

BILL NO. 14-024
(as amended)

ORDINANCE NO. 4679

FIRST READING 11/4/14

SECOND READING 11/18/14

AN ORDINANCE REVISING CHAPTER 7, ARTICLE III, DIVISION 4 OF THE ORDINANCES OF THE CITY OF HANNIBAL, BY ADDING SECTION 7-246, REGARDING LEVELS OF CONTAMINATION DUE TO PRODUCTION OF METHAMPHETAMINE AND PROTOCOLS FOR ABATING SUCH CONTAMINATION

WHEREAS, it has come to the attention of the City Council of the City of Hannibal that contamination of real property as a result of the production of Methamphetamine poses a hazard to the citizens of Hannibal if not properly abated, and

WHEREAS, currently no standards exist in the City of Hannibal regarding the abatement of such contamination, thereby putting the Citizens of Hannibal at risk, and

WHEREAS, the City Council of the City of Hannibal believes that it is in the best interests of the City of Hannibal that a procedure be established for property owners to follow to abate such contamination.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HANNIBAL, MISSOURI:

SECTION 1: The City Council makes the following amendment to Chapter 7, Division 4, adding Section 7-246 to the Ordinances of the City of Hannibal to read as follows:

Sec. 7.246 - Levels of Contamination Due to Production of Methamphetamine and Protocols for Abating Such Contamination.

A. Purpose. The purposes of this Section are:

1. To adopt standards for identifying dangerous levels of toxic chemicals and residue associated with the production of methamphetamine; and
2. To establish protocols whereby the City of Hannibal may cooperate with and rely on Law Enforcement when applying the Property Maintenance Code of the City of Hannibal to order or cause the abatement of contamination in structures due to the production of methamphetamine.

B. Definitions. For purposes of this Section, the words or terms listed below are defined as follows:

Department means the Hannibal, Missouri Building Inspector's Office

Law Enforcement means the City of Hannibal Police, Marion County Sheriff's Office, State Patrol, and any other law agency or officer legally entitled to make arrests inside the city limits of the City of Hannibal.

Methamphetamine means dextro methamphetamine, levo methamphetamine, and unidentified isomers of the same, any racemic mixture of dextrolevo methamphetamine, or any mixture of unidentified isomers of methamphetamine. The term includes derivatives, conjugates, oxides and reduced forms of the basic structure associated with the formation of methamphetamine. For the purposes of this protocol, this term includes amphetamine, ephedrine and pseudoephedrine.

Qualified Company or Qualified Contractor means a company or contractor that tests structures for the presence of unsafe contamination and/or abates such unsafe contamination and that:

1. Complies with the guidelines of the U.S. Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup (August 2009);
2. Complies with the regulations of the Occupational Safety and Health Administration of the United States Department of Labor relating to hazardous waste operations and emergency response, including 29 Code of Federal Regulations Section 1910.120;
3. Requires that at least one (i) employee or supervisor assigned to and on duty at any work site shall have completed the forty (40) hour Hazardous Waste Operations and Emergency Response (HAWOPER) training [Occupational Safety and Health Administration (OSHA) 29 CFR 1910];
4. Requires its personnel to complete a clandestine drug lab assessment and decontamination course offered by a sponsor acceptable to Law enforcement and/or Department;
5. Neither employs nor is managed or owned by any person who has either been convicted of any crime involving the production, possession, use, or distribution of methamphetamine, or is currently being prosecuted for any crime involving the production, possession, use, or distribution of methamphetamine; and
6. Is not engaged to test or decontaminate a structure in which it or any of its owners, managers or personnel has an interest.

Structure means a building or an individual unit of occupancy within said building. Where a single-family home is involved, a *structure* means the entire single-family home. Where a duplex, apartment, multifamily unit or other multiple occupant place of residence or dwelling is involved, including a hotel or motel, a *structure* means the individual unit of occupancy within said building. Where a commercial building is involved, *structure* means that particular commercial tenancy within said building, or the entire commercial building if the floor plan is open and occupied by a single occupant.

Unsafe Contamination means the presence of chemicals in a structure at levels exceeding the levels for such chemicals as provided in Subsection (C), below.

C. Unsafe Contamination. A structure will be considered unsafe for purposes of the Property Maintenance Code of The City of Hannibal if it is found to contain any of the chemicals listed below at exposure limits above the levels listed below established by the National Institute for Occupational Safety and Health (NIOSH):

1. Red Phosphorus—any amount
2. Iodine Crystals Co.1 ppm (1 mg/m³)
3. Sulfuric Acid TWA 1 mg/m³
4. Hydrogen Chloride C 5 ppm (7 mg/m³)
5. Hydrochloric Acid (HCl gas) - C 5 ppm (7 mg/m³)
6. Methamphetamine—in a concentration equal to or greater than 1.5 ugram/100 cm² CM²

7. Lead and Mercury—If it is determined that the phenyl-2-propanone (P2P) method of methamphetamine manufacturing was used, surface levels for lead in excess of 20 ug/ft² and vapor samples for Mercury in excess of 50 ng/m³.

