

*Walter H. Drane Company - Sample Legislation - 2 Samples - 5 Pages  
Clandestine Drug Labs (#790)*

*Cuyahoga Falls, Ohio*

**CHAPTER 1336  
Clandestine Drug Labs**

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**CROSS REFERENCES**

Drug abuse - see GEN. OFF. Ch. 513

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**1336.01 GENERAL PROVISIONS.**

(a) Purpose and Intent. The purpose of this chapter is to reduce public exposure to health risks where trained 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. The provisions of this chapter shall be construed to protect the public health, safety and welfare.

Where the conditions imposed by any provision of this chapter 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 chapter to be invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof, other than the provision declared invalid.

(c) Definitions. As used in this chapter:

- (1) "Child" means any person less than 18 years of age.
- (2) "Chemical dumpsite" means any place or area where chemicals or other waste materials used or produced in a clandestine drug lab have been located.
- (3) "Clandestine drug lab" means the unlawful manufacture or attempt to manufacture controlled substances. Only those labs which law enforcement determine may contain residual contamination that could be harmful to the occupants are subject to this chapter.
- (4) "Clandestine drug lab site" means any place or area where law enforcement has determined that conditions associated with the operation of a clandestine drug lab exist. A clandestine drug lab site may include residential, commercial, industrial or institutional structures, accessory buildings, accessory structures, motor vehicles, a chemical dumpsite or any land.

- (5) "Controlled substance" means a drug, substance or immediate precursor in Schedules I through V of Ohio R.C. 3719.41. The term does not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.
- (6) "Household hazardous wastes" means waste generated from a clandestine drug lab. Such wastes shall be treated, stored, transported or disposed of in a manner consistent with all federal, state and local regulations.
- (7) "Manufacture", in places other than a pharmacy or a licensed pharmaceutical manufacturing facility, means and includes the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of controlled substances.
- (8) "Motor vehicles" shall have the same meaning as in Ohio R.C. 4501.01.
- (9) "Owner" means 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.
- (10) "Public health nuisance" includes all residential, commercial, industrial or institutional structures dwellings, accessory structures and buildings associated with a clandestine drug lab site that are potentially unsafe due to health hazards.  
(Ord. 83-2011. Passed 10-24-11.)

### **1336.02 ADMINISTRATION.**

(a) Law Enforcement Notice to Other Authorities. Law enforcement authorities that identify conditions associated with a clandestine drug lab site or chemical dumpsite that present a risk of human exposure to harmful contaminants and other associated conditions shall promptly notify the appropriate municipal, child protection, and public health authorities of the site location, property owner if known, and conditions found. Where the Director of Public Safety determines that an immediate threat of human exposure or injury exists, the City may conduct emergency dismantling and disposal of drug processing apparatus and/or chemicals. To the extent permitted by law, the individual or entity responsible, and/or the owner of the property where the site is found, shall be liable to the City for its costs incurred in conducting the emergency dismantling and disposal. Such costs may be recovered pursuant to subsection (f)(4) of this Section, without regard to whether a nuisance is declared or an abatement order is issued.

(b) Declaration of Property as a Public Health Nuisance. Any clandestine drug lab site or chemical dumpsite identified by law enforcement authorities is hereby declared to be a public health nuisance. Upon identification of such a nuisance, the law enforcement authorities shall notify the Building Official.

(c) Notice of Public Health Nuisance to Concerned Parties. Upon receipt of the notification by law enforcement authorities, the Building Official shall promptly issue a Declaration of Public Health Nuisance for the affected property and post a copy of the Declaration at the probable entrance to the dwelling or property. The Building Official shall also notify the owner of the property by mail and notify the following parties:

- (1) Occupants of the property;
- (2) All adjacent property owners and any other neighbors at probable risk;
- (3) The City of Cuyahoga Falls Police Department;

- (4) The primary mortgage holder; and
- (5) Other federal, state and local authorities, and City Council members which are known to have public and environmental protection responsibilities that are applicable to the situation.

(d) Property Owner's Responsibility to Act. The Building Official shall also issue an order to abate the public health nuisance, which shall comply with the rules and regulations attached as Exhibit A to original Ordinance 115-2008, and order the owner of the property to do the following:

- (1) Cause the immediate vacation by all occupants of those portions of the property, including building or structure interiors, which may place the occupants or visitors at risk.
- (2) 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 City shall promulgate criteria for the assessment and remediation process.
- (3) Provide the Building Official with written documentation of the clean-up process, including a signed, written statement from the environmental testing and cleaning firm that the property is safe for human occupancy and that the clean-up was conducted. The owner shall complete the remediation and post-remediation assessment within ninety days from the date of the Declaration of Public Health Nuisance.

