

ORDINANCE NO. 2006-1

AN ORDINANCE CONCERNING CLEANUP OF ILLEGAL METHAMPHETAMINE LABORATORIES

WHEREAS, the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division, issued a July 2003 report titled "Cleanup of Clandestine Methamphetamine Labs Guidance Document," and cited at C.R.S. §25-18.5-102, that sets forth the list of chemicals commonly associated with methamphetamine laboratories in Colorado and their damaging health effects on humans, including vapor irritation to eyes and respiratory system, caustic burns and frostbite, death due to inflammation of larynx and other causes, dizziness, headache, chest constriction, nausea, coma, hyperkeratosis, pharyngeal edema, chronic bronchitis, liver damage, teratogen, seizures, vomiting, diarrhea, dermatitis, pulmonary edema, chemical pneumonitis, breathing difficulty, muscle pain, stupor or syncope, abdominal pain, jaundice, anemia, severe damage to eyes, and conjunctivitis; and

WHEREAS, the State Board of Health has promulgated rules establishing the acceptable standards of cleanup of illegal methamphetamine laboratories, which rules can be found at 6 Colorado Code of Regulations 1014-3; and

WHEREAS, §25-18.5-103(1)(a), C.R.S., requires that a property owner who receives notice that chemicals or supplies indicative of an illegal methamphetamine laboratory are located on their property, or that an illegal methamphetamine laboratory has been discovered on their property, shall meet the cleanup standards adopted by the State Board of Health; and

WHEREAS, an illegal methamphetamine laboratory is considered unsafe due to potential health hazards, and pursuant to §25-18.5-105(1), C.R.S., shall constitute a public health nuisance if it has not met the cleanup standards set by the State Board of Health; and

WHEREAS, §25-18.5-105(2), C.R.S. provides that governing bodies may enact ordinances or resolutions to enforce Article 18.5 of Title 25 of Colorado Revised Statutes, including, but not limited to preventing unauthorized entry into contaminated property; requiring contaminated property to meet cleanup standards before it is occupied; notifying the public of contaminated property; coordinating services and sharing information between law enforcement, building, public health, and social services agencies and officials; and charging reasonable inspection and testing fees; and

WHEREAS, the Board of County Commissioners of Boulder County is authorized by C.R.S. §30-15-401(q) to provide for and compel the removal of any building or structure, the condition of which poses a substantial danger or hazard to public health, safety, or welfare;

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Boulder County:

Purpose

The Board of County Commissioners of Boulder County finds and declares that the purposes of this ordinance are to ensure that people are not unnecessarily exposed to the dangers of chemicals used in the production of methamphetamine, and that proper steps are taken to remove contaminants and assure appropriate tests are conducted in affected structures to ensure they are sufficiently cleaned for human contact. The Board 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 should they inhabit or visit the site.

Definitions

Certified industrial hygienist means an individual who is certified by the American Board of Industrial Hygiene (ABIH) and is in good standing with that board.

Illegal methamphetamine laboratory means the areas where methamphetamine has been manufactured, processed, cooked, disposed of, or stored, and all proximate areas that are likely to be contaminated as a result of such manufacturing, processing, disposing, or storing.

Owner means any person, firm or corporation who holds record fee title, in whole or in part, to the land, buildings or structures associated with an illegal methamphetamine laboratory.

Property means anything that may be the subject of ownership, including, but not limited to, land, buildings, structures, mobile homes and vehicles.

Law enforcement notice to other authorities

Law enforcement or other authorities who identify the existence of an illegal methamphetamine laboratory after the effective date of this ordinance shall promptly notify Boulder County Public Health, Boulder County Land Use, Building Division, and if appropriate, Child Protection Services. If the methamphetamine laboratory is located within an incorporated town or city, Boulder County Public Health shall be notified, and if appropriate, Child Protection Services.

Declaration of property as a public health nuisance

A property identified as the site of an illegal methamphetamine laboratory shall be declared a public health nuisance and unfit for human habitation or use. A warning sign shall be posted on the entrance of the affected part of the property by law enforcement, Public Health, the Chief Building Official or his designee. With respect to a vehicle, the warning sign shall be posted on the front windshield.

