

**CLEANUP OF CLANDESTINE DRUG LAB SITES ORDINANCE**

**Martin County**

**ARTICLE I. GENERAL PROVISIONS**

- SECTION 1.10 TITLE AND STATUTORY AUTHORITY
- SECTION 1.20 PURPOSE
- SECTION 1.30 JURISDICTION
- SECTION 1.40 INTERPRETATION AND APPLICATION
- SECTION 1.50 DISCLAIMER OF LIABILITY
- SECTION 1.60 FEES
- SECTION 1.70 DEFINITIONS, RULES, AND WORD USAGE

**ARTICLE II. ADMINISTRATION**

- SECTION 2.00 DECLARATION OF SITE AS A CHEMICAL INVESTIGATION SITE PUBLIC HEALTH NUISANCE
- SECTION 2.10 MEDICAL GUIDELINES FOR ASSESSING HEALTH STATUS OF EXPOSED PERSONS
- SECTION 2.20 LAW ENFORCEMENT NOTICE TO AFFECTED PUBLIC, PUBLIC HEALTH, AND CHILD PROTECTION AUTHORITIES
- SECTION 2.30 NOTICE OF CHEMICAL INVESTIGATION SITE PUBLIC HEALTH NUISANCE TO OWNER AND OCCUPANT
- SECTION 2.40 NOTICE FILED WITH PROPERTY RECORD AND/OR MOTOR VEHICLE RECORD
- SECTION 2.50 PROPERTY OWNER'S AND OCCUPANT'S RESPONSIBILITY TO ACT
- SECTION 2.60 PROPERTY OWNER'S RESPONSIBILITY FOR COSTS AND OPPORTUNITY FOR RECOVERY
- SECTION 2.70 SPECIAL ASSESSMENT TO RECOVER PUBLIC COSTS
- SECTION 2.80 AUTHORITY TO MODIFY OR REMOVE DECLARATION OF CHEMICAL INVESTIGATION SITE PUBLIC HEALTH NUISANCE
- SECTION 2.90 WASTE GENERATED FROM CLEANING UP A CLANDESTINE DRUG LAB

**ARTICLE III. EXCEPTIONS AND APPEALS**

- SECTION 3.10 EXCEPTIONS, APPEALS, AND PENALTIES
- SECTION 3.20 SEVERABILITY AND SAVINGS CLAUSE

**ARTICLE IV. EFFECTIVE DATE**

Office of County Recorder  
County of Martin, Minnesota  
I hereby certify that the within  
instrument was filed in this office  
for recording on 02/03/2004 at 09:04AM  
and was duly recorded as Document No.

2004R-370498

Kay Wrucke, Martin County Recorder

By Nancy Kunkel Deputy

REC FEE: \$20.00  
PAGES: 9

MARTIN COUNTY ORDINANCE NO. 2004-7

CLEANUP OF CLANDESTINE DRUG LAB SITES ORDINANCE

ARTICLE I. GENERAL PROVISIONS

SECTION 1.10 Title and Statutory Authority

- 1.11 This ordinance shall be known and referenced as the "Cleanup of Clandestine Drug Lab Sites Ordinance."
- 1.12 This ordinance is enacted pursuant to the powers specified in Minn. Stat. § 145A.10.

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 on the land, surfaces, furnishings, and equipment in or near structures where clandestine drug labs are located.
- 1.22 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.
- 1.23 This ordinance establishes responsibilities and guidelines for involved parties to assure that:
- a) people are not unnecessarily exposed to the dangers of these contaminated structures or land; and
  - b) proper steps are taken to remove contaminants and assure appropriate tests are completed to verify that affected structures and land are sufficiently cleaned for human contact.
- 1.24 This ordinance assists and guides appropriate public authorities, property owners, and occupants to prevent injury and illness to members of the public, particularly children.
- 1.25 This ordinance is intended to reduce exposure to chemicals used at clandestine drug lab operations in structures including dwellings, buildings, motor vehicles, trailers, appliances or the land where they are located.
- 1.26 This ordinance is intended to minimize the cost to Martin County for clean up of clandestine drug lab sites.

