

PUBLIC NUISANCE AND ENVIRONMENTAL HEARINGS CHART

Chapter 343, Health & Safety Code

A full list of public nuisances and definitions is found on the List of Public Nuisances. Separate from the process described below, a criminal complaint may be filed under HSC Chapters 341 or 343 or Water Code Chapter 7. Procedure in those cases is the same as in any criminal case. See Chapter 11 of the *Criminal Deskbook* for a discussion of those offenses, including the fine amounts and authority of the court to order abatement of the nuisance.

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.