ORDINANCE NO. 31: PUBLIC HEALTH NUISANCES

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CHAPTER 1: GENERAL PROVISIONS

1.1 PURPOSE AND AUTHORITY.

(A) The purpose of this ordinance is to establish standards and authority to protect the public health, safety and general welfare of the people of Scott County pursuant to powers granted under Minn. Stat. Chapters 145A, 375, 152, and other applicable state law, as may be amended from time to time. Whenever, and if this ordinance conflicts with other applicable laws, regulations and ordinances, the most restrictive shall prevail.

(B) This ordinance establishes minimum standards for the health, safety and protection of parties who may be exposed to public health nuisances by:

(1) Establishing responsibility for involved parties to assure that people are not unnecessarily exposed to the dangers of public health nuisances;

(2) Preventing injury and illness to occupants of the property and the public, especially children and vulnerable adults;

(3) Requiring that proper steps are taken to remove public health nuisances; and

(4) Requiring that appropriate tests be done to demonstrate that affected structures and media (air, water, soil) are sufficiently cleaned for human contact if/when appropriate.

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

1.2 JURISDICTION.

(A) This ordinance applies throughout all of Scott County, but does not preempt ordinances related to clandestine drug labs adopted by a statutory or home rule charter city or a town. Where a municipality has or lawfully passes an ordinance to regulate and enforce the cleanup of clandestine drug labs that is more restrictive, the County shall coordinate regulation and enforcement with that municipality.

(B) This ordinance applies throughout all of Scott County but does not preempt ordinances related to housing or public nuisance adopted by a statutory or home rule charter city or a town.

(C) This ordinance shall be applicable in all incorporated and unincorporated municipalities (city or township) within the boundaries of Scott County under the jurisdiction of the Scott County Public Health Authority.

1.3 DEFINITIONS.

For the purpose of this ordinance, the following terms or words shall be interpreted as follows:

(A) ***ABATEMENT*** means the proper removal and/or containment of substances or materials hazardous to humans and/or the environment. Abatement can also be referred to as cleanup and is part of remediation.

(B) ***CHEMICAL INVESTIGATION SITE*** means a drug lab site (such as a clandestine drug lab) that is under notice and order for cleanup and/or remediation as a public health nuisance, as authorized by Minn. Stat. Chapter 145A, Minnesota Statute § 152.0275, and/or this ordinance.

(C) ***CHILD*** means any person less than 18 years of age.

(D) ***CLANDESTINE DRUG LAB OR OPERATION*** means 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, as determined by a licensed law enforcement officer.

(E) ***CLEANUP*** means the proper removal and/or containment of substances or materials hazardous to humans and/or the environment. Cleanup can also be referred to as abatement and is part of remediation.

(F) ***CONTROLLED SUBSTANCE*** means a drug, substance or immediate precursor in Schedules I through V of Minnesota Statute § 152.02, as amended in the future. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.

(G) ***OCCUPANT*** means a natural or legal person who occupies real property, whether with or without any right, title or interest in the property, or who is in possession or charge of such property, in the event the owner resides or is located elsewhere.

(H) ***OWNER*** means any person, firm, partnership or corporation who owns, in whole or in part, real property, a structure and/or fixtures, or is the purchaser of the property under a contract for deed or owns personal property such as a motor vehicle, trailer, boat or other appliance.

(I) ***PERSONAL PROPERTY*** means all property other than real estate or structures.

(J) ***PROPERTY*** means publicly or privately owned real property, including buildings and other structures, and motor vehicles as defined in M.S. § 609.487, subd. 2a.

(K) ***PROPERTY AGENT or AGENT*** means a legal or natural person authorized by an owner to act in transacting business matters or in managing real estate.

(L) ***PUBLIC HEALTH AUTHORITY*** means the Public Health Director, agents, or designees, within the Public Health or Environmental Health Department who are authorized to act as agents of the Scott County Board of Commissioners, in their

role as the Community Health Board, pursuant to the Local Public Health Act, Minnesota Statutes §§ 145A.09 to 145A.13.

(M) ***PUBLIC HEALTH HAZARD*** shall have the same meaning as Public Health Nuisance.

(N) ***PUBLIC HEALTH NUISANCE or NUISANCE*** shall have the meaning set out in Minnesota Statutes § 145A.02, subd. 17, and shall include, but not be limited to, any condition that poses an immediate and direct hazard to human health if left unremediated due to the existence of the condition itself, or due to the immediate threat of transmission of disease through insects, animals or other means for the transmission of infection.

