

HUNTINGTON COUNTY ORDINANCE NO. 2012- 23

An Ordinance for Cleanup of Clandestine Drug Lab Sites

WHEREAS, the Huntington County Department of Health (the "Department") and the County Health Officer are specifically granted the authority to declare certain dwellings and structures and property in Huntington County to be unfit for human habitation and a public nuisance under the listed statutory authority and other applicable law.

WHEREAS, this Ordinance is to enhance the prevention of injury and illness to members of the public by reducing exposure to chemicals used at clandestine drug lab operations located in structures or upon land where they are located in Huntington County.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Huntington County, Indiana, that:

When used in this ordinance:

"Clandestine drug lab operation" means the unlawful manufacture or attempt to manufacture a controlled substance within or about any Structure.

"Clandestine drug lab site or site" means any part or parts of a Structure, or the parcel of land upon which the Structure is located, that is occupied or affected by conditions and/or chemicals typically associated with a clandestine drug lab operation.

"Owner or owners" means any person, firm or corporation who owns, in whole or in part, a legal or equitable interest in any Structure or the land upon which the Structure is located.

“Remediation” means methods such as assessment, evaluation, testing, venting, detergent scrubbing, enclosure, encapsulation, demolition, and/or removal of contaminated materials and/or substances hazardous to humans and/or the environment, and includes the proper treatment, storage, transportation, and disposal of waste in accordance with all applicable laws, regulations, and guidelines for management of solid and hazardous wastes.

“Structure” means a dwelling, building, motor vehicle, trailer, boat, or any other similar location, either fixed or temporary.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT this Ordinance shall apply to all municipal and unincorporated lands within the boundaries of Huntington County.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT the provisions of this Ordinance shall be interpreted and applied as the minimum requirements necessary to protect public health, safety, and welfare. Where the requirements or conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable provisions imposed by any other applicable law, ordinance, statute, resolution, or regulation of any kind, the provisions which are more restrictive or which impose higher standards or requirements shall apply.

NOW, THEREFORE, BE IT FURTHER RESOLVED, THAT all acts or omissions of government units and their respective employees acting within the scope of employee's employment in the administration and enforcement of this Ordinance or applicable law shall be entitled to and receive all applicable common law and statutory limitations and

immunities from liability, including but not limited to those contained in I.C. §34-30-7, I.C. §34-31-3, and I.C. §34-13-3.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT upon identification of a clandestine drug lab site or clandestine drug lab operation, the Department and/or the County Health Officer may do any of the following:

- A. Order or declare that all or any part of a clandestine drug lab site as unfit for human habitation and/or as a public nuisance.
- B. Order or declare that any part or all of the clandestine drug lab site be vacated.
- C. Post a warning sign at the entrance of each affected Structure located on or about the clandestine drug lab site with sufficient information to alert visitors and returning occupants that the Structure may be dangerous to enter and must not be entered except by written authorization of the Department or the County Health Officer.
- D. Order that all or any part of the clandestine drug lab site be removed, abated, contained, suspended, altered, improved, cleansed, disinfected, repaired, or purified.
- E. Amend or modify any of the forgoing.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT any order or declaration under this Ordinance issued by the Department or the County Health Officer shall be noticed to the owner and any lawful tenant or occupant of the clandestine drug lab site and specify a time period for compliance. Where circumstances warrant, such notice or

other relevant information may be provided to neighboring land owners, local government officials, local law enforcement, and other state or local authorities, including but not to the Indiana Department of Environmental Management and the Indiana State Department of Health. The notice of order or declaration may be placed of record with the Huntington County Recorder or the Bureau of Motor Vehicles in the case of titled or licensed Structures, and sent to the holders of liens or security interests against any Structure or land upon which the Structure is located.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT owners, tenants and occupants of the clandestine drug lab site shall promptly vacate the site upon receipt of any order or declaration to vacate.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT within ten (10) days of receipt of any order or the time period specified therein, the owner and/or tenant of the clandestine drug lab site shall commence compliance with the order and declaration and, specifically, shall contract with a licensed environmental hazard testing and cleaning firm to accomplish the following:

- A. Conduct a detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;
- B. Ensure that personal property is not be removed until the detailed on-site assessment is complete and the property deemed safe for removal;

C. Test all property and soil on or 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; and

D. Supervise and conduct a complete remediation of the site with follow-up testing to determine that all health risks are sufficiently remediated, according to applicable law as well as regulations and guidelines of the Indiana State Department of Health and Indiana Department of Environmental Management.

E. Establish a time schedule for completion of all of the foregoing subject to approval of the Department.

and shall also provide the identity of said licensed environmental hazard testing and cleaning firm to the Department.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT no extension of time shall be granted on an immediate order or declaration to vacate, but any owner or tenant may apply to the Department for an extension of time to comply with other terms and conditions of the order or declaration. In any application for an extension, the Owner, occupant or tenant shall provide the identity and contact information of any person or entity retained to conduct the assessment, testing, and/or remediation so that the Department can independently verify the action plan and progress of the cleanup. No extension of time shall be granted unless and until the Owner, tenant, or occupant demonstrates to the reasonable satisfaction of the Department that all Structures will remain vacated pending remediation and that licensed environmental hazard testing and

remediation firms have been retained to conduct on-site assessment, testing, and remediation in accordance with a time schedule approved by the Department.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT fees, costs, and expenses for services provided for or incurred by the Department in the administration and enforcement of this Ordinance may be established and amended periodically from time to time by the Department and upon approval of the Huntington County Board of Commissioners, including but not limited to the following services:

- 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. Remediation services;
- G. Administrative fees; and
- H. Other associated costs.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT a person who violates I.C. §16-41-20 or fails to comply with an order of the Department or County Health Officer is liable for all costs and expenses paid or incurred by the Department in executing the order, which costs and expenses may be recovered in a civil action brought by the Department who is also entitled to recover reasonable attorney fees.

This Ordinance is effective from and after its adoption and approval by the Commissioners and any publication as required by law, and as otherwise stated herein.

Dated this 16th day of July, 2012.

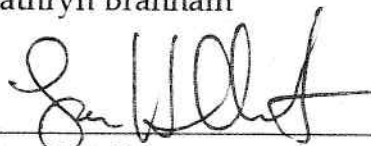
THE BOARD OF COMMISSIONERS OF
HUNTINGTON COUNTY, INDIANA



Tom Wall President

-absent-

Kathryn Branham



Leon Hurlburt

ATTEST:



Cindy Yeiter, Huntington County Auditor