

ORDINANCE NO. 2946

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, ADDING A SECTION 18-243 TO THE CODE OF ORDINANCES OF THE CITY OF BRADENTON BY PROVIDING FOR THE ADOPTION OF RULES AND REGULATIONS PERTAINING TO THE CLEAN UP AND ABATEMENT OF PUBLIC HEALTH HAZARDS RESULTING FROM CLANDESTINE DRUG LAB SITES OR ASSOCIATED DUMPSITE; PROVIDING FOR DEFINITIONS; PROVIDING FOR ADMINISTRATION; PROVIDING FOR OWNER'S RESPONSIBILITY AND COLLECTION OF COSTS; PROVIDING FOR CLEANUP STANDARDS; PROVIDING FOR CERTIFIED LABORATORY TESTING; PROVIDING FOR RECOVERY OF CITY COSTS; PROVIDING FOR DISCLOSURE; PROVIDING FOR APPEALS; PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, THERE IS HEREBY ADOPTED THE FOLLOWING SECTION 18-243 OF THE CODE OF ORDINANCES OF THE CITY OF BRADENTON.

Section I – GENERAL PROVISIONS.

(a) Purpose and Intent. The purpose of this chapter is to reduce public exposure to health risks where trained law enforcement officers or code 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) "Administrative Officers" means the Administrative Official of the City of Bradenton or his designee.
 - (2) "Child" means any person less than 18 years of age.
 - (3) "Chemical dumpsite" means any place or area where chemicals or other waste materials used or produced in a clandestine drug lab have been located.
 - (4) "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.
 - (5) "Clandestine drug lab site" means any place or are where law enforcement has determined that conditions associated with the operation of a clandestine drug lab exist. A clandestine drug lab site may include dwellings accessory buildings, accessory structures, motor vehicles, a chemical dumpsite or any land.
 - (6) "Controlled substance" means a drug, substance or immediate precursor listed in Florida Statute 893.033 as may be from time to time amended. The term does not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.
 - (7) "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.
 - (8) "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.
 - (9) "Motor vehicles" shall have the same meaning as in Florida Statutes 316.003.
 - (10) "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.
 - (11) "Public health nuisance" includes all dwellings accessory structures and buildings associated with a clandestine drug lab site that are potentially unsafe due to health hazards.

Section 2 – ADMINISTRATION.

(a) Law Enforcement Notice to Other Authorities. Law enforcement authorities or code enforcement officers that identify conditions associated with a clandestine drug lab site or chemical dumpsite that place neighbors, visiting public, or present or future occupants of the dwelling at risk for exposure to harmful contaminants and other associated conditions shall promptly notify the appropriate municipal, child protection, and public health authorities of the property location, property owner if known, and conditions found.

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

(c) Notice of Public Health Nuisance to Concerned Parties. Upon receipt of the notification by law enforcement authorities or code enforcement officers the Administrative 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 Administrative 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 Bradenton Police Department;
- (4) The primary mortgage holder or holders; and
- (5) Other federal, state and local authorities, which are known to have public and environmental protection responsibilities that are applicable to the situation.

(d) Property Owner's Responsibility to Act. The Administrative Official shall also issue an order to abate the public health nuisance 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.
- (3) Provide the Administrative Official with written documentation of the clean-up process, including a signed, written statement from the environmental testing and cleaning firm that property is safe for human occupancy and that the clean-up was conducted. The owner shall complete the remediation and post-remediation assessment with ninety days from the date of the Declaration of Public Health Nuisance.

(e) Documentation. Documentation submitted as evidence that the cleanup is complete shall show that the contamination has been reduced to .5 Micrograms per 100 CM2 or less.

(f) Cleanup Contract. The cleanup contractor shall submit documentation showing laboratory results from a certified laboratory. A certified laboratory may be any laboratory that is certified by the State of Florida or any non-state of Florida laboratory that is certified by that State where it has its place of business. Contractors must use a certified laboratory that analyzes results for the methamphetamine molecule.

(g) 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.

