

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

91. CLANDESTINE DRUG LAB SITES

CHAPTER 90: ANIMALS

Section

Dangerous Dogs

- 90.01 Purpose and intent
- 90.02 Incorporation of state law
- 90.03 Definitions
- 90.04 Designation; notice; impoundment; disposition
- 90.05 Potentially dangerous dogs
- 90.06 Fees and costs

- 90.99 Penalty

DANGEROUS DOGS

§ 90.01 PURPOSE AND INTENT.

Pursuant to authority granted by the state under M.S. Ch. 347, as it may be amended from time to time, this subchapter is enacted to regulate, restrict or prohibit, if necessary, dangerous dogs for the health, welfare and safety of the residence of the county.
(Ord. passed 12-30-2008)

§ 90.02 INCORPORATION OF STATE LAW.

M.S. Ch. 347, as it may be amended from time to time, is hereby incorporated by reference, adopted in its entirety and shall be made part of this subchapter.
(Ord. passed 12-30-2008)

§ 90.03 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS DOG. Any dog that meets the definition set forth in M.S. § 347.50, subd. 2, as it may be amended from time to time.

OWNER. Any individual that meets the definition set forth in M.S. § 347.50, subd. 5, as it may be amended from time to time.

POTENTIALLY DANGEROUS DOG. Any dog that meets the definition set forth in M.S. § 347.50, subd. 3, as it may be amended from time to time.

UNPROVOKED/WITHOUT PROVOCATION.
The condition in which the dog is not purposely excited, stimulated, agitated or disturbed.
(Ord. passed 12-30-2008)

§ 90.04 DESIGNATION; NOTICE; IMPOUNDMENT; DISPOSITION.

(A) *Designation.* The County Sheriff and his or her designees shall have the authority to designate a dog as a “dangerous dog”, as defined by this subchapter. They may base this designation on their observations of the dog, as well as written and oral reports from other law enforcement, dog control officers and members of the community.

Redwood County - General Regulations

(B) *Designation report.* Whenever the County Sheriff or his or her designee designates a dog as a dangerous dog, he or she shall prepare a report that includes all evidence used in making that designation.

(C) *Designation notice.* Whenever the County Sheriff or his or her designee designates a dog as a dangerous dog, he or she shall serve written notice of that designation on the owner of the dog, if known.

(1) *Content of notice.* The notice shall inform the owner of the designation, state the basis for the designation, shall advise the owner of their ability to request a hearing before a hearing officer within 15 days of the designation under division (A) above and shall advise the owner of the consequences of their failure to contest the designation with the 15-day time period.

(2) *Method of service.* All notice under this division (C) shall be provided to the owner by personal service, except as provided in division (C)(3) below.

(3) *Owner not known.* If the owner of the designated dog is unknown, the County Sheriff's office shall seize and hold the dog pursuant to division (I) below for a period of 15 days. If the owner does not claim the dog and receive the designation notice within the 15-day holding period, no further notice is required and the designation under division (A) above is final.

(D) *Designation hearing.* If the owner of a dog has received sufficient notice as described in division (C)(1) above, the owner may request a hearing be conducted to determine whether such a designation is justified.

(1) *Time to request a hearing.* A request for hearing under division (D) above must be made in writing and delivered to the County Sheriff's office within 15 days of receipt of the notice. If such request is not made within the 15 days, the designation of the dog as dangerous is final.

(2) *Timing of hearing.* If a hearing is requested, it must be scheduled within ten days of the request.

(3) *Hearing procedure.* The hearing will be conducted by a hearing officer appointed by the County Board of Commissioners. The hearing officer must consider the report of the deputy making the designation as described in division (A) above as well as evidence offered by the owner of the dog. The hearing officer may consider any other relevant evidence. The hearing officer may set reasonable limits on the amount of evidence submitted and the length of any testimony offered. The hearing officer must issue a written decision within seven days of the hearing.

