

## **HEALTH AND SAFETY CODE**

### **CHAPTER 341. MINIMUM STANDARDS OF SANITATION AND HEALTH PROTECTION MEASURES**

#### **SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 341.001. DEFINITIONS. In this chapter:

- (1) "Board" means the Texas Board of Health.
- (2) "Department" means the Texas Department of Health.
- (3) "Drinking water" means water distributed by an individual or public or private agency for human consumption, for use in preparing food or beverages, or for use in cleaning a utensil or article used in preparing food or beverages for, or consuming food or beverages by, human beings. The term includes water supplied for human consumption or used by an institution catering to the public.
- (4) "Human excreta" means the urinary and bowel discharges of a human.
- (5) "Person" means an individual, corporation, organization, government, business trust, partnership, association, or any other legal entity.
- (6) "Privy" means a facility for the disposal of human excreta.
- (7) "Sanitary" means a condition of good order and cleanliness that precludes the probability of disease transmission.
- (8) "Septic tank" means a covered water-tight tank designed for sewage treatment.
- (9) "Toilet" means the hopper device for the deposit and discharge of human excreta into a water carriage system.
- (10) "Tourist court" means a camping place or group of two or more mobile or permanent housing units operated as rental property for the use of transient trade or trailer units housing humans.
- (11) "Water supply" means a source or reservoir of water distributed and used for human consumption.
- (12) "Water supply system operator" means a person who:
  - (A) is trained in the purification or distribution of a public water supply;

- (B) has a practical working knowledge of the chemistry and bacteriology essential to the practical mechanics of water purification; and
- (C) is capable of conducting and maintaining the purification processes in an efficient manner.

Sec. 341.002. RULES FOR SANITATION AND HEALTH PROTECTION.

The board may:

- (1) adopt rules consistent with the purposes of this chapter; and
- (2) establish standards and procedures for the management and control of sanitation and for health protection measures.

SUBCHAPTER B. NUISANCES AND GENERAL SANITATION

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 *Culex quinquefasciatus* 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.

Sec. 341.012. ABATEMENT OF NUISANCE.

(a) A person shall abate a public health nuisance existing in or on a place the person possesses as soon as the person knows that the nuisance exists.

(b) A local health authority who receives information and proof that a public health nuisance exists in the local health authority's jurisdiction shall issue a written notice ordering the abatement of the nuisance to any person responsible for the nuisance. The local health authority shall at the same time send a copy of the notice to the local municipal, county, or district attorney.

(c) The notice must specify the nature of the public health nuisance and designate a reasonable time within which the nuisance must be abated.

(d) If the public health nuisance is not abated within the time specified by the notice, the local health authority shall notify the prosecuting attorney who received the copy of the original notice. The prosecuting attorney:

(1) shall immediately institute proceedings to abate the public health nuisance; or

(2) request the attorney general to institute the proceedings or provide assistance in the prosecution of the proceedings, including participation as an assistant prosecutor when appointed by the prosecuting attorney.

Sec. 341.013. GARBAGE, REFUSE, AND OTHER WASTE.

(a) Premises occupied or used as residences or for business or pleasure shall be kept in a sanitary condition.

(b) Kitchen waste, laundry waste, or sewage may not be allowed to accumulate in, discharge into, or flow into a public place, gutter, street, or highway.

(c) Waste products, offal, polluting material, spent chemicals, liquors, brines, garbage, rubbish, refuse, used tires, or other waste of any kind may not be stored, deposited, or disposed of in a manner that may cause the pollution of the surrounding land, the contamination of groundwater or surface water, or the breeding of insects or rodents.

(d) A person using or permitting the use of land as a public dump shall provide for the covering or incineration of all animal or vegetable matter deposited on the land and for the disposition of other waste materials and rubbish to eliminate the possibility that those materials and rubbish might be a breeding place for insects or rodents.

(e) A person may not permit vacant or abandoned property owned or controlled by the person to be in a condition that will create a public health nuisance or other condition prejudicial to the public health.

Sec. 341.014. DISPOSAL OF HUMAN EXCRETA.

(a) Human excreta in a populous area shall be disposed of through properly managed sewers, treatment tanks, chemical toilets, or privies constructed and maintained in conformity with the department's specifications, or by other methods approved by the department. The disposal system shall be sufficient to prevent the pollution of surface soil, the contamination of a drinking water supply, the infection of flies or cockroaches, or the creation of any other public health nuisance.

(b) Effluent from septic tanks constructed after September 4, 1945, shall be disposed of through:

(1) a subsurface drainage field designed in accordance with good public health engineering practices; or

(2) any other method that does not create a public health nuisance.

(c) A privy may not be constructed within 75 feet of a drinking water well or of a human habitation, other than a habitation to which the privy is appurtenant, without approval by the local health authority or the board. A privy may not be constructed or maintained over an abandoned well or over a stream.

(d) The superstructure and floor surrounding the seat riser and hopper device of a privy constructed and maintained in conformity with the department's specifications shall be kept in a sanitary condition at all times and must have adequate lighting and ventilation.

(e) Material and human excreta removed from a privy vault or from any other place shall be handled in a manner that does not create a public health nuisance. The material and human excreta may not be deposited within 300 feet of a highway unless buried or treated in accordance with the instructions of the local health authority or the board.

