

THE STATE OF TEXAS           §  
  §  
COUNTY OF WEBB               §

**ORDER NO. 12-13-2021-\_\_\_\_\_**  
**WEBB COUNTY COMMISSIONERS COURT**  
**WEBB COUNTY, TEXAS**  
**PUBLIC NUISANCE ABATEMENT RULES AND PROCEDURES**

WHEREAS, the Webb County Commissioners Court finds and determines that trash, litter, junked vehicles, junked mobile homes, and abandon structures are detrimental to the public health, safety and welfare of the residents of Webb County, Texas, ; and

WHEREAS, the Commissioners Court finds and determines that this Order is necessary to promote the health, safety, and welfare of Webb County, Texas, and it’s citizens; and

WHEREAS, the Commissioners Court desires to provide regulations, through the adoption of the *Webb County Public Nuisance Abatement Rules and Procedures*, to control the storage or accumulation of litter, refuse, rubbish, junked vehicles, refrigerators, stoves, furniture, tires, weeds, in neighborhood areas or maintaining unsanitary or structurally unsafe buildings and premises on property within the unincorporated areas of Webb County by ordering the elimination, removal, repair, rehabilitation or demolition of the building or nuisance, after providing written notice to the owner, lessee, or occupant of properties and a hearing before the Commissioners Court or any commission, board, or official, including Justices of the Peace, as designated by the Commissioners Court, for this purpose including a lien against the property, if necessary, for the costs of the abatement of the nuisance together with any administration fees allowed, providing for severability, providing for publication, and declaring an effective date of this Order.

NOW THEREFORE, on this 13<sup>th</sup> day of December, 2021, the Commissioners Court of Webb County, Texas, in regular session at a regular term of said court, **ORDERS** that:

- Section 1: The County Of Webb, hereby adopts the following *Webb County Public Nuisance Abatement Rules and Procedures* as provided by state law.
  
- Section 2: Severability. If any provision of this Order, or the application thereof to any person or circumstance, shall be held invalid or unconstitutional by a Court of competent jurisdiction, such invalidity shall not affect the other provisions, or applications thereof, of this Order which can be given effect without the invalid provision or application, and to this end the provisions of this Order are declared to be severable.
  
- Section 3: Publication. The Webb County Clerk is directed to publish the caption or a descriptive title to this Order one time within ten (10) days after the final passage of the Order in a newspaper of general circulation in the County of Webb, Texas.
  
- Section 4: Distribution. A certified copy of this Order shall be delivered to the Administrator appointed by the Commissioners Court to oversee the enforcement of the *Public Nuisance Abatement Rules and Procedures*, District Attorney, County Attorney,

County Treasurer, and County Auditor of Webb County, Texas, for their information and observance.

Section 4 Effective Date. The above and foregoing instrument passed by vote of the Commissioners Court of Webb County, Texas, is effective this 13<sup>th</sup> day of December, 2021 and hereafter has the effect of law.

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TANO E. TIJERINA  
County Judge

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JESSE GONZALEZ  
Commissioner Pct.1

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ROSAURA "WAWI" TIJERINA  
Commissioner Pct.2

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JOHN GALO  
Commissioner Pct.3

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CINDY LIENDO  
Commissioner Pct.4

ATTEST:

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HON. MARGIE IBARRA  
Webb County Clerk

# **PUBLIC NUISANCE ABATEMENT RULES AND PROCEDURES**

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**SECTION 1.01 Preamble**

This Order establishes the *Public Nuisance Abatement Rules and Procedures* for Webb County, Texas. It shall be cited as the *Webb County Public Nuisance Abatement Rules and Procedures*.