Agricultural activities conducted on farm or ranch land, if consistent with good agricultural practices, are presumed to be reasonable and do not constitute a nuisance unless the activity has a substantial adverse effect on public health and safety. If that agricultural activity is undertaken in conformity with federal, state and local laws and regulations, it is presumed to be a good agricultural practice not adversely affecting public health and safety.

As used in this Ordinance, the term "agricultural activity" means any of the following: any activity directly related to the production or processing of crops, dairy products, poultry, or livestock for initial commercial sale or as a principal means of personal subsistence.

(O) ***RECORDER*** means the Scott County Property Records and Taxpayer Services Division.

(P) ***REMEDIATION*** means methods employed in dealing with public health nuisances and include, but are not limited to, assessment, evaluation, testing, venting, detergent scrubbing, enclosure, encapsulation, demolition, and/or removal of materials.

(Q) ***STRUCTURE*** means a dwelling, building, motor vehicle, trailer, boat, or any other area or location, fixed or temporary, indoors or outdoors.

(R) ***VULNERABLE ADULT*** shall have the meaning set out in Minnesota Statutes § 626.5572, subd. 21.

1.4 PROHIBITIONS.

(A) The creation or maintenance of a public health nuisance is prohibited.

(B) The following are hereby expressly declared to be public health nuisances, without limitation by reason of such enumeration:

(1) Failure to keep waste, refuse or garbage in an enclosed building or properly contained in a closed, insect- and rodent-proof container designed or reasonably adapted for such purpose, except for the immediate time preceding pick-up by a licensed solid waste hauler;

(2) Accumulation of carcasses of animals, birds or fish by failing to bury or otherwise dispose of a carcass in a sanitary manner within 72 hours after death. This provision shall not apply if the animals, birds or fish are intended for human consumption;

(3) Accumulation of decayed animal or vegetable matter, animal or human feces, trash, rubbish, garbage, tires or any other substances in which flies, mosquitoes, other disease-carrying insects, rodents or other vermin can harbor: this definition does not include compost bins or compost sites that are being managed in accordance with acceptable standards;

(4) Any structure or property that has become dangerous for further occupancy because of sanitary defects, which may include, but are not limited to: accumulation of human or animal feces, evidence of garbage and rotting food, infestation by rodents or insects, environmental conditions that affect children and vulnerable adults, and lack of approved potable water supply or sewage disposal;

(5) Infestations of flies, fleas, cockroaches, lice, ticks, rats, mice, fly larvae and hookworm larvae;

(6) Unnatural breeding grounds that support mosquito larvae and mosquitoes carrying West Nile Virus, LaCrosse encephalitis, or any other disease-causing microorganisms;

(7) Accumulations of animal or human feces or solid waste remaining in any place so as to become injurious and dangerous to the health and safety of any individual or to the public in general;

(8) Maintaining a hole or opening caused by an improperly abandoned cistern, septic system, unused or non-maintained private swimming pool, foundation, mine shaft or tunnel, including an improperly abandoned, sealed, barricaded or backfilled excavation;

(9) A clandestine drug lab and/or clandestine drug lab site.

1.5 ADMINISTRATION.

(A) This ordinance shall be administered by the Scott County Department of Public Health, hereby designated as the Public Health Authority.

(B) It shall be the duty of the Public Health Authority to determine whether or not a public health nuisance exists.

(C) In accordance with Minnesota Statutes § 145A.04, subd. 7, the Public Health Authority has right of entry for inspection of property where a public health nuisance is reasonably suspected or known.

(1) The owner, occupant or property agent shall, upon the request of the Public Health Authority and after proper identification, permit access to all parts of the site or structure as often as necessary, and at any reasonable time for the purposes of inspection, remediation and abatement, and shall exhibit and allow copying of any and all records necessary to ascertain compliance with this ordinance.

(2) No person shall in any way interfere with or hinder the Public Health Authority in the performance of its duties, or refuse the Public Health Authority access to gather information necessary to ascertain compliance with this ordinance.

(D) Waste generated through cleanup or remediation of a site that is considered a public health nuisance shall be treated, stored, transported and disposed in accordance with applicable Minnesota Department of Health, Minnesota Pollution Control Agency, county and city guidelines, rules and regulations for remediation of a clandestine drug lab, for solid waste, and for hazardous household/other hazardous wastes.

(E) This ordinance shall be construed to incorporate and be consistent with the Scott County Hazardous Waste Management Ordinance No. 12 and Solid Waste Management Ordinance No. 4.