SECTION 1.30 Jurisdiction

- 1.31 This ordinance shall apply to all incorporated and unincorporated municipalities and land (city or township) within the boundaries of Martin County.
- 1.32 Where a municipality has lawfully passed an ordinance to regulate and enforce the cleanup of clandestine drug labs, the County 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 more restrictive or which impose higher standards or requirements shall apply.

#### SECTION 1.50 Disclaimer of Liability

Liability on the part of, or a cause of action against Martin County or any employee or agent thereof for any damages that may result from reliance on this ordinance shall be eliminated or limited as provided by Minn. Stat. § 466.02.

#### SECTION 1.60 Fees

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

#### SECTION 1.70 Definitions, Rules, and Word Usage

For the purpose of this ordinance, the following terms or words shall be interpreted as follows:

- 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 within any area of a structure such as a dwelling, building, motor vehicle, trailer, boat, or other structure or appliance.
- 1.74 Clandestine drug lab site means any parts of a structure such as a dwelling, building, motor vehicle, trailer, or appliance 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, 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, firm, or corporation who owns, in whole or in part, the land and/or structures such as buildings, 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 Public Health Authority means Human Services of Faribault and Martin Counties who are authorized to act as agents of the Martin County Board of Commissioners, pursuant to the Local Public Health Act, Minnesota Statutes § 145A.
- 1.80 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.
- 1.81 Law Enforcement means any licensed peace officer.
- 1.82 Structure means a dwelling, building, motor vehicle, trailer, boat, ice fishing house, appliance or any other area or location, either fixed or temporary.

## ARTICLE II. ADMINISTRATION

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

Clandestine drug lab sites, as defined herein, are declared by this ordinance to be a “chemical investigation site public health nuisance”.

### 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 “Medical Consultant” who provides consultation services under contract to the Public Health Authority.

### SECTION 2.20 Law Enforcement notice to affected public, public health, and child protection authorities

- 2.21 Law enforcement authorities, as permitted by MN Statute § 13.82 as amended, who identify a clandestine drug lab site, or clandestine drug lab operation shall notify the Public Health Authority 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 or structure location by street address and other identifiable location;
  - b) property or structure 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) equipment in a dwelling or structure that is typically associated with the manufacture of a controlled substance; and
  - e) conditions typically associated with a clandestine drug lab site or operation including weapons, illicit drugs, 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 may treat, store, transport or dispose of all hazardous waste found at the site in a manner consistent with rules and regulations adopted by the Minnesota Department of Health, Minnesota Pollution Control, and Martin County.
- 2.23 When a law enforcement agency completes its work under 2.22 and is prepared to leave such sites, the agency shall affix a warning sign to 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, and city officials if applicable. The warning sign shall be of a size and contain information sufficient to alert visitors or returning occupants that the site is a chemical investigation site public health nuisance, 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 the Public Health Authority receives notice from a law enforcement agency that they have identified a clandestine drug lab site and posted the appropriate Chemical Investigation Site Public Health Nuisance warning sign, the Public Health Authority shall serve the known lawful occupants and owners of the site pursuant to Minnesota Statute § 145A.04, Subd. 8(b) with notice 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 have the public health nuisance removed or abated within 10 days as provided in Minnesota Statute § 145A.04 and this ordinance. The Public Health Authority notice and order shall include the following:
- 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 chemical investigation site.
  - c) A summary of the property owner's and occupant's responsibilities under this ordinance.
  - d) Information on locating professional services necessary to remove and abate 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 additional concerned parties:
- a) Neighbors within close proximity that can be reasonably affected by the conditions found;
  - b) The local municipal clerk;
  - c) Local law enforcement;
  - d) 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 at the site.
  - e) County Administrator

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

- 2.41 If after 10 days of receiving the notice and orders, the Public Health Authority is unable to obtain any reasonable assurance or plan from the property owner or occupant that the structure is being properly vacated, cleaned, remediated, and tested; the Public Health Authority shall provide a copy of the Chemical Investigation Site Public Health Nuisance notice and order to the County Recorder and to the lien and mortgage holders of the affected structure and/or properties. The County Recorder is authorized to file that information with the property record, to notify other persons with interest in the property about the property's chemical investigation site public health nuisance status.
- 2.42 When the affected property is a motor vehicle, boat, or trailer, the Public Health Authority shall notify the appropriate state and local agencies that maintain motor vehicle, boat, or trailer records, and the holders of liens or security interests against the vehicle or trailer.