**SECTION 1.02 Establishment and General Provisions - Authority and Scope**

- (a) These *Webb County Public Nuisance Abatement Rules and Procedures* (“Rules and Procedures”) are adopted by this Order (“Order”) of the Webb County Commissioners Court acting in its capacity as the governing body of Webb County, Texas (“County”) under the authority of Chapters 341 and 343 of the Texas Health and Safety Code, Chapter 683 of the Texas Transportation Code, and Chapter 7 of the Texas Water Code. These Rules and Procedures shall apply to the unincorporated areas of Webb County.
- (b) The Rules and Procedures provided herein are not intended nor shall they be construed to limit in any way, other remedies, causes of action, right or penalties provided for by law. It is the intent of the Webb County Commissioners Court that these rules and procedures may be pursued and enforced independently or concurrently with action for injunctions, actions for damages, criminal proceedings, all other claims, suits, and proceedings provided by law.

**SECTION 1.03 Purpose**

It is the purpose of this Order through its Rules and Procedures to protect and enhance the safety, desirability and the aesthetic character of residential and commercial property in the unincorporated areas of Webb County, Texas and to control and abate those certain conditions which lead to neighborhood blight and which are detrimental to the overall health, welfare and safety of the citizens of Webb County, Texas.

**SECTION 1.04 County Powers and Duties**

- (a) The Commissioners Court hereby, through this Order, establishes through these Rules and Procedures that it shall be unlawful for an owner, occupant, tenant, resident, or any other person in control of any lot or parcel of ground within Webb County that is subject to this Order to maintain a public nuisance if the person knows or reasonably should have known that the public nuisance exists on said lot or parcel or ground. This Order does not apply to agriculturally designated land.
- (b) The Commissioners Court of Webb County hereby orders that any county employee may enforce any law reasonably necessary to protect the public health of Webb County citizens as provided under §121.003(a) of the Texas Health and Safety Code.
- (c) The Commissioners Court of Webb County hereby Orders that the Rules and Procedures adopted herein are necessary to abate any nuisance by demolition, removal or other appropriate means consistent with the general purposes of this Order and shall be vigorously pursued in compliance §343.021 of the Texas Health and Safety Code.

**SECTION 1.05 Area of Jurisdiction**

- (a) Webb County. This Order shall apply to all unincorporated areas of Webb County that being the entirety of the County. This Order does not apply to agriculturally designated land within Webb County, Texas.
- (b) Reference. The area of jurisdiction described in Section 1.05(a) shall be referred to herein as “Webb County” or “County.”

**SECTION 1.06 Effective Date.**

This Order adopting the Rules and Procedures herein shall become effective upon adoption by the Commissioners Court.

**SECTION 1.07 Construction and Interpretation**

- (a) Liberal Construction. This Order with its adopted Rules and Procedures shall be construed liberally to accomplish its purpose.
- (b) Interpretation. The Commissioners Court or any other court of competent jurisdiction shall resolve any question regarding interpretation of this Order.
- (c) Conflict. In the event of any conflict between this Order and a State law or rule adopted under a State law, the State law or Rule shall prevail.
- (d) Number and Gender. The masculine, feminine, and neuter genders shall be construed to include the other genders as required. The singular and plural shall be construed to include any other number as required.
- (e) Computation of Time. When any period of time is stated in these Rules and Procedures, the time shall be computed to exclude the first day and include the last day of the period. If the last day of any period falls on a Saturday, Sunday, or holiday, these days shall be omitted from the computation.
- (f) Headings. The headings at the beginning of the various provisions of these Rules Procedures have been included only to make it easier to locate the subject matter covered by that section or subsection and are not to be used in construing this Order.
- (g) Severability. If any provision of this Order and the adopted Rules and Procedures or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction the validity of the remainder of this Order and the application thereof to other persons and circumstances shall not be affected.

