

ORDINANCE 541-12-11

AN ORDINANCE REQUIRING CLEANUP OF
CLANDESTINE DRUG LABS, ASSESSING COSTS TO LANDOWNERS

Be it Ordained by the Council of the Village of Roaming Shores, Ohio

Section 1. Definitions

a) “clandestine drug lab” means the unlawful manufacture or attempt to manufacture controlled substances.

b) “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 industrial, commercial and residential buildings and dwellings, including accessory buildings, accessory structures, motor vehicles, a chemical dumpsite or any land.

Section 2. Declaration of Property as a Public Nuisance

Any clandestine drug lab site or chemical dumpsite identified by law enforcement authorities is hereby declared to be a public health nuisance.

Section 3. Notice of Public Health Nuisance to Concerned Parties

Upon receipt of the notification by law enforcement agencies, the Administrator shall promptly issue a Declaration of Public Health Nuisance for the affected property and post a copy of the Declaration at the probably entrance to the dwelling or property. Where the Administrator or Police Chief determines that an immediate threat of human exposure or injury exists, the Village 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 Village for its costs incurred in conducting the emergency dismantling and disposal. Such costs may be recovered pursuant to section (5) and (6) of this Ordinance, without regard to whether a nuisance is declared or an abatement order is issued. The Administrator shall also notify the owner of the property by mail and notify the following parties:

- a) occupants of the premises
- b) all adjacent property owners and any other neighbors at probable risk.
- c) The primary and secondary mortgage holders.

Section 4. The Administrator shall also issue an Order to Abate the public health nuisance, which shall comply with the rules and regulations attached as exhibit A and order the owner of the property to do the following:

- a) cause the immediate vacation of all occupants of those portions of the property, including building or structure interiors, which may place the occupants or visitors at risk.
- b) 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 occupation of the dwelling.
- c) Provide the Administrator 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 90 days from the date of the Declaration of Public Nuisance.

Section 5. Property Owner's Responsibility for Costs.

The property owner shall be responsible for all costs of clean up of the site, including contractor fees.

Section 6. City Responsibility and Recovery of Costs

- a) if, after Notice of the Declaration of Public Health Nuisances, the property owner fails to arrange appropriate assessment and clean up pursuant to the rules attached as exhibit A, the Administrator is authorized to proceed to initiate the on-site assessment and clean up.
- b) If the Village is unable to locate the property owner, or serve them with Notice, within 14 days of the Declaration of Public Health Nuisance, the Administrator is authorized to proceed and complete an on-site assessment and cleanup.
- c) The Village may abate the nuisance by removing the hazardous structure or building, or otherwise.
- d) The Village shall be entitled to recover all costs of abatement of the public nuisance. The Village may recover costs by civil action against the person or persons who own the property, or by assessing such costs as a special assessment pursuant to the Ohio Revised Code.

Section 7. Appeals.

Any person adversely affected by any order of the Administrator pursuant to this ordinance may request a hearing on the matter by submitting a written request to the Planning Commission for an appeal within five days of receipt of the Notice of

Declaration of Public Health Nuisance. The Board shall issue a written order either affirming, reversing or modifying the order of the Administrator.

Section 8. Penalties

Any person or company found violating any provision of this ordinance shall be guilty of a first degree misdemeanor.

Section 9. . That it is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution/ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Passed this ___ day of _____, 2011

John Ball, Mayor

ATTEST:

Lee Ann Moses, Clerk

Kyle B. Smith, Solicitor