(e) Property Owner's Responsibility for Costs. The property owner shall be responsible for all costs of clean-up of the site, including any contractor's fees.

(f) City Responsibilities and 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 pursuant to the rules and regulations attached as Exhibit A to original Ordinance 115-2008, the Building Official 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 fourteen 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 Chapter 1335 of the Codified Ordinances.
- (4) The City shall be entitled to recover all costs of abatement of the public nuisance. 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 tax against the property in the manner as taxes and special assessments are certified and collected pursuant to the Ohio Revised Code.

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

- (1) The Chief Building 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.
- (3) Nothing herein shall prevent the Chief Building Official from pursuing any remedy available pursuant to Chapter 1335 of the Codified Ordinances, including the demolition of a building or structure.  
(Ord. 83-2011. Passed 10-24-11.)

**1336.03 DISCLOSURE TO BUYERS AND OCCUPANTS.**

No person shall sell or lease real property, which has been the subject of a Declaration of a Public Health Nuisance pursuant to this chapter or has been the site of a known clandestine drug lab without disclosing such Declaration or knowledge to the buyer or tenant. Said disclosure shall be made on a form provided by the Building Official.

Disclosure shall not be required once the Chief Building Official has removed the Declaration of Public Health Nuisance from the property.  
(Ord. 115-2008. Passed 12-8-08.)

**1336.04 MISCELLANEOUS PROVISIONS.**

(a) The Chief Building Official, with the advice of the Departments of Police and Law, shall have the authority to promulgate any rules and regulations to enforce this chapter, which are attached as Exhibit A to original Ordinance 115-2008.

(b) In the event that the State or Federal Government promulgates cleanup guidelines that are more stringent or that pre-empt local regulation, its clean-up guidelines shall prevail.  
(Ord. 115-2008. Passed 12-8-08.)

**1336.05 APPEALS.**

Any person adversely affected by any order of the Building Official pursuant to this chapter may request a hearing on the matter by submitting a written request to the Board of Building Appeals within five days of receipt thereof. The Board shall issue an order either affirming, reversing or modifying the order of the Building Official.  
(Ord. 115-2008. Passed 12-8-08.)

**1336.99 VIOLATIONS AND PENALTIES.**

Any person violating any provision of this chapter is guilty of a misdemeanor of the first degree. (Ord. 115-2008. Passed 12-8-08.)

*Tallmadge, Ohio*

**133.09 RECOVERY OF CLEANUP COSTS FOR CLANDESTINE DRUG LABS.**

(a) Definitions.

- (1) Clandestine drug lab means the unlawful manufacture or attempt to manufacture controlled substances. Only those labs which law enforcement determines may contain contamination and/or hazardous materials that could be harmful to the occupants are subject to this section.
- (2) Controlled substance means a drug, substance, or immediate precursor in Schedules I through V of Ohio R.C. Section 3719.41.
- (3) Hazardous wastes or materials mean waste generated from a clandestine drug lab. Such wastes or materials shall be treated, stored, transported, or disposed of in a manner consistent with all federal, state, and local regulations.
- (4) Manufacture, in places other than a pharmacy or licensed pharmaceutical manufacturing facility, means and includes the production, cultivation, quality control, and standardization, by mechanical, physical, chemical, or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of controlled substances.
- (5) Motor vehicles shall have the same meaning as Ohio R.C. Section 4501.01.
- (6) Owner means any person, firm, or corporation who owns, in whole or in part, the land, buildings, motor vehicles, or structures associated with a clandestine drug lab.

(b) Owner's Responsibility. Any owner of premises associated with a clandestine drug lab is liable to the City for cleanup services rendered by the City, its agents, employees, and assigns. The costs of such services shall be paid by the owner where cleanup action is required to protect the public health or safety or the environment. The Police Chief shall keep a detailed record of costs for such services in investigating, containing, mitigating, minimizing, removing, or abating the clandestine drug lab and its contents. Promptly after completion of any such services, the Police Chief shall certify those costs to the Director of Law and shall request that a civil action against the owner be brought to recover all cleanup costs. Not less than thirty days before bringing the civil action, such counsel shall submit a written itemized claim for the total certified costs incurred by the City and written notice that unless the amount is paid to the City within thirty days after mailing of the claim, counsel will bring a civil action for that amount.

(c) Public Nuisance.

- (1) Any clandestine drug lab site identified by law enforcement is hereby declared to be a public health nuisance. Upon identification of such a nuisance, the law enforcement authorities shall notify the appropriate health department and building officials.
- (2) Each owner associated with a clandestine drug lab shall be subject to all other civil and criminal penalties for nuisance violations permitted by law. (Ord. 18-2012. Passed 2-9-12.)