Occupation prohibited

Upon the issuance and posting of a Declaration of Public Health Nuisance, all occupants of such building or structure shall immediately vacate the premises, and such vehicles shall be impounded by the police. With the exception of persons evaluating the contamination level, remediating the contamination, or conducting fire or police activities, no person shall occupy, enter or allow occupancy or entrance to a building or structure which has been declared a public health nuisance,

and no person shall occupy or drive a vehicle which has been declared a public health nuisance, until such declaration is revoked or modified to allow occupancy. All who enter must have the required health and safety training, and wear appropriate personal protective equipment. Removal of the posted Declaration of Public Health Nuisance by anyone other than the Building Official, Public Health or law enforcement authorities is prohibited.

Notice to owner

Public Health will notify the property owner that the property has been declared a public health nuisance, that the property owner has the right to appeal the declaration to the Board of County Commissioners, that state law requires cleanup according to state guidelines, and that the property owner must contract with a certified industrial hygienist to assess the contamination, oversee the cleanup, and provide a cleanup report; or that in the alternative, the property owner may demolish the building or structure. Public Health shall provide the Board with an annual report indicating the number of properties assessed for contamination, and the percentage of those in which contamination was found.

If after 10 days following notice, Public Health is unable to obtain any reasonable assurance or plan from the property owner or occupant that the dwelling, structure or vehicle is being properly vacated, cleaned, remediated and tested, and no appeal has been requested:

- a) a copy of the Declaration of Public Health Nuisance may be provided to the lien and mortgage holders of the affected structure and/or properties, and may be recorded with the Boulder County Clerk and Recorder;
- b) the County may seek to abate the nuisance itself, and recover all costs associated with such abatement;
- c) the County may remove the structure or building, and assess the whole cost of such removal, including incidental costs, which assessment shall be a lien against such property until paid, pursuant to C.R.S. §30-15-401(q).

Any appeal shall be heard by the Board within 30 days. Upon a finding that the declaration was validly issued, the property owner or occupant shall have 10 days to offer reasonable assurance or a plan to Public Health that the dwelling or structure is being properly vacated, cleaned, remediated and tested.

Authority to modify or remove declaration of public health nuisance

The building official is authorized to modify the Declaration conditions or to remove the Declaration of Public Health Nuisance only after the certified industrial hygienist submits his or her final report to Public Health for review and acceptance, and Public Health notifies the building official that cleanup has occurred. Public Health may charge a reasonable fee for its services.

Property owner immunity

Once a property owner has submitted a final report to Public Health, and Public Health has reviewed and accepted the report, or the property owner has demolished the contaminated property, such compliance shall establish immunity for the property owner from a suit for alleged health-based civil actions brought by any future owner, renter, or other person who occupies such property,

or a neighbor of such property, where the alleged cause of injury or loss is the existence of the illegal methamphetamine laboratory; except that immunity from a civil suit is not established for the person convicted for the production of methamphetamine. C.R.S. 25-18.5-103(2).

Application

This ordinance shall apply throughout the unincorporated county, and to any incorporated town or city which elects by ordinance or resolution to have the provisions apply, in which case the city building official shall assume the responsibilities of the county building official, and the appeal, abatement or removal shall be conducted by the city or town council.

Severability

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Effective Date

This Ordinance shall be effective thirty (30) days from and after the date of its adoption and final publication.

INTRODUCED, READ AND ADOPTED ON FIRST READING February 9, 2006, and ordered published in the LONGMONT TIMES-CALL.

THE BOARD OF COMMISSIONERS
OF THE COUNTY OF BOULDER, COLORADO

Ben Pearlman, Chair

ATTEST:

Clerk to the Board

ADOPTED ON SECOND AND FINAL READING on January 11, 2007.

THE BOARD OF COMMISSIONERS
OF THE COUNTY OF BOULDER, COLORADO

Ben Pearlman, Chair

ATTEST:

Clerk to the Board

