

**City of Gem Lake, Ramsey County, Minnesota
Clandestine Drug Labs
Ordinance No. 143**

AN ORDINANCE REGARDING CLANDESTINE DRUG LABS AND PROVIDING FOR ABATEMENT AND PENALTIES FOR VIOLATION THEREOF.

THE CITY COUNCIL OF THE CITY OF GEM LAKE ORDAINS:

Section 1. Purpose and Intent. The purpose of this Ordinance is to protect the public health, safety and welfare and reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals from a suspected clandestine drug lab or chemical dump site may exist. These conditions present health and safety risks to occupants and visitors of such structures and land through fire, explosion and skin and respiratory exposure to chemicals. The City Council finds that such sites may contain hazardous chemicals, substances, or residues that place people, particularly children or adults of child-bearing age, at risk of exposure through inhabiting the property, visiting the property or using or being exposed to contaminated personal property.

Section 2. Definitions. For the purpose of this Ordinance, the following terms or words shall be interpreted as follows:

1. **Child:** means any person less than 18 years of age.
2. **Chemical Dump Site:** means any place or area where chemicals or other waste materials have been located.
3. **Clandestine Drug Lab:** means the unlawful manufacture or attempt to manufacture controlled substances.
4. **Clandestine Drug Lab Site:** means any place or area where law enforcement has determined that conditions associated with the operation of unlawful clandestine drug lab exist. A clandestine drug lab site includes any dwellings, accessory structures, buildings, a chemical dump site, a vehicle, boat, trailer or other similar appliance or any other area, land or location.
5. **Cleanup:** means proper removal and/or containment of substances hazardous to humans and/or the environment at a clandestine drug lab site or chemical dump site.
6. **Controlled Substance:** means any drug, substance or immediate precursor in Schedules I through V of Minnesota Statutes Section 152.02. The term does not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.
7. **Owner:** means any person, firm, corporation, or other entity who owns, in whole or in part, the land, building, structure, vehicle, boat, trailer or other location associated with a clandestine drug lab site or chemical dump site.
8. **Public Health Nuisance:** means a nuisance as defined above or under Minnesota Statute Section 145A.02, subdivision 17.
9. **Remediation:** means methods such as assessment, evaluation, testing, venting, detergent scrubbing, enclosure, encapsulation, demolition, and/or removal of contaminated materials from a clandestine drug lab site or chemical dump site.

Section 3. Administration.

1. **Declaration of Property as a Public Health Nuisance.**
 1. Any property containing a clandestine drug lab or chemical dump site will be declared a public health nuisance.

2. No person may occupy, enter or allow occupancy or entrance to property declared a public health nuisance under this Section until such declaration is vacated or modified to allow occupancy.
2. **Law Enforcement Notice to Other Authorities.** Upon identification of a clandestine drug lab site or chemical dump site deemed to place neighbors, visiting public, or present and future occupants of the affected property at risk for exposure to harmful contaminants and other associated conditions, law enforcement officials shall notify the City Environmental Health Official and other appropriate municipal, child protection, and public health authorities of the property location, the property owner if known, and conditions found.
3. **Seizure of Property.**
 1. If a clandestine drug lab or chemical dump site is located inside a vehicle, boat, trailer, or other form of moveable personal property, law enforcement authorities may immediately seize such property and transport it to a more secure location.
 2. Personal property may not be removed from a clandestine drug lab site or a chemical dump site without the prior consent from the City Environmental Health Official.
4. **Action by City Environmental Health Official.**
 1. Upon notification by law enforcement authorities, the City Environmental Health Official or other appropriate municipal or public health authority will issue a Declaration of Public Health Nuisance for the affected property and post a copy of the Declaration at all probable entrances to the dwelling or property.
 2. Removal of the posted Declaration of Public Health Nuisance by anyone other than the Environmental Health Official, law enforcement authorities, or their designees, is prohibited.
 3. The City Environmental Health Official shall also attempt to notify the following parties of the Declaration of Public Health Nuisance:
 1. Owner of the property;
 2. Occupants of the property;
 3. Neighbors within close proximity that can be reasonably affected by the conditions found;
 4. The Ramsey County Sheriff's Department; and
 5. Other state and local authorities, such as the Minnesota Pollution Control Agency and the Minnesota Department of Public Health, which are known to have public
 4. Any rental license issued by the City for the property is immediately suspended upon issuance of the Declaration of Public Health Nuisance. Such license will be reinstated only after full compliance with an abatement order.
 5. After issuance of the Declaration of Public Health Nuisance, the City Environmental Health Official will issue an order to the property owner to abate the public health nuisance. The abatement order will include the following:
 1. A copy of the Declaration of Public Health Nuisance;
 2. An order to immediately vacate those portions of the property, including building or structure interiors, which may place the occupants or visitors at risk;

