

# 1. Criminal Health Nuisance Violations

## ENFORCEMENT OPTIONS

- |                                    |   |
|------------------------------------|---|
| (a) Municipal code enforcement     | <b>Local Code Enforcement Officers</b>  |
| (b) Administrative rule violations | TCEQ staff  |
| (c) Criminal law violations        | <b>Local law enforcement;</b><br>TCEQ Special Investigations;<br>Other state agencies |
| (d) Civil enforcement              | Attorney General (TECQ support);<br><b>Local government</b> (TWC 7.351)               |

## Texas Health & Safety Code Chap 341 Minimum Standards of Sanitation and Health Protection Measures

### Application: Everywhere

Use this criminal law to address health issues throughout Texas, both inside cities and in unincorporated areas. Every day is a separate violation.

## General Nuisance Violations

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;
- (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;
- (9) a place or condition harboring rats in a populous area;
- (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.

Note: If the above conditions exist, see Sec. 341.012 for the required abatement process, which involves actions by local health authorities and prosecutors. The time to abate is set by the local health authority and depends on the situation.

## Specific Violations: Trash

**THSC 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.

## Specific Violations: Sewage

**From THSC 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.

## THSC Sec. 341 Penalties

**From THSC Sec. 341.091 CRIMINAL PENALTIES**

### First Violation

An offense under this section is a misdemeanor punishable by a fine of not less than \$10 or more than \$200.

### Subsequent Conviction Within 1 Year

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.

## Texas Health & Safety Code Chap 343 Abatement of Public Nuisances

### Application: Unincorporated Areas Only

Use this criminal law to address health issues in unincorporated areas of Texas. Every day is a separate violation. Does not apply to land classified on tax rolls as agricultural or a site having a permit/license by a state agency.

## Specific Violations: Trash

**From THSC Sec. 343.011. PUBLIC NUISANCE.**

- (a) This section applies only to the unincorporated area of a county.
- (b) A person may not cause, permit, or allow a public nuisance under this section.
- (c) A public nuisance is:
  - (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;
- (12) discarding refuse on property that is not authorized for that activity.

Read the other nuisances defined there, too!

## THSC Sec. 343 Penalties

**From THSC Sec. 343.012. CRIMINAL PENALTY**

### First Violation

An offense under this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200.

### Subsequent Conviction Ever

Punishable by a fine of not less than \$200 or more than \$1,000, and/or confinement in jail for not more than six months.