

BOSQUE COUNTY ORDINANCE #1

(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;
- (6) maintaining on abandoned and unoccupied property in a neighborhood a swimming pool that is not protected with:
 - (A) a fence that is at least four feet high and that has a latched gate that cannot be opened by a child; or
 - (B) a cover over the entire swimming pool that cannot be removed by a child;
- (7) maintaining a flea market in a manner that constitutes a fire hazard;
- (8) discarding refuse or creating a hazardous visual obstruction on:
 - (A) county-owned land; or
 - (B) land or easements owned or held by a special district that has the commissioners court of the county as its governing body; or
- (9) discarding refuse on the smaller of:
 - (A) the area that spans 20 feet on each side of a utility line; or
 - (B) the actual span of the utility easement.

(d) This section does not apply to:

- (1) a site or facility that is:
 - (A) permitted and regulated by a state agency; or
 - (B) licensed or permitted under Chapter 361; or
- (2) agricultural land.

(e) In Subsection (d), "agricultural land" means land that qualifies for tax appraisal under Subchapter C or D, Chapter 23, Tax Code. [FN1]

PUBLIC NUISANCE

- (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 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.
- (8) "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.
- (9) "Refuse" means garbage, rubbish, paper, and other decayable and nondecayable waste, including vegetable matter and animal and fish carcasses.
- (10) "Rubbish" means nondecayable waste from a public or private establishment or residence.
- (11) "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 become a harborage for rodents, vermin, or other disease-carrying pests, regardless of the height of the weeds.
- (12) "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.

BOSQUE COUNTY ORDINANCE #2

CRIMINAL PENALTY

(a) A person commits an offense if:

- (1) the person violates Bosque County Ordinance #1;
- (2) the 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.

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

(c) If it is shown on the trial of the defendant that the defendant has been previously convicted of an offense under this section, the defendant is punishable by a fine of not less than \$200 or more than \$1,000, confinement in jail for not more than six months, or both.

(d) Each day a violation occurs is a separate offense.

(e) The court shall order abatement of the nuisance if the defendant is convicted of an offense under this section.

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BOSQUE COUNTY ORDINANCE #3

AUTHORITY TO ENTER PREMISES

(a) A county official, agent, or employee 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 Bosque County Ordinance # 1 Public Nuisance.

(b) Before entering the premises, the official, agent, or employee must exhibit proper identification to the occupant, manager, or other appropriate person.

BOSQUE COUNTY ORDINANCE # 4

Authority To Abate Nuisance

A county may abate a nuisance under this chapter by demolition or removal if the county adopts abatement procedures that are consistent with the general purpose of this chapter and that conform to this chapter.

ABATEMENT PROCEDURES

(a) The abatement procedures adopted by the commissioners court must be administered by a regularly salaried, full-time county employee, but the removal or demolition of the nuisance may be made by a person authorized by the person administering the abatement program.

(b) The abatement procedures must require that written notice 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:
 - (A) that person is not the owner, lessee, occupant, agent, or person in charge of the premises; and
 - (B) the person responsible can be identified.

(c) The notice must state:

- (1) the specific condition that constitutes a nuisance;
- (2) that the person receiving notice shall abate the nuisance before the 31st day after the date on which the notice is served;
- (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; 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 for a hearing.

(d) 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.

(e) The abatement procedures must require a hearing before the county abates the nuisance if a hearing is requested. The hearing may be conducted before the commissioners court or any board, commission, or official designated by the commissioners court. The commissioners court may designate a board, commission, or official to conduct each hearing.

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BOSQUE COUNTY ORDINANCE #5

ILLEGAL DUMPING

(a) A person commits an offense if the person disposes or allows or permits the disposal of litter or other solid waste at a place that is not an approved solid waste site, including a place on or within 300 feet of a public highway, on a right-of-way, on other public or private property, or into inland or coastal water of the state.

(b) A person commits an offense if the person receives litter or other solid waste for disposal at a place that is not an approved solid waste site, regardless of whether the litter or other solid waste or the land on which the litter or other solid waste is disposed is owned or controlled by the person.

(c) A person commits an offense if the person transports litter or other solid waste to a place that is not an approved solid waste site for disposal at the site.

(d) An offense under this section is a Class C misdemeanor if the litter or other solid waste to which the offense applies weighs five pounds or less or has a volume of five gallons or less.

(e) An offense under this section is a Class B misdemeanor if the litter or other solid waste to which the offense applies weighs more than five pounds but less than 500 pounds or has a volume of more than five gallons but less than 100 cubic feet.

(f) An offense under this section is a Class A misdemeanor if:

(1) the litter or other solid waste to which the offense applies weighs 500 pounds or more but less than 1,000 pounds or has a volume of 100 cubic feet or more but less than 200 cubic feet; or

(2) the litter or other solid waste is disposed for a commercial purpose and weighs more than five pounds but less than 200 pounds or has a volume of more than five gallons but less than 200 cubic feet.

(g) An offense under this section is a state jail felony if the litter or solid waste to which the offense applies:

(1) weighs 1,000 pounds or more or has a volume of 200 cubic feet or more;

(2) is disposed of for a commercial purpose and weighs 200 pounds or more or has a volume of 200 cubic feet or more; or

(3) is contained in a closed barrel or drum.

(h) If it is shown on the trial of the defendant for an offense under this section that the defendant has previously been convicted of an offense under this section, the punishment for the offense is increased to the punishment for the next highest category.

(i) On conviction for an offense under this section, the court shall provide to the defendant written notice that a subsequent conviction for an offense under this section

may result in the forfeiture under Chapter 59, Code of Criminal Procedure, of the vehicle used by the defendant in committing the offense.

(j) The offenses prescribed by this section include the unauthorized disposal of litter or other solid waste in a dumpster or similar receptacle.

(k) This section does not apply to the temporary storage for future disposal of litter or other solid waste by a person on land owned by that person, or by that person's agent. The commission by rule shall regulate temporary storage for future disposal of litter or other solid waste by a person on land owned by the person or the person's agent.

(l) This section does not apply to an individual's disposal of litter or other solid waste if:

- (1) the litter or waste is generated on land the individual owns;
- (2) the litter or waste is not generated as a result of an activity related to a commercial purpose;
- (3) the disposal occurs on land the individual owns; and
- (4) the disposal is not for a commercial purpose.

(m) A municipality or county may offer a reward of \$50 for reporting a violation of this section that results in a prosecution under this section.

(n) An offense under this section may be prosecuted without alleging or proving any culpable mental state, unless the offense is a state jail felony.

(o) For purposes of a prosecution under Subsection (g), a generator creates a rebuttable presumption of lack of culpable mental state if the generator of the solid waste to be disposed of secures, prior to the hauler's receipt of the solid waste, a signed statement from the hauler that the solid waste will be disposed of legally. The statement shall include the hauler's valid Texas driver's license number.