3. Notification of suspension of the rental license, if applicable;
4. A summary of the owner's and occupant's responsibilities;
5. Information on locating professional services necessary to remove and abate the public health nuisance status as provided in this Ordinance and Minnesota Statute Section 145A.14; and
6. Information about the potentially

5. Responsibilities of Owner.

1. Upon receipt of an abatement order by the City's Environmental Health Official, the property owner must, at the owners expense:
 1. Immediately vacate those portions of the property, including building or structure interiors that may place the occupants or visitors at risk. This includes dwellings, buildings, motor vehicles, trailers, boats, appliances or any other affected area or location. No person shall occupy, enter or allow occupancy or entrance to a building or structure declared a Public Health Nuisance until such declaration is vacated or modified to allow occupancy;
 2. Properly secure and post warning signs on the perimeter of any contaminated areas on the property in an effort to avoid exposure to unsuspecting parties;
 3. Promptly contract with one or more acceptable environmental hazard testing and cleaning firms (acceptable firms are those that have provided assurance of appropriate equipment, procedures, and personnel, as determined by the Minnesota Department of Health) to accomplish the following:
 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 that the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site;
 3. A complete cleanup of all property and soil at the site and in proximity to the site that is found to be affected by conditions found at the site (including but not limited to, the cleanup or removal of contaminated plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the site and a complete cleanup of the demolished site;
 4. Remediation testing and follow-up testing to determine all health risks are sufficiently reduced, according to the Minnesota Department of Health guidelines, to allow safe human occupancy and use of the site and use of the personal property therein.
 4. Regularly notify the City of actions taken and reach agreement with the City on the cleanup schedule. The City shall consider practical limitations and the availability of contractors in approving the schedule for cleanup; and
 5. Provide written documentation to the City of the cleanup process, including a signed, written statement that the property is safe for human occupancy and that the cleanup was conducted in accordance with Minnesota Department of Health guidelines.

2. The property may not be re-occupied or used in any manner until the City has obtained the written statement in paragraph 5.1.5 and has confirmed that the property has been cleaned in accordance with the guidelines established by the Minnesota Department of Health.

6. Owners Responsibility for Costs.

1. The owner is responsible for all costs associated with nuisance abatement and cleanup of the clandestine drug lab site or chemical dump site, including, but not limited to, costs for:
 1. Emergency Response;
 2. Posting and physical security of the site;
 3. Notifications of affected parties;
 4. Expenses related to the recovery of costs, including the assessment process;
 5. Laboratory Fees;
 6. Cleanup services;
 7. Administrative fees; and
 8. Other associated costs

7. City Authority to Initiate Cleanup and Recovery Costs.

1. If, within ten (10) days after service of notice of the Declaration of Public Health Nuisance, the City is unable to locate the property owner or if the City Environmental Health Official determines that the owner refuses to, or cannot pay the costs, or arrange timely assessment and cleanup that is acceptable to the City, the City Environmental Health Official is authorized to proceed in a prompt manner to initiate the on-site assessment and cleanup.
2. The City may abate the nuisance by removing any hazardous structure, building, or otherwise, in accordance with Minnesota Statutes Chapter 463, Section 14 of this Ordinance or by any other mean provided under law.
3. If the City abates the public health nuisance, in addition to any legal remedy, it is entitled to recover all costs associated with such abatement plus an additional 25% of the City's costs for administration. In addition to any other legal remedy, the City may recover costs by civil action against the person or persons who own the property in the matter that taxes and special assessments are certified and collected pursuant to Minnesota Statutes Section 429.101.

8. Authority to Modify or Remove Declaration of Public Health Nuisance.

1. The Environmental Health Official 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 4. Enforcement. It shall be the duty of the Council to enforce the provisions of this Ordinance. The Council may, by resolution, delegate to other officer(s) or agencies power to enforce particular provisions of this Ordinance, including the power to inspect private premises, and the officers or agencies charged with enforcement of this

Ordinance shall take all reasonable precautions to prevent the commission and maintenance of chemical dump sites, clandestine drug lab sites, and public health nuisances.

Section 5. Penalties. In addition to any fines, costs, or assessments provided for by this Ordinance or other City Ordinances, the City may prosecute a violation of any provision of this Ordinance as a misdemeanor, and a person, if convicted, may be punished by the maximum fine and term of imprisonment provided by Minnesota Statutes § 609.02, subd. 3, as that statute may be amended from time to time.

Section 6. Repeal. This Ordinance supersedes, replaces and repeals all prior Ordinances relating to the same subjects contained within this Ordinance. Any portion of such prior Ordinances not incorporated within this Ordinance is expressly repealed.

Section 7. Severability. Should any section, subdivision, clause or other provision of this Ordinance be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or of any part thereof, other than the part held to be invalid.

Section 8. Effective Date. This Ordinance shall take effect and be in force from and after its passage and publication.

Dated: August 15, 2023

Gretchen Artig-Swomley
Gretchen Artig-Swomley, Mayor

Melissa Lawrence
Melissa Lawrence, Acting City Clerk