(4) *Evidence.* Written reports by law enforcement and dog control officers may be offered into evidence without further foundation.

(E) *Designation appeal.* The decision of the hearing officer is final unless an appeal is made to the district court or court of appeals.

(F) *Designation annual review.* After a dog is finally declared dangerous, the owner of the dog may request that a hearing officer appointed by the County Board of Commissioners review the designation annually. At the review, the owner must provide evidence that the dog is no longer dangerous. If the hearing officer finds sufficient evidence that the dog is no longer dangerous, he or she may rescind the dangerous dog designation. The hearing procedure outlined in division (D)(3) above applies to this hearing.

(G) *Registration.* No person may own or house a dangerous dog in the county unless the dog is registered pursuant to M.S. § 347.51, as it may be amended from time to time.

(H) *Requirements of ownership.* No person may own or house a dangerous dog in the county unless the owner complies with the requirements of M.S. § 347.52, as it may be amended from time to time.

(I) *Seizure, impoundment.* The County Sheriff and all his or her designees may immediately seize and impound any dog which:

(1) Has been designated a dangerous dog under division (A) above pending a hearing; and

(2) Is found to be in violation of M.S. § 347.54, as it may be amended from time to time.

(J) *Release.* A dog impounded under division (I) above may be reclaimed by its owner pursuant to M.S. § 347.54, subd. 2, as it may be amended from time to time.

(K) *Disposition.* The County Sheriff may order the destruction of any dog which:

(1) Is found to be in violation of divisions (G) and (H) above;

(2) Has bitten one or more persons on two or more occasions;

(3) Has caused serious bodily injury or disfigurement to any person without provocation; or

(4) Has not been reclaimed after seven days after it has been impounded under division (I) above.

(L) *Disposition notice.* The owner of a dog to be disposed of under division (K) above must be given written notice of the order to dispose of the dog.

(1) *Content of notice.* The notice shall inform the owner of the order to dispose of the dog under division (K) above, state the basis for the order, shall advise the owner of his or her ability to request a hearing to review the order before a hearing officer within three days and shall advise the owner of the consequences of his or her failure to contest the order within the three-day time period.

(2) *Method of service.* All notice under this division (L) shall be provided to the owner by personal service, except as provided in division (L)(3) below.

(3) *Owner not known.* If the owner of the dog is unknown, the County Sheriff's office shall seize and hold the dog for five days. If the owner does not claim the dog and receive the disposition notice under this division (L) within the five-day holding period, no further notice is required and the order to dispose of the dog is final.

(M) *Disposition hearing.* If the owner of a dog has received sufficient notice as described in division (L)(1) above, the owner may request a hearing be conducted to determine whether destruction of the dog is warranted under division (N) below.

(1) *Time to request a hearing.* A request for hearing under this division (M) must be made in writing and delivered to the County Sheriff's office within three days of receipt of the notice. If such request is not made within the three days, the order of disposition under division (K) above is final and the dog may be destroyed.

(2) *Timing of hearing.* If a hearing is requested, it must be scheduled within ten days of the request.

(3) *Hearing procedure.* The hearing will be conducted by a hearing officer appointed by the County Board of Commissioners. The hearing officer may consider any relevant evidence in making his or her decision. The hearing officer may set reasonable limits on the amount of evidence submitted and the length of any testimony offered. After considering all evidence, the hearing officer shall make an appropriate order, including destruction of the dog, seizure and impoundment or release of the dog to its owner.

(4) *Immediate availability.* If the dog has not already been seized under division (I) above, the owner must bring the dog to the County Sheriff's office at the time of the hearing. If the owner fails to do so, the order of disposition under division (L) above shall be final and the dog may be destroyed.

(N) *Destruction of dogs.* The County Sheriff's office may destroy any dog ordered to be destroyed

under this division (N) after that order becomes final. A dog must be destroyed according to the most humane and approved methods.
(Ord. passed 12-30-2008) Penalty, see § 90.99

§ 90.05 POTENTIALLY DANGEROUS DOGS.

