proximity to the Site, is safe for human occupancy and use and that the cleanup was conducted in accordance with the most current Minnesota Department of Health guidelines.

625.17. Site Owner's Responsibility for Costs. The Site owner is responsible for all costs, including those of the City, of dealing with and abating the public health nuisance, including contractor's fees and the City's costs for services performed in association with the Site. The City's costs may also include, but shall not be limited to:

- 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 assessment process;
- e) Laboratory fees;
- f) Cleanup services;
- g) Administrative fees;
- h) Legal fees; and
- i) Other associated costs.

Section 625.19. City Action and Recovery of Costs. Subd 1. If the Site owner fails to comply with any of the requirements of this section, the Building Official is authorized to take all reasonable actions necessary to abate the public health nuisance including, but not limited to, contracting with a City approved environmental hazard testing and cleaning firm to conduct the work outlined in Section 625.13(b) of this section.

Subd. 2. If the costs to clean the Site or to clean or dispose of 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/or dispose of the personal property therein. These actions shall be taken in accordance with the provisions of Minnesota Statutes Chapter 463 together with any amendments or modifications thereto.

Subd. 3. If the City abates the public health nuisance, in addition to any other legal remedy, the City shall be entitled to recover all of its out-of-pocket costs plus an additional 25% of such costs for administrative and legal expense. The City may recover its costs both by civil action against the owner of the Site, and by assessing such costs as a special charge against the Site as taxes and special assessments are certified and collected pursuant to Minnesota Statute §429.101 or according to the provisions of Minnesota State Statute Chapter 463 together with any amendments or modifications thereto.

The Building Official is authorized to notify any lien and/or mortgage holders of the affected Site.

625.21. Recovery of Costs from Persons Causing Damage. No provisions of this section are intended to limit the Site owner's, residents' or the City's right to recover costs incurred under this section from either the persons contributing to the public health nuisance, such as the operators of the Site, and/or from other lawful sources.

625.23. Site Owner and Address. When the Site is real property and the owner or the address of the owner of the Site is unknown, the owner and the owner's address is deemed to be that of the property's taxpayer's name and address as that information is maintained by the county auditor's office. When the Site is a vehicle, boat or trailer and the owner or the address of the owner of the Site is unknown, the owner and the owner's address is deemed to be that of the person on file as the owner on the current or most recent title to the vehicle, boat or trailer.

625.25. Unauthorized Removal of Postings. It is unlawful for any person, except authorized City personnel, to remove a temporary or permanent Declaration of Public Health Nuisance and/or Do Not Enter – Unsafe to Occupy order from a Site.

625.27. Entry Into or Onto Site. While a Declaration of Public Health Nuisance for an affected Site is in effect and has been posted at the Site, no persons are permitted to be inside the Site, or on the Site property without prior written consent of the Building Official or as otherwise authorized by this section. To confirm compliance with this section and to execute their duties under this section, law enforcement officers, the Building Official, and any persons designated by the Building Official, may enter onto the Site property or enter into the Site at any time while a Declaration of Public Health Nuisance is in effect for the Site.

625.31. Removal of Personal Property from the Site. While a Declaration of Public Health Nuisance for an affected 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 Building Official. Consent to remove personal property shall only be granted at the reasonable discretion of the Building Official, and only in cases of hardship after:

- a) 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
- b) The owner of the personal property agrees in writing:
 1. That the owner is aware of the danger of using the contaminated property;
 2. That the owner will thoroughly clean the property to remove all contamination before the property is used; and
 3. That the owner releases and agrees to indemnify the City, its staff, and the Hopkins City Council from all liability to the owner and/or third persons for injuries or damages caused, or alleged to have been caused, by the contaminated property.

625.33. Violations and Penalties. Any person violating any provision of this section is guilty of a misdemeanor. In addition, the City shall be entitled to seek any other remedy available at law or in equity in order to protect the health, safety and welfare of the community, including temporary and permanent injunctions.

(Added by Ord. 2005-943)