

# HANDBOUT 1

## List of Public Nuisances:

1. Keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;
2. Keeping, storing, or accumulating rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood or within 300 feet of a public street for 10 days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street;
3. Maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests;
4. Allowing weeds to grow on premises in a neighborhood if the weeds are located within 300 feet of another residence or commercial establishment;
5. Maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard;
6. Maintaining on abandoned and unoccupied property in a neighborhood a swimming pool that is not protected with:
  - a fence that is at least four feet high and that has a latched and locked gate; and
  - a cover over the entire swimming pool that cannot be removed by a child;
7. Maintaining on any property in a neighborhood in a county with a population of more than 1.1 million a swimming pool that is not protected with:
  - a fence that is at least four feet high and that has a latched gate that cannot be opened by a child; or
  - a cover over the entire swimming pool that cannot be removed by a child;
8. Maintaining a flea market in a manner that constitutes a fire hazard;
9. Discarding refuse or creating a hazardous visual obstruction on:
  - county-owned land; or land or easements owned or held by a special district that has the commissioners court of the county as its governing body;
10. Discarding refuse on the smaller of:
  - the area that spans 20 feet on each side of a utility line; or
  - the actual span of the utility easement;
11. Filling or blocking a drainage easement, failing to maintain a drainage easement, maintaining a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation, or violating an agreement with the county to improve or maintain a drainage easement;
12. Discarding refuse on property that is not authorized for that activity; or
13. Surface discharge from an on-site sewage disposal system as defined by Health and Safety Code § 366.002. *Health and Safety Code § 343.011.*

**Legal Definitions of Words Used in Above List of Public Nuisances:**

"Building" means a structure built for the support, shelter, or enclosure of a person, animal, chattel, machine, equipment, or other moveable property.

"Garbage" means decayable waste from a public or private establishment or restaurant. The term includes vegetable, animal, and fish offal and animal and fish carcasses, but does not include sewage, body waste, or an industrial by-product.

"Neighborhood" means:

- a platted subdivision; or
- property contiguous to and within 300 feet of a platted subdivision.

"Platted subdivision" means a subdivision that has its approved or unapproved plat recorded with the county clerk of the county in which the subdivision is located.

"Premises" means all privately owned property, including vacant land or a building designed or used for residential, commercial, business, industrial, or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps, or other structure appurtenant to the property.

"Public street" means the entire width between property lines of a road, street, way, thoroughfare, or bridge if any part of the road, street, way, thoroughfare, or bridge is open to the public for vehicular or pedestrian traffic.

"Receptacle" means a container that is composed of durable material and designed to prevent the discharge of its contents and to make its contents inaccessible to animals, vermin, or other pests.

"Refuse" means garbage, rubbish, paper, and other decayable and nondecayable waste, including vegetable matter and animal and fish carcasses.

"Rubbish" means nondecayable waste from a public or private establishment or residence.

"Undeveloped land" means land in a natural, primitive state that lacks improvements, infrastructure, or utilities and that is located in an unincorporated area at least 5,000 feet outside the boundaries of a home-rule municipality.

"Weeds" means all rank and uncultivated vegetable growth or matter that:

- has grown to more than 36 inches in height; or
- creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests, regardless of the height of the weeds.

"Flea market" means an outdoor or indoor market, conducted on non-residential premises, for selling secondhand articles or antiques, unless conducted by a religious, educational, fraternal, or charitable organization.

*Health and Safety Code § 343.002*

# HANDOUT 2

## ENVIRONMENTAL HEARINGS FLOWCHART Chapter 343, Health & Safety Code

A full list of abatable nuisances found on ~~Page 343.011(c)(1)-(10)~~ <sup>HANDOUT 1</sup> Separate from the below process, a criminal complaint may be filed under HSC 343.012. Procedure in those cases, is the same as in any criminal case. Fine of \$50-200 per day if the person hasn't abated within 30 days of the notice. If the defendant has a prior conviction, the offense is a jailable misdemeanor (no jurisdiction).

### Written notice of the existence of a public nuisance must be given to:

- (1) the owner, lessee, occupant, agent, or person in charge of the premises; and
  - (2) the person responsible for causing a public nuisance on the premises when that person is not the owner, lessee, occupant, agent, or person in charge of the premises and the person responsible can be identified.
- Notice is typically provided by a county environmental health official or another county employee employed to address public nuisances.

### The notice must state:

- (1) the specific condition that constitutes a nuisance;
- (2) that the person receiving notice shall abate the nuisance before the:
  - (A) 31st day after the date on which the notice is served, if the person has not previously received a notice regarding a nuisance on the premises; or
  - (B) 10th business day after the date on which the notice is served, if the person has previously received a notice regarding a nuisance on the premises;
- (3) that failure to abate the nuisance may result in:
  - (A) abatement by the county;
  - (B) assessment of costs to the person responsible for causing the nuisance when that person can be identified; and
  - (C) a lien against the property on which the nuisance exists, if the person responsible for causing the nuisance has an interest in the property;
- (4) that the county may prohibit or control access to the premises to prevent a continued or future nuisance described by Section 343.011(c)(1), (6), (9), or (10); and
- (5) that the person receiving notice is entitled to submit a written request for a hearing before the:
  - (A) 31st day after the date on which the notice is served, if the person has not previously received a notice regarding a nuisance on the premises; or
  - (B) 10th business day after the date on which the notice is served, if the person has previously received a notice regarding a nuisance on the premises.

### The notice must be given:

- (1) by service in person or by registered or certified mail, return receipt requested; or
- (2) if personal service cannot be obtained or the address of the person to be notified is unknown, by posting a copy of the notice on the premises on which the nuisance exists and by publishing the notice in a newspaper with general circulation in the county two times within 10 consecutive days.

### The court may assess, in an unappealable order:

- (1) the cost of abating the nuisance, including management, remediation, storage, transportation, and disposal costs, and damages and other expenses incurred by the county;
- (2) the cost of legal notification by publication; and
- (3) an administrative fee of not more than \$100 on the person receiving notice under Section 343.022.

### HANDOUT 3

Sec. 341.011. NUISANCE. Each of the following is a public health nuisance:

- (1) a condition or place that is a breeding place for flies and that is in a populous area;
- (2) spoiled or diseased meats intended for human consumption;
- (3) a restaurant, food market, bakery, other place of business, or vehicle in which food is prepared, packed, stored, transported, sold, or served to the public and that is not constantly maintained in a sanitary condition;
- (4) a place, condition, or building controlled or operated by a state or local government agency that is not maintained in a sanitary condition;
- (5) sewage, human excreta, wastewater, garbage, or other organic wastes deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in disease transmission to a person or between persons;
- (6) a vehicle or container that is used to transport garbage, human excreta, or other organic material and that is defective and allows leakage or spilling of contents;
- (7) a collection of water in which mosquitoes are breeding in the limits of a municipality or a collection of water that is a breeding area for mosquitoes that can transmit diseases regardless of the collection's location other than a location or property where activities meeting the definition of Section [11.002\(12\)\(A\)](#), Water Code, occur;
- (8) a condition that may be proven to injuriously affect the public health and that may directly or indirectly result from the operations of a bone boiling or fat rendering plant, tallow or soap works, or other similar establishment;
- (9) a place or condition harboring rats in a populous area;
- (10) the presence of ectoparasites, including bedbugs, lice, and mites, suspected to be disease carriers in a place in which sleeping accommodations are offered to the public;
- (11) the maintenance of an open surface privy or an overflowing septic tank so that the contents may be accessible to flies; and
- (12) an object, place, or condition that is a possible and probable medium of disease transmission to or between humans.