CHAPTER 2: NUISANCE PROCEDURES

2.1 RESPONSE TO NUISANCES

2.1.1 Investigation and Response

(A) If the Public Health Authority is notified of a nuisance concern or complaint, it shall be authorized to investigate to determine if a Public Health Nuisance exists. Notifications and complaints may be received from law enforcement, government agency staff, the public, or any other party deemed to have sufficient information regarding the situation. The Public Health Authority shall have discretion to determine if a complaint provides a sufficient basis to investigate a situation as a Public Health Nuisance.

(B) If after investigation the Public Health Authority determines that a Public Health Nuisance exists, it shall promptly complete a declaration form, and issue notice of that declaration and an order requiring the owner, occupant and/or property agent (individually and jointly) to abate and remediate the Public Health Nuisance.

(C) The Public Health Authority may leave a posted warning sign at the Public Health Nuisance site. It shall be unlawful for any person, except authorized County personnel, to remove this sign. Any person, other than a representative of the Public Health Authority, who willfully removes a warning sign may be charged

with misdemeanor interference with performance of duties pursuant to Minnesota Statutes § 145A.04, subd. 10.

2.1.2 Notice and Order

(A) Contents of Notice. The Public Health Authority shall include the following as part of the notice and order:

(1) Property location by street address, property identification number, or other property description.

(2) A copy of the Chemical Investigation Site Public Health Nuisance warning sign that is posted at the site's entrance(s) if the Public Health Nuisance is a Chemical Investigation Site or Clandestine Drug Lab.

(3) Information identifying the nature of the Public Health Nuisance at the property.

(4) An order that the property may not be occupied until the Public Health Nuisance is assessed and remediated by an approved contractor if any portion of the property has been found to be a Clandestine Lab site and contaminated by substances, chemicals, or items used in the manufacture of methamphetamine or any part of the manufacturing process, the by-products or degradants of manufacturing or other public nuisances including hazardous waste, solid waste, rodents, vermin, disease-carrying insects or other unsanitary conditions..

(5) Specific orders for abatement and/or remediation of the Public Health Nuisance.

(6) A summary of the owner's and occupant's responsibilities under state law and this ordinance.

(7) A date for completion of the abatement and remediation, not to exceed ten days following the receipt of the notice, unless a shorter time is required due to the Public Health Authority's further determination that the quicker abatement is necessary to protect public health and safety. In such cases, the reason for a shortened abatement period shall be specified.

(8) Notice of a right to appeal the determination, as provided herein.

(9) Notice that unless the threat to public health is abated or removed in accordance with the terms of the notice, the Public Health Authority will have the Public Health Nuisance abated and remediated at the expense of the owner under the provisions of Minnesota Statutes §§ 145A.08, 463.17, this ordinance, or other applicable state or local law.

(B) Service of Notice.

(1) The notice and order for abatement must be served on the owner, occupant or property agent, if applicable, in one of the following ways:

(a) By registered or certified mail; or

(b) By an officer authorized to serve a warrant; or

(c) By a person aged 18 years or older who is not reasonably believed to be a party to any action arising from the notice.

(2) If the owner of the property is unknown or absent and has no known representative upon whom notice can be served, the Public Health Authority shall post a written or printed notice on the property or structure, stating that, unless the threat to the public health is abated and remediated within a period of ten days, the Public Health Authority will have the threat abated and remediated at the expense of the owner under Minn. Stat. §§ 145A.08, 463.17, this ordinance, or other applicable state or local law.

(C) Notice to Additional Parties

(1) Following the service of a notice of Public Health Nuisance, the Public Health Authority may send written notice describing the condition of the property and the action required to the following parties:

(a) Scott County Human Services Child Protection Division in situations of potential child maltreatment or endangerment;

(b) Scott County Human Services Adult Protection Division in situations of potential vulnerable adult maltreatment or endangerment;

(c) Neighbors in close proximity likely to be affected by the conditions found at the site;

(d) The local city or township;

(e) Local law enforcement;

(f) Other state and local authorities, such as the Minnesota Pollution Control Agency and Minnesota Department of Health, that may have public or environmental protection responsibilities;

(g) The Scott County Administrator.

