

PUBLIC NUISANCE ABATEMENT POLICY
FOR
CHAMBERS COUNTY



Approved by Commissioners Court: June 12, 2018

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DEFINITIONS

1. "Abate" means to eliminate by removal, repair, rehabilitation, or demolition.
2. "Building" means a structure built for the support, shelter, or enclosure of a person, animal, chattel, machine, equipment, or other moveable property.
3. "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.
4. "Neighborhood" means:
 - (A) a platted subdivision; or
 - (B) property contiguous to and within 300 feet of a platted subdivision.
5. "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.
6. "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.
7. "Public Nuisance" means:
 - (a) keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;
 - (b) keeping, storing, or accumulating rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood for 10 days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street;
 - (c) maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pest;
 - (d) allowing weeds to grow on premises in a neighborhood if the weeds are located within 300 feet of another residence or commercial establishment;
 - (e) 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;
 - (f) maintaining on abandoned and unoccupied property in a neighborhood a swimming pool that is not protected with:

- (1) a fence that is at least four feet high and that has a latched gate that cannot be opened by a child; or
- (2) a cover over the entire swimming pool that cannot be removed by a child.

(g) maintaining a flea market in a manner that constitutes a fire hazard.

8. "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.
9. "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.
10. "Refuse" means garbage, rubbish, paper, and other decayable and non-decayable waste, including vegetable matter and animal and fish carcasses.
11. "Rubbish" means non-decayable waste from a public or private establishment or residence.
12. "Weeds" means all rank and uncultivated vegetable growth or matter that:
 - (a) has grown to more than 36 inches in height; or
 - (b) may create an unsanitary condition or becomes a harborage for rodents, vermin, or other disease carrying pests, regardless of the height of the weeds.
13. "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.

PUBLIC NUISANCE ABATEMENT PROCEDURES FOR CHAMBERS COUNTY

IN ACCORDANCE WITH SECTION 343.022 OF THE TEXAS HEALTH AND SAFETY CODE THE FOLLOWING PROCEDURES ARE HEREBY ADOPTED BY CHAMBERS COUNTY COMMISSIONERS' COURT, TO WIT:

1. THE PUBLIC NUISANCE ABATEMENT PROCEDURES FOR CHAMBERS COUNTY, TEXAS SHALL BE ADMINISTERED BY THE CHAMBERS COUNTY ENVIRONMENTAL HEALTH AND PERMITTING DEPARTMENT DIRECTOR.
2. THE COUNTY FIRE MARSHAL MAY ISSUE A NOTICE TO A PERSON TO ABATE A PUBLIC NUISANCE, AS DEFINED IN THE TEXAS HEALTH & SAFETY CODE, SEC. 343.011(c)(5), FOR A BUILDING THAT IS UNSAFE OR THAT CONSTITUTES A FIRE HAZARD.
3. AT ANY TIME THE CHAMBERS COUNTY ENVIRONMENTAL HEALTH AND PERMITTING DEPARTMENT BELIEVES A PUBLIC NUISANCE EXISTS AS DEFINED BY THE TEXAS HEALTH & SAFETY CODE OR A COMPLAINT IS PRESENTED TO THE CHAMBERS COUNTY ENVIRONMENTAL HEALTH AND PERMITTING DEPARTMENT BY A CONCERNED INDIVIDUAL, THE CHAMBERS COUNTY ENVIRONMENTAL HEALTH AND PERMITTING DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO THE FOLLOWING:
 - (A) The owner, lessee, occupant, agent, or person in charge of the premises; and
 - (B) The person responsible for causing a public nuisance on the premises when:
 - (1) That person is not the owner, lessee, occupant, agent, or person in charge of the premises; and
 - (2) The person responsible can be identified.
 - (3) The notice must state:
 - (a) The specific condition that constitutes a nuisance;
 - (b) That the person receiving notice shall abate the nuisance before the 31st day after the date on which the notice is served;
 - (c) That failure to abate the nuisance may result in:
 - (i) Abatement by CHAMBERS COUNTY,
 - (ii) Assessment of costs by CHAMBERS COUNTY to the person responsible for causing the nuisance when that person can be identified; and

(iii) A lien against the property on which the nuisance exists, if the person responsible for causing the nuisance has an interest in the property; and

(4) That the person receiving notice is entitled to submit, before the 31st day after the date on which the notice is served, a written request delivered to the CHAMBERS COUNTY JUDGE for a hearing before the Commissioners' Court.

Section 343.012 of the Texas Health and Safety Code, as amended, provides that a person commits a misdemeanor (punishable by a fine of not less than \$50 or more than \$200 for the first offense). If the public nuisance remains unabated after the 30th day after the date on which the person receives notice from a county official, agent, or employee to abate the nuisance.

4. The notice given by the CHAMBERS COUNTY ENVIRONMENTAL HEALTH AND PERMITTING DEPARTMENT must be made as follows:
 - (A) by service in person or by registered or certified mail, return receipt requested; or
 - (B) 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.
5. Upon a timely written request delivered to the CHAMBERS COUNTY JUDGE before the 31st day after the date on which the notice is served, a hearing shall be scheduled before the CHAMBERS COUNTY COMMISSIONERS' COURT otherwise designates a board, commission, or official to conduct such hearing.
6. Upon a finding the public nuisance exists, and has not been timely abated, CHAMBERS COUNTY MAY:
 - (A) assess the cost of abating the nuisance, the cost of legal notification by publication, and an administrative fee of not more than \$100 on the person receiving notice under Section 343.022; of the Health and Safety Code; or
 - (B) by resolution or order, assess the cost of abating the nuisance, the cost of legal notification, and an administrative fee of not more than \$100 against the property on which the nuisance exists.
7. CHAMBERS COUNTY may not make an assessment against property unless the owner or owner's agent receives notice of the nuisance in accordance with Section 343.022. of the Health and Safety Code.
8. To obtain a lien against the property to secure an assessment, the CHAMBERS COUNTY COMMISSIONER'S COURT must file a notice that contains a statement of cost, a legal description of the property sufficient to identify the property, and the name of the property owner, if known, with the county clerk.

9. CHAMBERS COUNTY'S lien to secure an assessment attaches when the notice of lien is filed and is inferior to a previously recorded bona fide mortgage lien attached to the real property to which the county's lien attaches, if the mortgage was filed for record in the office of the county clerk before the date on which the county files the notice of lien with the county clerk.
10. CHAMBERS COUNTY is entitled to accrued interest beginning on the 31st day after the date of the assessment against the property at the rate of 10 percent a year.
11. The statement of costs or a certified copy of the statement of costs is prima facie proof of the costs incurred to abate the nuisance.
12. CHAMBERS COUNTY officials, agents, or employees charged with the enforcement of health, environmental, safety, or fire laws may enter any premises in the unincorporated area of the county at a reasonable time to inspect, investigate, or abate a nuisance or to enforce these procedures.
13. Before entering the premises, the official, agent, or employee must exhibit proper identification to the occupant, manager, or other appropriate person.
14. A court of competent jurisdiction in CHAMBERS COUNTY, TEXAS may issue any order necessary to enforce these procedures authorized pursuant to Chapter 343 of the Health & Safety code.