## 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 also includes the posted warning sign informing them about the chemical investigation site public health nuisance, shall promptly act to vacate occupants from those parts of a structure that are a chemical investigation site public health nuisance. This includes dwellings, buildings, motor vehicles, trailers, boat, appliances or any other affected area or location.
- 2.52 Within ten business days of receiving the public health notice and order to cleanup the Chemical Investigation Site Public Health Nuisance, the property owner(s) and/or occupant(s) shall take the following actions:
- a) Notify Public Health Authority that the affected parts of the dwellings, buildings, and/or motor vehicles have been and will remain vacated and secured until the Public Health Authority provides notice that the public health nuisance no longer exists.
  - b) 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 and/or the Public Health Authority) 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 clean-up of the site (including but not limited to the clean-up or removal of contaminated 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 dumpsite, of all personal property in the site;
    - 5) A complete clean-up of all property and soil in proximity to the site that is found to have been affected by the conditions found at the site, and
    - 6) Remediation testing and follow-up testing 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.

- c) Provide the Public Health Authority with the identity of the testing and cleaning firm the owner or occupant has contracted with for remediation of the structure(s) as described above.
- d) Provide the Public Health Authority with the contractor's plan and schedule for remediation that will abate the chemical investigation site public health nuisance declaration.
- e) The property owner or occupant may request an extension of time to consider options for arranging cleanup or removal of the affected parts of the structure. The 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.

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

- 2.61 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) Martin County fees and costs of administering notices and enforcing, vacating, cleanup, remediation, and testing of affected parts of the property.
- 2.62 Nothing in this ordinance is intended to limit the property owners, agents, occupants, or the County's right to recover costs or damages, from persons contributing to the public health nuisance, such as the operators of the clandestine drug lab and/or other lawful sources.
- 2.63 The County's administrative and enforcement services, referenced in subsection 2.61, include but are not limited to, the following:
  - a) Posting warning notices or signs at 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) Clean-up services;
  - g) Administrative fees; and
  - h) Other associated costs.

SECTION 2.70 Special Assessment to Recover Public Costs

- 2.71 The County is authorized under Minnesota Statute § 145A.04, Subd. 8(c) to proceed within ten business days of service of a notice for abatement or removal of the Public Health Nuisance to initiate the assessment and cleanup when a) the property owner is not located, or b) the Public Health Authority determines that the owner 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 County Coordinator (or the Coordinator'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 of the County Assessor's market value of the structure and land, the County Coordinator (or the Coordinator's formally identified designee) is authorized to notify the

property owner of the county's intent to remove and dispose of the affected real property instead of proceeding with cleaning and remediation.

- 2.74 The property owner will be given up to ten business days to appeal to the County Coordinator (or the Coordinator'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 and provide acceptable plans and schedule for effectively cleaning, remediation, and testing of the structure. If within ten business days, of the coordinator's notice, the owner fails to appropriately appeal or assume responsibility the administrator is authorized to arrange removal and disposition of the hazardous structure.
- 2.75 The property owner shall be responsible for all costs, including those the County incurred to abate the public health nuisance, 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. The County's costs may also include, but shall not be limited to those set forth in Section 2.63. Fees and costs specified above that are not paid for in any other way may be collected through a special assessment on the property as allowed by Minnesota Statute § 145A.08, or by any other applicable Federal, State, and County Laws, Ordinances, and/or applicable County Board Resolution.
- 2.76 The cost of testing, cleanup, and remediation shall be certified by the Public Health Authority, or its designee. Notice of cost, and demand for payment, shall be forwarded to the property owner by certified mail at the property owner's last known address as shown on property tax records. If payment in full is not made within 30 days of mailing of notice, the Public Health Authority may request that all costs be assessed against the property.
- 2.77 Payment on the special assessment shall be collected at the time real estate taxes are due. The amount due, interest rate, and/or payment rate may be adjusted by action of the County Board of Commissioners.
- 2.78 The County may also seek recovery of costs through other methods allowed by Federal or 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 occur only after the Public Health Authority has determined that 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 others such as state and local health, safety, law enforcement 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 if notice of the nuisance declaration was previously filed with the Recorder as described above. Similarly, notice shall be provided to the motor vehicle or other license records agencies and lien holders if a notice had previously been provided to them.