(2) Where it is determined that a child neglect, child endangerment or vulnerable adult situation may exist as a result of the Public Health Nuisance, the Public Health Authority shall notify the County Divisions responsible for responding to potential child neglect, child endangerment or vulnerable adult situations. The notice shall include sufficient information to inform the Divisions of the following:

(a) Property location by street address and other identifiable location;

(b) Owner's and occupant's identities, including the identities of any children or vulnerable adults found at, or known to be associated with the site;

(c) Conditions found that make this home or residence a Public Health Nuisance; and

(d) Any other conditions that may be associated with the site that could present harmful conditions as determined by state law.

(3) If the Public Health Nuisance is a Clandestine Drug Lab site, the Public Health Authority shall:

(a) Record an affidavit with the Recorder as required in Minn. Stat. §152.0275 subd. 2(h) if the affected property is real property.

(b) Notify the registrar of motor vehicles as required in Minn. Stat. § 152.0275, subd. 2(g) if the affected property is a motor vehicle, boat, or trailer.

(4) If after the expiration of the time provided in the notice and order, the Public Health Authority is unable to obtain reasonable assurance from the owner, occupant or property agent that the Public Health Nuisance is being properly vacated, cleaned, tested, abated or remediated, the Public Health Authority may provide a copy of the Public Health Nuisance notice and order to the Recorder and lien and/or mortgage holders of the affected dwelling, structure and/or properties. The Recorder shall record the information with the property record to notify persons with an interest in the property regarding the property's Public Health Nuisance status. Once the Public Health Nuisance has been abated or remediated to the satisfaction of the Public Health Authority, the Recorder shall record a notice that the Public Health Nuisance has been abated or remediated.

2.1.3 Abatement and Remediation

(A) Owner Abatement: The Owner, Occupant, and/or Property Agent shall abate and remediate the Public Health Nuisance within such time determined and set out in the notice and order.

(B) County Abatement and Remediation:

(1) The County may have the Public Health Nuisance abated and remediated after the expiration of the time provided in the notice and order for abatement and remediation when:

(a) The property owner is not located; or

(b) The property owner(s) is located, but the Public Health Authority determines that the owner(s) refuses to, or cannot pay the costs, or arrange a timely assessment and cleanup that is acceptable to the Public Health Authority.

(2) The County Administrator, or the Administrator's formally identified designee, shall be fully authorized to act, consistent with Minnesota Law, on behalf of the County to direct funds to assure prompt abatement and remediation of Public Health Nuisances.

(3) Property removal

(a) When the estimated cost of testing, cleanup, and remediation exceeds seventy-five (75%) percent of the Scott County Assessor's market value of

the structure and land, the County shall consider removal and disposal of the affected real property instead of proceeding with cleaning and remediation.

(b) If the County determines that property removal and disposal is appropriate due to value considerations as set out above or other circumstances, the County Administrator, or the Administrator's formally identified designee, shall notify the property owner(s) of the County's intent, and with consent of the property owner(s), may proceed.

(c) If consent is not received, the County shall obtain a judgment in accordance with Minn. Stat. Ch. 463 authorizing it to carry out the removal and disposal of the property.

(4) If County abatement and remediation or removal occurs, the Public Health Authority may recover the costs of abatement, remediation and removal as provided herein.

2.2 ADDITIONAL REQUIREMENTS FOR CLANDESTINE DRUG LAB SITES

(A) Law enforcement authorities, who identify and confirm a clandestine drug lab site or clandestine drug lab operation, shall notify the Public Health Authority and the county department responsible for child protection and vulnerable adults within one working day of identifying and confirming the lab site.

(1) The obligation to promptly notify may be delayed to accomplish appropriate law enforcement objectives, but any decision to delay notification must be in compliance with state law, including but not limited to, Minnesota Statutes §§ 626.556 and 626.557.

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

(a) Property or structure location by street address and other identifiable location;

(b) Property or structure owner's and occupant's identities—especially the identities of any children, women of child-bearing age and vulnerable adults found or known to be associated with the site;

(c) Chemicals found, indications of chemical residues, and any related odors and vapors;

(d) Equipment in a dwelling or structure that is typically associated with the manufacture of a controlled substance; and

(e) Conditions at the site associated with the clandestine drug lab site or operation, including but not limited to, chemicals, weapons, illicit drugs, filth, fire, or electrical shock risks and other harmful conditions.

(B) Upon identification of the clandestine drug lab site or operation, law enforcement agencies may treat, store, transport or dispose of all hazardous material or hazardous waste found at the site in a manner consistent with Minnesota Department of Health, Minnesota Pollution Control Agency, and Scott County rules and regulations, including but not limited to Scott County Ordinance 12, Hazardous Waste Management.