*[NON-APPLICABLE SECTIONS OMITTED]*

Sec. 341.039. GRAYWATER STANDARDS.

(a) The commission by rule shall adopt and implement minimum standards for the use and reuse of graywater for:

(1) irrigation and other agricultural purposes;

(2) domestic use, to the extent consistent with Subsection (c);

(3) commercial purposes; and

(4) industrial purposes.

(b) The standards adopted by the commission under Subsection (a) must

assure that the use of graywater is not a nuisance and does not damage the quality of surface water and groundwater in this state.

(c) The commission may not require a permit for the domestic use of less than 400 gallons of graywater each day if the graywater:

- (1) originates from a private residence;
- (2) is used by the occupants of that residence for gardening, composting, or landscaping at the residence;
- (3) is collected using a system that overflows into a sewage collection or on-site wastewater treatment and disposal system;
- (4) is stored in tanks that:
  - (A) are clearly labeled as nonpotable water;
  - (B) restrict access, especially to children; and
  - (C) eliminate habitat for mosquitoes and other vectors;
- (5) uses piping clearly identified as a nonpotable water conduit, including identification through the use of purple pipe, purple tape, or similar markings;
- (6) is generated without the formation of ponds or pools of graywater;
- (7) does not create runoff across the property lines or onto any paved surface; and
- (8) is distributed by a surface or subsurface system that does not spray into the air.

(d) Each builder is encouraged to:

- (1) install plumbing in new housing in a manner that provides the capacity to collect graywater from all allowable sources; and
- (2) design and install a subsurface graywater system around the foundation of new housing in a way that minimizes foundation movement or cracking.

(e) In this section, "graywater" means wastewater from clothes-washing machines, showers, bathtubs, hand-washing lavatories, and sinks that are not used for disposal of hazardous or toxic ingredients. The term does not

include wastewater:

- (1) that has come in contact with toilet waste;
- (2) from the washing of material, including diapers, soiled with human excreta; or
- (3) from sinks used for food preparation or disposal.

*[NON-APPLICABLE SECTIONS OMITTED]*

#### SUBCHAPTER F. PENALTIES

##### Sec. 341.091. CRIMINAL PENALTY.

(a) A person commits an offense if the person violates this chapter or a rule adopted under this chapter. A person commits an offense if the person violates a permitting or inspection requirement imposed under Section 341.064(n) or a closure order issued under Section 341.064(o). An offense under this section is a misdemeanor punishable by a fine of not less than \$10 or more than \$200.

(b) If it is shown on the trial of the defendant that the defendant has been convicted of an offense under this chapter within a year before the date on which the offense being tried occurred, the defendant shall be punished by a fine of not less than \$10 or more than \$1,000, confinement in jail for not more than 30 days, or both.

(c) Each day of a continuing violation is a separate offense.

##### Sec. 341.092. CIVIL ENFORCEMENT.

(a) A person may not cause, suffer, allow, or permit a violation of this chapter or a rule adopted under this chapter.

(b) A person who violates this chapter or a rule adopted under this chapter shall be assessed a civil penalty. A person who violates a permitting or inspection requirement imposed under Section 341.064(n) or a closure order issued under Section 341.064(o) shall be assessed a civil penalty. A civil penalty under this section may not be less than \$10 or more than \$200 for each violation and for each day of a continuing violation.

(c) If it is shown on the trial of the defendant that the defendant has previously violated this section, the defendant shall be assessed a civil penalty of not less than \$10 or more than \$1,000 for each violation and for each day of a continuing violation.

(d) If it appears that a person has violated, is violating, or is threatening to violate this chapter, a rule adopted under this chapter, a permitting or inspection requirement imposed under Section 341.064(n), or a closure order issued under Section 341.064(o), the department, a county, a municipality, or the attorney general on request by the district attorney, criminal district attorney, county attorney, or, with the approval of the governing body of the municipality, the attorney for the municipality may institute a civil suit in a district court for:

- (1) injunctive relief to restrain the person from continuing the violation or threat of violation;
- (2) the assessment and recovery of a civil penalty; or
- (3) both injunctive relief and a civil penalty.

(e) The department is a necessary and indispensable party in a suit brought by a county or municipality under this section.

(f) On the department's request, or as otherwise provided by this chapter, the attorney general shall institute and conduct a suit in the name of the state for injunctive relief, to recover a civil penalty, or for both injunctive relief and civil penalty.

(g) The suit may be brought in Travis County, in the county in which the defendant resides, or in the county in which the violation or threat of violation occurs.

(h) In a suit under this section to enjoin a violation or threat of violation of this chapter, a rule adopted under this chapter, a permitting or inspection requirement imposed under Section 341.064(n), or a closure order issued under Section 341.064(o), the court shall grant the state, county, or municipality, without bond or other undertaking, any injunction that the facts

may warrant, including temporary restraining orders, temporary injunctions after notice and hearing, and permanent injunctions.

(i) Civil penalties recovered in a suit brought under this section by a county or municipality through its own attorney shall be equally divided between:

(1) the state; an

(2) the county or municipality that first brought the suit.

(j) The state is entitled to civil penalties recovered in a suit instituted by the attorney general.