D. Closure And Abatement Orders Upon Report And Investigation By Law enforcement.

1. When Law enforcement reports to the Department that a structure in the City of Hannibal, has been used for the use or production of methamphetamine or as a storage facility for chemicals used in the manufacturing of methamphetamine, the Department may order that structure closed pursuant to Section 7.343 of the Property Maintenance Code of the City of Hannibal. The Department shall rescind such an order if either law enforcement or a qualified company or contractor engaged by the structure's owner to perform sampling and testing under Subsection (F)(3) below later reports that after testing and investigation it has not found unsafe contamination in that structure.
2. When law enforcement reports to the Department that a structure in the City of Hannibal contains unsafe contamination as identified in the preceding Subsection, the Department shall order that structure closed pursuant to Section 7.343 of the Property Maintenance Code of the City of Hannibal.

E. Supplementary Notice And Instructions.

1. While closure and abatement orders pursuant to Section 7.343 of the Property Maintenance Code of The City of Hannibal may be posted, the Department shall also attempt to contact the owner of record of the affected property, or the owner's agent, as provided by Section 107 of the Property Maintenance Code of the City of Hannibal.
2. Such notice shall direct the owner to contact Department within twenty (20) calendar days to identify a qualified contractor or company engaged to decontaminate the structure and establish a schedule for decontaminating the structure, and further advise the owner that failure to contact the Department within that time specified may result in the Department's request to disconnect electric service in order to ensure that the structure is not re-occupied until it is decontaminated.
3. Such notice shall also inform the owner that if the owner contacts the Department within the time specified in the notice, the owner may request to have the structure retested, but such retesting must be performed as follows.
 - a. The owner must employ the services of a qualified company or contractor to perform sampling and to analyze the samples.
 - b. An inspector for the City must be present when the qualified company or contractor takes samples and the owner shall pay an inspection fee of forty dollars (\$40.00), payment of which must be made prior to the appointment for taking samples.
 - c. Sampling and testing shall be performed in accordance with the appropriate Sections of the U.S. Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup (August 2009).
 - d. The qualified company or contractor engaged by the owners must report the results of its analysis of the samples taken to the Department.
 - e. Such retesting shall not be allowed after any party has attempted to decontaminate the structure by any means without complying with Subsection (F)(2) above.

F. Decontamination.

1. If testing confirms the presence of unsafe contamination in a structure, the owner shall hire a qualified contractor or company to decontaminate the structure and will advise the Department of the schedule for decontamination.
2. The schedule for the work and evidence that the qualified contractor or company meets the requirements of this Section must be submitted for approval to the Department within twenty (20) calendar days of the receipt of notice. Approval will be based solely on the timeliness of the schedule and the qualifications of the contractor. Approval or rejection of the schedule will be provided within a reasonable time of submission. If rejected the owner will be informed, in writing, of specific reasons for the rejection and will be required to amend the schedule or the proposed qualified contractor or company. Decontamination shall be performed in accordance with the appropriate Sections of the U.S. Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup (August 2009).
3. If the owner of property determined to have unsafe contamination fails to voluntarily abate that contamination, the Department may serve a Notice of Violation and proceed in accordance with Section 7.343 of the Ordinances of the City of Hannibal, Missouri. The Department may request disconnection of the electrical service until the decontamination is complete.
4. Post decontamination sampling. Following the completion of the work the owner shall notify the Department that work is complete and the owner must provide written test results as evidence that the property is compliant with this regulation. The post remediation sampling and testing must be performed by a qualified contractor or company other than and independent of the contractor or company that performed the decontamination and that sampling and testing must be done in accordance with the appropriate Sections of the U.S. Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup (August 2009).

G. Final Action.

After the property has been decontaminated and the Department is in possession of evidence that the pertinent chemical levels are below the levels established for unsafe contamination by this Section, the structure will be considered safe and suitable for performance of a full inspection for an occupancy permit in accordance with the Property Maintenance Code of The City of Hannibal, If electric service has been disconnected, the Department will notify the Board of Public Works that the unsafe condition has been mitigated and service can be restored. The property owner shall be responsible for any re-connection fees.

SECTION 2. It hereby is declared to be the intention of the City Council that each and every part, portion and sub-portion of this Ordinance shall be separate and severable from each and every other part, portion or sub-portion hereof and that the City Council intends to adopt each said part, portion or sub-portion separately and independently of any other part, portion or sub-portion. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, portions and sub-portions shall be and remain in full force and effect.

SECTION 3. All ordinances and parts of ordinances in conflict with this ordinance, in so far as they conflict, are hereby repealed.

SECTION 4. That this Ordinance shall be in full force and effect from and after its passage and approval.

Adopted this 18th day of November, 2014.

Approved this 18th day of November, 2014.


Roy G. Hark, Mayor

ATTEST:


Angelica N. Vance, MRCC - City Clerk