(C) The law enforcement agency shall install locks on all entry doors of the affected area of a structure (s) after all occupants and animals have vacated the site. Local authorities will be notified of animals that need to be removed from the site.

(D) When a law enforcement agency completes its work and is prepared to leave such sites, the agency shall affix a warning sign to all the entrances of the affected part of the structure or in a conspicuous place(s) on bare land.

(1) The warning sign shall be consistent with those deemed appropriate by County Law Enforcement, the Public Health Authority, and local officials. 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.

(2) It is unlawful for any person, except authorized County personnel, to remove a Chemical Investigation Site Public Health Nuisance warning sign from the posted property. Any person, other than a representative of the Public Health Authority, who willfully removes a warning sign may be charged with misdemeanor interference with performance of duties pursuant to Minnesota Statutes § 145A.04, subd. 10.

2.3 CHEMICAL INVESTIGATION SITE PROPERTY OWNER'S AND OCCUPANT'S ADDITIONAL RESPONSIBILITIES

(A) Property owner(s) and occupant(s) provided with notice, which also includes the posted warning sign informing them of the chemical investigation site Public Health Nuisance, shall promptly act to vacate occupants and animals 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.

(B) Property owner(s) and occupant(s) shall contract with one or more approved remediation, environmental hazard testing and cleaning firms on the Minnesota Department of Health's list that will verify work is completed according to the Minnesota Department of Health's Clandestine Drug Labs General Cleanup Guidelines (in coordination with the Minnesota Pollution Control Agency) and best practices, to accomplish ordered work which may include, but is not limited to, the following:

(1) A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein. This includes dwellings, buildings, motor vehicles, trailers, boat, appliances or any other affected area or location.

(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 including testing the well and septic system;

(3) A complete cleanup of the site (including but not limited to, the cleanup or removal of contaminated plumbing, ventilation systems, fixtures and soil, well and septic system), or a demolition of the site and a complete cleanup of the demolished site including abandonment of the well and septic system if necessary;

(4) A complete cleanup, or disposal at an approved dumpsite, of all personal property in the site;

(5) A complete cleanup 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 Minnesota Department of Health and Minnesota Pollution Control Agency guidelines, to allow safe human occupancy and use of the site, and use of the personal property therein.

(C) Property owner(s) and occupant(s) shall provide the Public Health Authority with the identity of the professional remediation firm the owner, occupant or property agent has contracted with for remediation of the structure(s) as described above.

(D) Property owner(s) and occupant(s) shall provide Scott County Public Health Authority with the selected contractor's plan and schedule for remediation that will satisfy the abatement and remediation order(s).

(E) The property owner(s) or occupant(s) may request an extension of time for the abatement and remediation deadline to consider options for arranging cleanup or removal of the affected parts of the structure(s). The owner(s) or occupant(s) must show good cause for any such extension. Any such extension shall be dependent on the assurances of the owner(s) that the affected parts of the structure(s) will not be occupied pending appropriate cleanup or demolition.

(F) Prior to signing a lease or rental agreement or transferring or selling property, the owner, occupant or property agent must disclose, in writing, to the renter, buyer or transferee if, to the knowledge of the owner, occupant or property agent, methamphetamine production has occurred on the property.

CHAPTER 3: FEES, COSTS AND ASSESSMENT

3.1 FEES AND COSTS

(A) Consistent with Minnesota Statutes Chapter 145A and Minnesota Statutes § 152.0275, the property owner(s) shall be responsible for:

(1) All costs and fees associated with Public Health Nuisance abatement and remediation, including but not limited to, private contractor's fees, cleanup, remediation, and testing related to Public Health Nuisance conditions; and

(2) Scott County's fees and costs associated with administering notices and enforcing, vacating, cleanup, remediation, and testing of affected parts of the property, which may include but are not limited to:

(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) Cleanup services;

(g) Contractor fees;

(h) Administrative fees; and

(i) Other associated costs.

(B) Fees for the Public Health Authority complaint investigation, verification, administration and enforcement of violations of this ordinance shall be those established by resolution, as amended from time to time, by the Scott County Board of Commissioners.

3.2 SPECIAL ASSESSMENT

(A) Fees and costs specified above due to Scott County that are not paid directly to the County may be collected through a special assessment on the property as allowed by Minnesota Statute §145A.08.