#### 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 in accordance with applicable rules and regulations adopted by the Minnesota Department of Health, Minnesota Pollution Control Agency, and the Martin County rules and regulations for solid waste, and for hazardous household and other hazardous wastes.

### ARTICLE III. EXCEPTIONS, APPEALS, AND PENALTIES

#### SECTION 3.10 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, other applicable Minnesota law, and the Martin County rules and regulations for solid waste, and for hazardous household and other hazardous wastes.

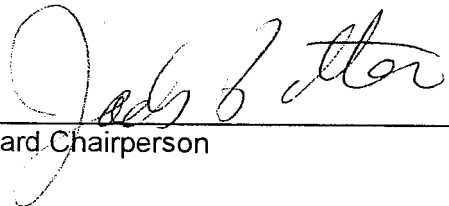
#### SECTION 3.20 Severability and Savings Clause


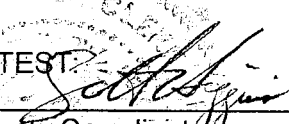
If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation of, or affect the validity or enforceability of any other section or provision of this ordinance.

### ARTICLE IV. EFFECTIVE DATE

This ordinance shall be in full force and effect upon adoption pursuant to Minnesota law.

Dated this 20th day of January, 2004.

  
\_\_\_\_\_  
Board Chairperson

  
ATTEST  
  
\_\_\_\_\_  
County Coordinator

Office of County Recorder  
County of Martin, Minnesota  
I hereby certify that the within  
instrument was filed in this office  
for recording on 02/03/2004 at 09:04AM  
and was duly recorded as Document No.

2004R-370497

Kay Wrucke, Martin County Recorder

By Nancy Kumbel Deputy

REC FEE: \$20.00  
PAGES: 2

R-#7/'04

## RESOLUTION

### CLANDESTINE DRUG LAB SITES ORDINANCE:

**WHEREAS**, chemicals used in the production of illicit drugs present a health risk to the occupants and neighbors of dwellings and other structures often used for such processes; and

**WHEREAS**, chemicals used in the production of illicit drugs can present severe and long lasting impact on the health of children and the reproductive health of adults; and

**WHEREAS**, chemicals used in the production of illicit drugs may not be readily apparent and may cause harm to occupants and visitors of these structures without their awareness; and

**WHEREAS**, chemicals used in the production of illicit drugs may not be readily apparent and may cause harm to occupants and visitors of these structures without their awareness; and

**WHEREAS**, It is important to inform the public of the current and past existence of such facilities, typically referred to as "clandestine drug labs", and

**WHEREAS**, Minnesota Statute Chapter 115B authorizes the Minnesota Pollution Control Agency and the Minnesota Department of Agriculture to address chemical spills, typically associated with outdoor environments such as water resources, geological features, and ambient air, and

**WHEREAS**, many of the public health risks are indoor drug lab exposures; and

**WHEREAS**, Minnesota Statute 145A.05 authorizes county boards to adopt and enforce ordinance related to control of public health nuisances; and

**WHEREAS**, Minnesota Statute 145A.04 requires a board of health or its agent to assure that public health nuisances are abated and removed; and

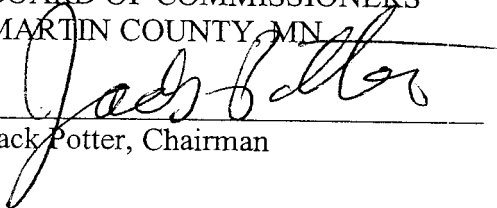
**WHEREAS**, Minnesota Statute 145A.08 allows counties to exercise a special assessment on a property to recover county expenses associated with assuring abatement and removal of public health nuisances; and

**WHEREAS**, a Notice of public Hearing and Intent to Enact a "Cleanup of Clandestine Drug Lab Sites Ordinance" that can help address the public health threats existing after discovery and termination of clandestine drug lab operations, was duly published; and


**WHEREAS**, after due public notice, a public hearing was held on December 16, 2003, by the Martin County Board of Commissioners pursuant to Minnesota Statute 375.51.

