

ORDINANCE # 199

AN ORDINANCE RELATING TO CLANDESTINE DRUG LAB SITES AND
CHEMICAL DUMP SITES

THE CITY COUNCIL OF THE CITY OF HOUSTON ORDAINS:

Section 1. General Provisions.

- (a) Purpose and Intent. The purpose of this ordinance is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals from a suspected clandestine drug lab site or associated dumpsite may exist. The City Council finds that 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, now and in the future.
- (b) Interpretation and Application. In their interpretation and application, the provisions of this Ordinance shall be construed to protect the public health, safety and welfare.

Where the conditions imposed by this Ordinance are either more or less restrictive 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 shall prevail.

Should any court of competent jurisdiction declare any section or subpart of this Ordinance to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the provision declared invalid.

- (c) Fees. Fees for the administration of this Ordinance may be established and amended periodically by resolution of the City Council.
- (d) Definitions. For the purpose of this Ordinance, the following terms or words shall be interpreted as follows:
1. Child shall mean any person less than 18 years of age.
 2. Chemical Dumpsite shall mean any place or area where chemicals or other waste materials used in a clandestine drug lab have been located.
 3. Clandestine Drug Lab shall mean the unlawful manufacture or attempt to manufacture controlled substances.
 4. Clandestine Drug Lab Site shall mean any place or area where law enforcement has determined that conditions associated with the operation of an unlawful clandestine drug lab exist. A clandestine drug lab site may

include dwellings, accessory buildings, accessory structures, a chemical dumpsite or any land.

5. Controlled Substance shall mean a drug, substance or immediate precursor in Schedules I through V of M.S. §152.02. The term shall not include distilled spirits, wine, and malt beverages, intoxicating liquor or tobacco.
6. Household Hazardous Wastes shall mean waste generated from a clandestine drug lab. Such wastes shall be treated, stored, transported or disposed of in a manner consistent with Minnesota Department of Health, Minnesota Pollution Control, and Houston County Health Department rules and regulations.
7. 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, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by any other process, of drugs.
8. Owner shall mean any person, firm or corporation who owns, in whole or in part, the land, buildings or structures associated with a clandestine drug lab site or chemical dumpsite.
9. Public Health Nuisance. All dwellings, accessory structures and buildings or adjacent property associated with a clandestine drug lab site are potentially unsafe due to health hazards and are considered a public health nuisance.

Section 2. Administration.

- (a) Law Enforcement Notice to Other Authorities. Law enforcement authorities that identify conditions associated with a clandestine drug lab site or chemical dump site that places neighbors, visiting public, or present and future occupants of the dwelling at risk for exposure to harmful contaminants and other associated conditions must promptly notify the appropriate municipal, child protection, and public health authorities of the property location, property owners if known, and conditions found.
- (b) Declaration of Property as a Public Health Nuisance. If law enforcement determines the existence of a clandestine drug lab site or chemical dumpsite, the property shall be declared a public health nuisance.
- (c) Notice of Public Health Nuisance to Concerned Parties. Upon notification by law enforcement authorities, the City Administrator shall promptly issue a Declaration of Public Health Notice for the affected property and post a copy of the Declaration at the probable entrance to the dwelling or property. The Administrator shall also notify the owner of the property by mail and notify the following parties:
 - a. Occupants of the property;
 - b. Neighbors at probable risk;

- c. The City of Houston Police Department; and
- d. Other state and local authorities, such as MPCA and MDH that are known to have public and environmental protection responsibilities that are applicable to the situation.

(d) Property Owner's Responsibility to Act. The Administrator shall also issue an order to abate the public health nuisance, including the following:

- a. Immediately vacate those portions of the property, including building or structure interiors that may place the occupants or visitors at risk.
- b. Promptly contract with appropriate environmental testing and cleaning firms to conduct an on-site assessment, complete clean up and remediation testing and follow-up testing, and determine that the property risks are sufficiently reduced to allow safe human occupancy of the dwelling. The property owner shall notify the City of actions taken and reach an agreement with the City on the clean-up schedule. The City shall consider practical limitations and the availability of contractors in approving the schedule for clean up.
- c. Provide written documentation of the clean-up process, including a signed, written statement that the property is safe for human occupancy and that the clean up was conducted in accordance with Minnesota Department of Health guidelines.

(e) Property Owner's Responsibility for Costs. The property owner shall be responsible for all costs of vacation or clean up of the site, including contractor's fees and public costs for services that were performed in association with a clandestine drug lab site or chemical dump site clean up. Public costs may include, but are not limited to:

- a. Posting of the site;
- b. Notification of affected parties;
- c. Expenses related to the recovery of costs, including the assessment process;
- d. Laboratory fees;
- e. Clean up services;
- f. Administrative fees; and
- g. Other associated costs.

(f) Recovery of Public Costs.

1. If, after service of notice of the Declaration of Public Health Nuisance, the property owner fails to arrange appropriate assessment and clean up, the City Administrator is authorized to proceed in a prompt manner to initiate the on-site assessment and clean up.

2. If the City is unable to locate the property owner within ten days of the Declaration of Public Health Nuisance, the City is authorized to proceed in a prompt manner to initiate the on-site assessment and clean up.
3. The City may abate the nuisance by removing the hazardous structure or building, or otherwise, according to Minnesota Statutes Chapter 463.
4. If the City abates the public health nuisance, in addition to any other legal remedy, the City shall be entitled to recover all costs plus an additional 25% of the costs for administration. The City may recover costs by civil action against the person or persons who own the property or by assessing such costs as a special assessment against the property in the manner of taxes and special assessments are certified and collected pursuant to M.S. §429.101.

(g) Authority to Modify or Remove Declaration of Public Health Nuisance.

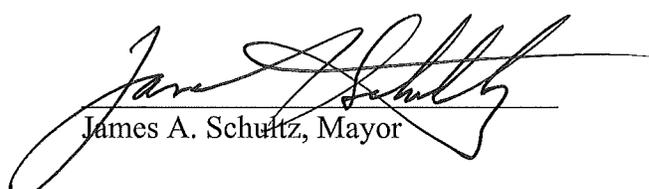
1. The Administrator is authorized to modify the Declaration conditions or remove the Declaration of Public Health Nuisance.
2. Such modifications or removal of the Declaration shall only occur after documentation from a qualified environmental or cleaning firm stating that the health and safety risks, including those to neighbors and potential dwelling occupants, are sufficiently abated or corrected to allow safe occupancy of the dwelling.

Section 3. Violations and Penalties.

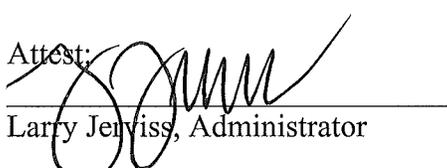
Any person violating any provision of this Ordinance is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in M.S. §609.02, Sub. 3.

This ordinance shall be in full force and effective upon passage and the day of publication.

Date of Adoption: November 8, 2004.


James A. Schultz, Mayor

Attest:


Larry Jerviss, Administrator

(Seal)