(h) City Recovery of 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, the Administrative Official is authorized, but not obligated, to proceed 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.
- (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 lien or special assessment against the property in the manner liens or special assessments are certified and collected pursuant to City code provisions or Florida State Statutes.

(i) Authority of Administrative Official to Modify or Remove Declaration of Public Health Nuisance.

- (1) The Administrative 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 Administrative Officials from pursuing any remedy available pursuant to Chapter 2, Article VI, Code

Enforcement, or Chapter 18, Article IX, International Property Maintenance Code.

Section 3. – 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 Administrative Official.

Disclosure shall not be required once the Administrative Official has removed the Declaration of Public Health Nuisance from the property.

Section 4. – MISCELLANEOUS PROVISIONS.

(a) The Administrative Official, with the advice of City law enforcement officers, shall have the authority to promulgate any rules and regulations to enforce this chapter.

(b) In the event that the State or Federal Government promulgates cleanup guidelines that are more stringent or that pre-empt local regulation, those clean-up guidelines shall prevail.

Section 5. - APPEALS.

Any person adversely affected by any order of the Administrative Official pursuant to this chapter may request a hearing on the matter by submitting a written request to the City Council within five days of receipt thereof. The City Council shall issue an order either affirming, reversing or modifying the order of the Administrative Official.

Section 6. - VIOLATIONS AND PENALTIES.

Any person violating any provision of this chapter shall be subject to the penalties as set forth in Section 1-15 of the Code of Ordinances of the City of Bradenton.

Section 7. This Ordinance shall take effect immediately.

PASSED IN REGULAR SESSION, this 27th day of March, 2013.

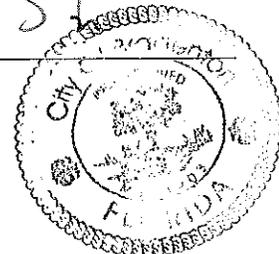
ATTEST:



City Clerk



President, City Council



APPROVED AS TO FORM:

William R. Lisch
William R. Lisch, City Attorney

First Reading: March 13 2013
Advertised: March 16 2013
Second Reading: March 27 2013

APPROVED by me this 27 day of March, 2013.
Wayne H. Poston
Wayne H. Poston, Mayor



LEGAL NOTICE

**CITY OF BRADENTON,
FLORIDA**

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN:

**PROPOSED ORDINANCE
#2946**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, ADDING A SECTION 18-243 TO THE CODE OF ORDINANCES OF THE CITY OF BRADENTON BY PROVIDING FOR THE ADOPTION OF RULES AND REGULATIONS PERTAINING TO THE CLEAN UP AND ABATEMENT OF PUBLIC HEALTH HAZARDS RESULTING FROM CLANDESTINE DRUG LAB SITES OR ASSOCIATED DUMPSITE; PROVIDING FOR DEFINITIONS; PROVIDING FOR ADMINISTRATION; PROVIDING FOR OWNER'S RESPONSIBILITY AND COLLECTION OF COSTS; PROVIDING FOR CLEANUP STANDARDS; PROVIDING FOR CERTIFIED LABORATORY TESTING; PROVIDING FOR RECOVERY OF CITY COSTS; PROVIDING FOR DISCLOSURE; PROVIDING FOR APPEALS; PROVIDING AN EFFECTIVE DATE.

will be considered for the second reading and public hearing at the regular meeting of the Bradenton City Council to be held **Wednesday, March 27, 2013 at 6 p.m.** at City Hall, Bradenton, Florida. Interested parties may appear at the meeting and be heard. A copy of the proposed ordinance may be inspected by the public at the office of the City Clerk, City Hall, 101 Old Main Street, Bradenton, Florida.

Anyone requiring reasonable accommodation for this meeting as provided for in the Americans with Disabilities Act should contact Tim McCann at (941) 932-9497 within seven (7) days prior to the proceeding.

If any person determines to appeal any decision made by the City Council with respect to any matter considered at this public hearing, such person will need a record of proceedings for that purpose and will need to ensure that a verbatim

LEGAL NOTICE

record of the proceedings is made which will include the testimony and evidence upon which any appeal is to be based.

3/16/2013