**NOW THEREFORE BE IT RESOLVED**, that the Martin County Board of Commissioners adopts the "Cleanup of Clandestine Drug Lab Sites Ordinance", as on file in the county Administrator's Office, on this 20th day of January 2004.

BOARD OF COMMISSIONERS  
MARTIN COUNTY, MN

  
\_\_\_\_\_  
Jack Potter, Chairman

ATTEST:

  
\_\_\_\_\_  
Scott Higgins, County Coordinator



# MARTIN COUNTY ATTORNEY

123 DOWNTOWN PLAZA  
FAIRMONT, MINNESOTA 56031

TERRY W. VIESSELMAN  
County Attorney

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R. WILLIAM BARKE  
Assistant  
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Assistant  
CHRISTOPHER R. SMITH  
Assistant

February 21, 2007

TIM LANGER  
MARTIN COUNTY HUMAN SERVICES  
115 W FIRST ST  
FAIRMONT MN 56031

RE: Methamphetamine Affidavit

Dear Tim:

I have finally located some forms for the Affidavits required under Minn. Stat. § 152.0275. One form is for recording after location of a contaminated lab site, and the other form is for recording after the site has been remediated.

Yours truly,  
COPY FOR YOUR  
INFORMATION

Terry W. Viesselman  
MARTIN COUNTY ATTORNEY

TWV:kbk  
Enclosures

cc: Capt. Brad Hady (w/enc.)  
Scott Higgins (w/enc.)



METH AFFIDAVIT FOR CONTAMINATED LAND

- 5. A map or drawing of the property showing the approximate location of the contaminated area of the property from the manufacture of methamphetamine is attached.
- 6. The occupation or use of the contaminated area as shown on the map or drawing is restricted until verification is received by the undersigned or other appropriate authority that the property has been properly remediated as required by the Minnesota Department of Health's clean up guidelines.
- 7. Affiant makes this affidavit in good faith in compliance with Minn. Stat. Sec. 152.0275.

\_\_\_\_\_  
(name of affiant)

\_\_\_\_\_  
(title/position)

Subscribed and sworn to before me \_\_\_\_\_  
(date)

Notary Stamp or Seal Or Other Title or Rank

\_\_\_\_\_  
Signature of Notary Public or Other Official

Name, street address, and telephone number  
of the County or local health department or  
local sheriff's department:

THIS INSTRUMENT WAS DRAFTED BY:  
(name and address)

METH AFFIDAVIT FOR REMEDIATED SITE

AFFIDAVIT OF REMEDIATION

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Affiant, \_\_\_\_\_, being duly sworn, on oath states as follows:

1. Affiant is a member of the county or local health department or sheriff's department having authority pursuant to Minn. Stat. Sec. 152.0275 to prohibit occupation of property or a portion of property found to be a clandestine lab site and contaminated by the manufacture of methamphetamine.
2. Affiant or another member of the county or local health department or sheriff's department previously ordered that certain property be assessed and remediated as provided in the Department of Health's clandestine drug labs general clean up guidelines.
3. An Affidavit Regarding Property Contaminated by Manufacture of Methamphetamine was previously recorded on \_\_\_\_\_ as Doc. No. \_\_\_\_\_ in the office of the County Recorder/Registrar of Titles of \_\_\_\_\_ County.
4. The property has been assessed and remediated as required by law and the order directing that the property not be occupied or used until assessment and remediation is complete is vacated. A contractor has verified that the remediation was completed in accordance with the Minnesota Department of Health clandestine drug labs general clean up guidelines and best practices. A copy of the verification is attached.

METH AFFIDAVIT FOR REMEDIATED SITE

5. Affiant makes this affidavit in good faith in compliance with Minn. Stat. Sec. 152.0275.

\_\_\_\_\_  
(name of affiant)

\_\_\_\_\_  
(title/position)

Subscribed and sworn to before me \_\_\_\_\_  
(date)

Notary Stamp or Seal Or Other Title or Rank

\_\_\_\_\_  
Signature of Notary Public or Other Official

Name, street address, and telephone number  
of the County or local health department or  
local sheriff's department:

THIS INSTRUMENT WAS DRAFTED BY:  
(name and address)