(A) *Designation.* The County Sheriff and his or her designees shall have the authority to designate a dog as a “potentially dangerous dog”, as defined by this subchapter. They may base this designation on their observations of the dog as well as written and oral reports from other law enforcement, dog control officers and members of the community.

(B) *Designation report.* Whenever the County Sheriff or his or her designees designates an dog as a potentially dangerous dog, he or she shall prepare a report that includes all evidence used in making that designation.

(C) *Designation notice.* Whenever the County Sheriff or his or her designees designates any dog as a potentially dangerous dog, he or she shall serve written notice of that designation on the owner of the dog, if known.

(1) *Content of notice.* The notice shall inform the owner of the designation, state the basis for the designation, shall advise the owner of his or her ability to request a review by a review officer seven days after a designation under division (A) above and shall advise the owner of the consequences of his or her failure to contest the designation within the seven-day time period.

(2) *Method of service.* All notices under this division (C) shall be provided to the owner by personal service, except as provided in division (C)(3) below.

(3) *Owner not known.* If the owner of the designated dog is unknown, the County Sheriff’s office shall seize and hold the dog pursuant to § 90.04(I)(1) of this chapter for a period of 15 days. If the owner does not claim the dog and receive the

designation notice within the 15-day holding period, no further notice is required and the designation under division (A) above is final.

(D) *Designation hearing.* The owner of the dog may request a review of a designation under division (A) above by submitting a demand for such a hearing in writing along with written evidence that disputes a designation under division (A) above to the County Sheriff’s office. A review officer appointed by the County Board of Commissioners will review the designation based on the designation report and any written submissions filed under this section. No other evidence may be considered by the review officer. The review officer must make a final decision on the designation within seven days.

(E) *Designation annual review.* After a dog is declared potentially dangerous, the owner of the dog may request that a hearing officer appointed by the County Board of Commissioners review the designation annually. At the review, the owner must provide evidence that the dog is no longer potentially dangerous. If the hearing officer finds sufficient evidence that the dog is no longer potentially dangerous, he or she may rescind the potentially dangerous dog designation. The hearing procedure outlined in § 90.04(D)(3) of this chapter applies to this hearing.

(Ord. passed 12-30-2008)

§ 90.06 FEES AND COSTS.

(A) *Hearing scheduling fees.* Prior to the scheduling of any hearing under this subchapter, the owner of a dog must pay the following fees. A hearing shall not be scheduled until the fee is paid:

(1) Dangerous dog designation review: \$100;

(2) Potentially dangerous dog designation review: \$50;

(3) Dangerous or potentially dangerous dog designation annual review: \$125; and

(4) Dangerous dog disposition review:
\$200.

(B) *Owner liable.* The owner of a dog seized and found to be a dangerous dog under this subchapter is liable to the County Sheriff's office for all costs associated with the seizure, impoundment, confinement and destruction of that dog.

(C) *Other costs.* All other costs not reimbursed pursuant to division (A) above shall be paid out of the county's General Fund.
(Ord. passed 12-30-2008)

§ 90.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person who violates § 90.04(G) or (H) of this chapter or the provisions of M.S. § 347.55(b), as it may be amended from time to time, or any amendment or recodification thereto, is guilty of a misdemeanor.
(Ord. passed 12-30-2008)

CHAPTER 91: CLANDESTINE DRUG LAB SITES

Section

General Provisions

- 91.01 Title and statutory authority
- 91.02 Purpose
- 91.03 Jurisdiction
- 91.04 Interpretation and application
- 91.05 Disclaimer of liability
- 91.06 Fees
- 91.07 Definitions, rules and word usage

Administration and Enforcement

- 91.20 Declaration of site as public health nuisance
- 91.21 Medical guidelines for assessing health status of exposed persons
- 91.22 Notices
- 91.23 Responsibility of property owner, occupant
- 91.24 Special assessment to recover public costs
- 91.25 Authority to modify or remove declaration of investigation
- 91.26 Waste generated from cleaning up a site
- 91.27 Exceptions and appeals

GENERAL PROVISIONS

§ 91.01 TITLE AND STATUTORY AUTHORITY.

