

**To the Mayor and Members of the City Council****August 29, 2023**

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**SUBJECT: THE NUISANCE ABATEMENT LITIGATION PROCESS**

The purpose of this Informal Report is to provide information concerning the nuisance abatement litigation process, the number of nuisance abatement cases handled by the City since January 1, 2021, and the disposition of those cases.

**What is Nuisance Abatement?**

In the context of nuisance abatement litigation, there are generally two categories of nuisances the City is authorized to abate. The first category involves properties where persons habitually go to commit certain criminal activities and the owner fails to take reasonable steps to abate the crime (Ch. 125 – common nuisance). The second category addresses property owners who are in violation of City ordinances related to the preservation of public health and safety (Ch. 54). If the City files a lawsuit to abate a nuisance, it is generally based on one of these provisions.

**Ch. 125 of the Texas Civil Practice and Remedies Code**

Chapter 125 of the Texas Civil Practice and Remedies Code is a statute that allows the City to file a lawsuit against the owner of a property who maintains a “common nuisance.” The types of offenses considered for a common nuisance include, but are not limited to, robbery, drug possession, reckless discharge of a firearm, gambling, prostitution, murder, criminal trespass, and others delineated by the statute. If the City is successful in such a lawsuit, available remedies include injunctive relief and closure of the property for a period of one year. Injunctive relief is important because the court can impose reasonable requirements on owners in order to abate the nuisance (e.g. hiring security, removing game machines, etc.).

**Ch. 54 of the Texas Local Government Code**

For those property owners who are in violation of City ordinances and fail to comply, the City may seek penalties and injunctive relief under Chapter 54 of the Texas Local Government Code. The statute specifically allows a municipality to pursue a civil action against a property owner to enforce ordinances related to zoning, or public health and safety. When successful, a Chapter 54 lawsuit allows the City to recover a civil penalty of up to \$1,000 per day for a violation of an ordinance. The City may also obtain injunctive relief—prohibiting the owner from specific conduct which violates the ordinance or requiring specific conduct that is necessary for compliance with the ordinance.

**The Nuisance Abatement Team**

The Nuisance Abatement Team includes staff from the Police, Legal, and Code Departments. Because nuisance issues often overlap, the team works collaboratively to address both Ch. 125 and Ch. 54 properties, as necessary.

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**The Pre-Suit Nuisance Abatement Process: Accord Meetings**

Prior to filing a lawsuit, the City’s Nuisance Abatement Team typically meets with the owner of the nuisance property to determine if the owner will comply and abate the nuisance on their own (voluntary compliance). These meetings are called “accord meetings” and the purpose is to educate the owner about the issues occurring on the property, develop a plan to address those issues, and ideally create a partnership between the City and the property owner whereby the owner seeks to maintain a compliant property and be a value to the community.

Over the years, the City has generally been successful with property owners voluntarily abating the criminal activity on their properties. Most often, owners who hire uniformed/armed security; remove game machines; add better lighting/cameras; alter business hours – as needed; and remove certain inventory sold at stores (e.g. drug paraphernalia) are successful at resolving the issues on their property. Additional steps may be needed depending on the type of property involved. The Nuisance Abatement Team discusses those details with the property owner during the accord meeting and develops recommendations specific to the needs of their property.

The City periodically holds accord meetings with property owners related to Ch. 54 code violations, but the vast majority of meetings relate to properties that are in danger of Ch. 125 litigation.

After the meeting, if owners are unwilling or unable to abate the nuisance on their own, the City is authorized to file a lawsuit. Because nuisance violations impact public health and safety, and quick action may be necessary, City Council previously gave the City Attorney’s Office authority to file suit immediately in these types of cases without seeking prior Council approval.

**Nuisance Abatement Data**

Since January 1, 2021, the City’s Nuisance Abatement Team has reviewed numerous properties throughout the City. Of those properties, accord meetings were held with property owners of properties that generally met the definition of a common nuisance. If the nuisance was not abated following the meeting, and the owner did not take reasonable steps to resolve the nuisance, a lawsuit was initiated.

The following table shows the number of accord meetings held and lawsuits filed since 2021.

<b>Nuisance Abatement Activity</b>			
	<b>2021</b>	<b>2022</b>	<b>2023 YTD</b>
Accord Meetings	2	4	8
Lawsuits	2	1	Pending – 4

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In 2021, the City filed successful lawsuits against two notoriously crime-ridden properties and held accord meetings with two different property owners. As a result of the litigation, one property voluntarily closed its business and the other abated the habitual criminal activity by complying with the terms of the court ordered temporary injunction. During much of 2021, accord meetings were not held due to COVID-19 precautionary measures.

In 2022, the City doubled its number of accord meetings and filed a successful lawsuit against the owner and operators of a convenience store that was synonymous with criminal activity. As a result of the litigation, the store implemented changes such as terminating complicit staff, hiring security, removing the game machines, and pulling drug paraphernalia from its shelves. Incredibly, the store went nine straight months without a single Ch. 125 offense.

In 2023, with the addition of new staff, to date the City has surpassed the total number of accord meetings held in the previous two years combined. Additionally, the City is poised to file four new lawsuits this year, more than equaling the combined total of the last two years.

The Future: The goal moving forward is to continue pursuing nuisance properties aggressively and abate criminal activity throughout the City. The recent additions of a dedicated Code Prosecutor and Chief Prosecutor with the municipal court have been, and will continue to be, instrumental in those efforts. In addition to staff changes, the City Attorney's Office reinstated its Internship/Externship Program with Texas A&M School of Law. Law students now have the opportunity to serve their community by participating in nuisance abatement litigation, as well as other practice areas.

**Contact Us**

If a citizen wishes to report or seek information concerning a property in the City, the City's Nuisance Abatement Officer is Jentry Cotten. Officer Cotten can be reached by telephone at 817-392-4830 and by email at [Jentry.Cotten@fortworthtexas.gov](mailto:Jentry.Cotten@fortworthtexas.gov).

David Cooke  
City Manager