(B) If the special assessment is in excess of One Thousand Dollars ($1,000), payment on the special assessment shall be at the annual rate of at least One Thousand Dollars ($1,000) or more as needed to assure full payment to the County within ten (10) years. The amount due and/or payment rate may be adjusted by action of the Scott County Board of Commissioners.

(C) The County may seek recovery of costs through any applicable Federal, State, and County Laws, Ordinances, and/or applicable Scott County Board Resolution and nothing herein precludes or limits the County from seeking recovery through such methods.

(D) Nothing in this ordinance is intended to limit the rights of the property owner(s), agent(s), occupant(s), or Scott County to recover costs or damages from persons contributing to the damage or condition of the Public Health Nuisance site, such as the operators of a clandestine drug lab site, and/or other lawful sources.

CHAPTER 4: MODIFICATIONS AND APPEALS

4.1 MODIFICATION AND REMOVAL

(A) The Public Health Authority may modify conditions of an abatement and remediation order, including timelines, and may order removal of the declaration of a Public Health Nuisance.

(B) Such modification or removal shall be only after the Public Health Authority has determined the level of Public Health Nuisance is sufficiently reduced or abated 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 property owner(s) and others, including but not limited to state and local health, safety, law enforcement and pollution control authorities, to reach such decisions.

(C) If notice of the Public Health Nuisance was filed with the Recorder, notice that the declaration or order has been removed shall be forward to the Recorder for addition to the property record.

(D) If notice of the Public Health Nuisance was filed with the state registrar, notice that the declaration or order has been removed shall be provided to the motor vehicle or other license records agencies and lien holders.

4.2 APPEALS

(A) An owner and/or an occupant of the affected property may appeal:

(1) The declaration of a Public Health Nuisance, including the order for abatement or remediation from the Public Health Authority

(2) A County decision to remove and dispose of property so long as there is no criminal action arising out of or related to activities on the property provided however that such an appeal shall not be considered in place of the owner's/occupant's duty to respond to any District Court action.

(B) An appeal must be filed by the owner or occupant submitting a written request for a hearing to the Public Health Authority within five business days of the date of service of the declaration or notice of property removal, exclusive of the day of service. In the event of an unknown or absent property owner, the appeal must be requested within five business days from the day of posting of the notice.

(C) Hearings

(1) Appeal hearings shall be heard by a quorum of the Scott County Community Health Board ("CHB").

(2) The hearing shall be held no later than ten calendar days after the request for a hearing was received by the Public Health Authority. For good cause shown, the Chair of the CHB may continue the date of the hearing for up to another ten calendar days.

(3) The Public Health Authority shall mail a notice of the time and place of the hearing at least seven calendar days prior to the hearing.

(4) All parties shall have full opportunity to respond to and present evidence and witnesses.

(5) The appellant shall have the burden of proving its position by clear and convincing evidence.

(6) Hearings shall be informal. The parties shall have the opportunity to present testimony and question any witnesses, but strict rules of evidence shall not apply. The hearing shall be recorded, and the full record of the hearing shall be maintained. The CHB shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent people in the conduct of their serious affairs. Irrelevant, immaterial and repetitious evidence shall be excluded. Failure to attend the hearing as scheduled shall be deemed an admission of the facts set forth in the notice and order for abatement.

(7) The decision of the CHB shall be issued within ten calendar days following the hearing and unless otherwise required by law, shall be the final decision of the Public Health Authority.

(D) Fees and expenses for the hearing shall be borne equally by the Public Health Authority and the owner, occupant or property agent. In the event that the hearing results in a decision in the appellant's favor, the Public Health Authority will be responsible for the full expense.

CHAPTER 5: ENFORCEMENT

5.1 MISDEMEANOR AND CONTINUING OFFENSES

(A) Any person who violates any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided by law.

(B) A separate offense shall be deemed committed upon each day that a violation occurs or continues.

5.2 COUNTY ATTORNEY

In the event of a violation or a threat of violation of this ordinance, the County Attorney may take appropriate action to enforce this ordinance, including application for injunctive relief,

action to compel performance, or any other appropriate action in court to prevent, restrain, correct or abate such violation or threatened violation.

CHAPTER 6: SEVERABILITY

If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation of, or affect the validity or enforceability of any other section or provision of this ordinance.

CHAPTER 7: EFFECTIVE DATE

This ordinance shall be in full force and effect upon its passage and publication according to law.

SIGNED:

By: _____
CHAIRPERSON
SCOTT COUNTY BOARD OF COMMISSIONERS

ATTEST:
By: _____
County Administrator