(A) This chapter shall be known and referenced as the “Clean-Up of Clandestine Drug Lab Sites Ordinance”.

(B) This chapter is enacted pursuant to the powers specified in M.S. Ch. 145A, as it may be amended from time to time.
(Ord. passed 4-13-2004)

§ 91.02 PURPOSE.

(A) 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.

(B) 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.

(C) This chapter establishes responsibilities and guidelines for involved parties to assure that:

(1) People are not unnecessarily exposed to the dangers of these contaminated structures or land; and

(2) 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.

(D) This chapter assists and guides appropriate public authorities, property owners and occupants to prevent injury and illness to members of the public, particularly children.

(E) This chapter 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.

(F) This chapter is intended to minimize the cost to the county for clean up of clandestine drug lab sites.

(Ord. passed 4-13-2004)

§ 91.03 JURISDICTION.

(A) This chapter shall apply to all incorporated and unincorporated municipalities and land (city or township) within the boundaries of the county. A municipality may adopt more restrictive ordinances.

(B) Where a municipality has lawfully passed an ordinance to regulate and enforce the clean-up of clandestine drug labs, the county shall coordinate regulation and enforcement with that municipality.

(Ord. passed 4-13-2004)

§ 91.04 INTERPRETATION AND APPLICATION.

(A) The provisions of this chapter shall be interpreted and applied as the minimum requirements necessary to protect public health, safety and welfare.

(B) Where the conditions imposed by any provision of this chapter 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.

(Ord. passed 4-13-2004)

§ 91.05 DISCLAIMER OF LIABILITY.

Liability on the part of, or a cause of action against, the county or any employee or agent thereof

for any damages that may result from reliance on this chapter shall be eliminated or limited as provided by M.S. § 466.02, as it may be amended from time to time.

(Ord. passed 4-13-2004)

§ 91.06 FEES.

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

(Ord. passed 4-13-2004)

§ 91.07 DEFINITIONS, RULES AND WORD USAGE.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHEMICAL INVESTIGATION SITE. A clandestine drug lab site that is under notice and order for clean-up and/or remediation as a public health nuisance, as authorized by M.S. Ch. 145A, as it may be amended from time to time.

CHILD. Any person less than 18 years of age.

CLANDESTINE DRUG LAB OPERATION.

(1) 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.

(2) This definition also includes the presence of any combination of chemicals or ingredients (precursors) typically used in the manufacture of controlled substances.

CLANDESTINE DRUG LAB SITE. 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.

CLEAN-UP. Proper removal and/or containment of substances hazardous to humans and/or the environment at a chemical investigation site. **CLEAN-UP** is a part of remediation.

CONTROLLED SUBSTANCE.

(1) A drug, substance or immediate precursor in Schd. I through Schd. V of M.S. § 152.02, as they may be amended from time to time.

(2) The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

LAW ENFORCEMENT. Any licensed peace officer.

OWNER. 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.

PUBLIC HEALTH AUTHORITY. Southwest Health and Human Services Community Health Board, as established by the joint powers agreement between SWHHS and Redwood Counties’ Boards of Commissioners pursuant to the Local Public Health Act, M.S. Ch. 145A, as it may be amended from time to time, and authorized to act as agents of the county Board of Commissioners.

PUBLIC HEALTH NUISANCE. The meaning attributed to it in M.S. § 145A.02, subd. 17, as it may be amended from time to time.

REMEDICATION. Methods such as assessment, evaluation, testing, venting, detergent scrubbing, enclosure, encapsulation, demolition and/or removal of contaminated materials from a chemical investigation site.

STRUCTURE. A dwelling, building, motor vehicle, trailer, boat, ice fishing house, appliance or any other area or location, either fixed or temporary. (Ord. passed 4-13-2004)

ADMINISTRATION AND ENFORCEMENT

§ 91.20 DECLARATION OF SITE AS PUBLIC HEALTH NUISANCE.

Clandestine drug lab sites, as defined herein, are declared by this chapter to be “chemical investigation site public health nuisances”. (Ord. passed 4-13-2004)

§ 91.21 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 county’s Public Health Department. (Ord. passed 4-13-2004)

§ 91.22 NOTICES.

(A) *Law enforcement notice to affected public, public health and child protection authorities.*

(1) (a) Law enforcement authorities, who identify a clandestine drug lab site or clandestine drug lab operation, shall notify the county departments responsible for public health, child protection and environmental services within one working day of identifying the lab site, as permitted by M.S. § 13.82, as it may be amended from time to time. 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.

(b) The notice shall include sufficient information to inform the recipients of the following:

Redwood County - General Regulations

1. Property or structure location by street address and other identifiable location;

2. 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;

3. Chemicals found and indications of chemical residues;

4. Presumed duration of the lab;

5. Equipment in a dwelling or structure that is typically associated with the manufacture of a controlled substance; and

6. 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 state law.

(2) 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 state's Department of Health, the state's Pollution Control and/or the county.

(3) (a) When a law enforcement agency completes its work under division (A)(2) above and is prepared to leave such sites, the law enforcement agency shall affix a warning sign to the entrance of the affected part of the structure.

(b) 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.

(c) 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.

(B) *Notice of chemical investigation site public health nuisance to owner and occupant.*

(1) After the public health authority receives notice from a law enforcement agency that it has 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 M.S. § 145A.04, subd. 8(b), as it may be amended from time to time, with notice of their responsibilities relative to the chemical investigation site public health nuisance.

(2) The public health authority shall notify and order the owner of record and known occupant or agent to have the public health nuisance removed or abated within ten days as provided in M.S. § 145A.04, as it may be amended from time to time, and this chapter. The public health 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 owner's and occupant's responsibilities under this chapter; and

(d) Information on locating professional services necessary to remove and abate the chemical investigation site public health nuisance status as provided in this chapter and M.S. § 145A.04, as it may be amended from time to time.

(3) 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 or township clerk;

(c) Local law enforcement;

(d) Other state and local authorities, such as the state’s Pollution Control Agency and the state’s Department of Health, that may have public and environmental protection responsibilities at the site;

(e) County Coordinator; and

(f) County Commissioner of the district affected.

(C) Notice filed with property record and/or motor vehicle record.

(1) If, after ten days of receiving the notice and orders, the public health authority is unable to obtain any reasonable assurance or plan from the owner or occupant that the structure is being properly vacated, cleaned, remediated and tested; the county’s public health 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) When the affected property is a motor vehicle, boat or trailer, the county’s public health 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.

(Ord. passed 4-13-2004)

§ 91.23 RESPONSIBILITY OF PROPERTY OWNER, OCCUPANT.

(A) Property owner’s and occupant’s responsibility to act.

(1) 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) Within ten business days of receiving the public health notice and order to clean up the chemical investigation site public health nuisance, the owner(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 state’s Department of Health and/or the county’s Public Health) 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;

Redwood County - General Regulations

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 the state's 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 owner or occupant may request an extension of time to consider options for arranging clean-up 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 clean-up or demolition; and

(f) The public health authority may authorize extensions, up to 90 calendar days from the date of request. Any extension beyond 90 calendar days must be approved by the County Attorney's office.

(B) *Property owner's responsibility for costs and opportunity for recovery.*

(1) Consistent with M.S. Ch. 145A, as it may be amended from time to time, the owner shall be responsible for:

(a) Private contractor's fees, clean-up, remediation and testing of chemical investigation site public health nuisance conditions; and

(b) The county's fees and costs of administering notices and enforcing, vacating, clean-up, remediation and testing of affected parts of the property.

(2) Nothing in this chapter is intended to limit the 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.

(3) The county's administrative and enforcement services, referenced in division (A) above, 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.

(Ord. passed 4-13-2004)

§ 91.24 SPECIAL ASSESSMENT TO RECOVER PUBLIC COSTS.

(A) The county is authorized under M.S. § 145A.04, subd. 8(c), as it may be amended from time to time, to proceed within ten business days of services of a notice for abatement or removal of the public health nuisance to initiate the assessment and clean-up when the owner is not located or the public health authority determines that the owner refuses to, or cannot pay the costs, or arrange timely assessment and clean-up that is acceptable to the designated public health authority.

(B) The County Auditor (or the County Board of Commissioner’s formally identified designee) shall be fully authorized to act, consistent with state law, on behalf of the county to direct funds to assure prompt remediation of chemical investigation sites.

(C) When the estimated cost of testing, clean-up and remediation exceeds 75% of the County Assessor’s market value of the structure and land, the County Auditor (or the County Board of Commissioners’ formally identified designee) is authorized to notify the owner of the county’s intent to remove and dispose of the affected real property instead of proceeding with cleaning and remediation.

(D) (1) The owner shall be responsible for all costs, including those of 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.

(2) The county’s costs may also include, but shall not be limited to, those set forth in § 91.23(B)(3) of this chapter. 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 M.S. § 145A.08, as it may be amended from time to time, or by any other applicable federal, state and county laws, ordinances and/or applicable County Board resolution.

(E) The cost of testing, clean-up and remediation shall be certified by the Director of County Public Health, or its designee. Notice of cost, and demand for payment, shall be forwarded to the owner by certified mail at the 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, County Public Health may request that all costs be assessed against the property.

(F) (1) Payment on the chemical investigation site public health nuisance special assessment shall be collected at the time real estate taxes are due. The owner may request, by written notice delivered to the County Auditor within 30 days of receipt of the demand for payment referenced in division (E) above, a public hearing to challenge the certified costs of testing, clean-up and remediation. The written request shall be accompanied by a fee of \$500, which amount shall be used to help cover the costs of the County Board of Commissioner’s per diem, publication fees and county staff time. The County Board of Commissioners shall publish the date of such hearing in the manner prescribed by law at least 14 days prior to the hearing date.

(2) At such public hearing, the County Board of Commissioners shall consider whether the owner:

(a) Was privy to the act upon which the clean-up is based;

(b) Had knowledge of, or reasonably should have had knowledge of, the act upon which the clean-up is based; and

(c) Took precautions a reasonably prudent owner of real property would have taken in monitoring and inspecting the real property.

(3) Upon review of these factors, the County Board of Commissioners may, by majority vote, adjust the amount due, the interest rate and/or the payment rate of the certified costs of testing, clean-up and remediation.

(G) The county may also seek recovery of costs through other methods allowed by federal or state law. (Ord. passed 4-13-2004)

§ 91.25 AUTHORITY TO MODIFY OR REMOVE DECLARATION OF INVESTIGATION.

(A) The designated public health authority may modify conditions of the declaration and order removal of the declaration of chemical investigation site public health nuisance.

(B) 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 owner and/or others such as state and local health, safety, law enforcement and pollution control authorities to reach such decisions.

(C) 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.

(Ord. passed 4-13-2004)

§ 91.26 WASTE GENERATED FROM CLEANING UP A SITE.

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 state's Department of Health, the state's Pollution Control Agency and/or the county.

(Ord. passed 4-13-2004)

§ 91.27 EXCEPTIONS AND APPEALS.

Administration of this chapter, including guidance for, challenges to and penalties, shall be according to the authorities provided in M.S. Ch. 145A, as it may be amended from time to time, other applicable state law and county rules and regulations. (Ord. passed 4-13-2004)