**SECTION 1.08      Designating Authorized Persons-Administrator(s)**

- (a) This Order and its Rules and Procedures may be administered by any authorized county employee, board, commission or official designated by the Commissioners Court.
- (b) Any such county employee, board, commission or official designated by the Commissioners Court shall have the following duties and necessary concomitant powers:
  - 1. To enforce this Order and to make appropriate recommendations to proper County authorities when instances of noncompliance with this Order have been determined;
  - 2. To inspect any property, public or private, as requested or required to enforce this Order;
  - 3. To provide to the Commissioners Court any information concerning this Order and its implementation which may be requested by the Commissioners Court; and
  - 4. To perform all other duties necessary to implement the purposes and requirements of this Order and its Rules and Procedures.

**SECTION 1.09      General Definitions**

- (a) “Abate” as defined in §343.002(1) Texas Health and Safety Code means to eliminate by removal, repair, rehabilitation, or demotion. Or in the case of a nuisance under Section 343.011(c)(1), (9), or (10), by prohibition or control of access; and in the case of a nuisance under Section 343.011(c)(12), by removal, remediation, storage, transportation, disposal, or other means of waste management authorized by Chapter 361.
- (b) “Administrator” means a county official or their office, the public official’s agent, or a regularly salaried, full time county employee who is assigned the duties to administer the abatement rules and procedures under this Order.
- (c) “Building” is as defined in §343.002(2) of the Texas Health and Safety Code which means a structure built for the support, shelter, or enclosure of a person, animal, chattel, machine, equipment, or other moveable property.
- (d) “Commissioners Court” means the Webb County Commissioners Court which means the governing body of Webb County, Texas
- (e) “County Employee” includes any authorized employee of the Webb County Sheriff’s Office, Webb County Health Authority, the District Attorney’s Office, Webb County Attorney’s Office and the Webb County Constables Offices. The employee must be a regularly salaried, full-time County employee.
- (f) “Discharge” as defined in §26.001(20) Texas Water Code which means to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release, or dispose of, or to allow,

permit, or suffer any of these acts or omissions.

- (g) “Flea Market” as defined in §343.002(12) of the Texas Health and Safety Code 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.
- (h) “Garbage” as defined in §343.002(3) of the Texas Health and Safety Code which 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.
- (i) “Human Excreta” as defined in §341.001(4) Texas Health and Safety Code means the urinary and bowel discharges of a human.
- (j) “Health Authority” as defined in §121.021 Texas Health and Safety Code means an appointed physician to administer state and local laws relating to public health within the appointing body’s jurisdiction or his/her designated authorized representative.
- (k) “Junked vehicle” as defined in §683.071 Texas Transportation Code means a vehicle that is self-propelled and:
  - 1. Does not have lawfully attached to it:
    - a. An unexpired license plate; or
    - b. A valid motor vehicle inspection certificate;
  - 2. Is wrecked, dismantled or partially dismantled, or discarded; or
  - 3. Is inoperable and has remained inoperable for more than:
    - a. Seventy-two (72) consecutive hours, if the vehicle is on public property; or
    - b. Thirty (30) days consecutive days, if the vehicle is on private property.
- (l) “Litter” as defined in §365.011(6)(A)&(B) of the Texas Health and Safety Code, is as follows:
  - 1. Decayable waste from a public or private establishment, residence, or restaurant, including animal and vegetable waste material from a market or storage facility handling or storing produce or other food products, or the handling, preparation, cooking or consumption of food, but not including sewage, body wastes, or industrial by-products; or
  - 2. Non-decayable solid waste, except ashes, that consists of:

- a. Combustible waste material, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, or similar materials;
  - b. Noncombustible waste material including glass, crockery, tin or aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures of 1800 degrees Fahrenheit or less; and
  - c. Discarded or worn-out manufactured materials and machinery, including motor vehicles and parts of motor vehicles, tires, aircraft, farm implements, building or construction materials, appliances, and scrap metal.
- (m) “HUD Code Manufactured Home” as defined in §1201.003(18)(20) of the Texas Occupation Code means a structure constructed on or after June 15, 2017, according to the rules of the United States department of Housing and Urban Development, built on a permanent chassis, designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities; transportable in one or more sections, and in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site at least 320 square feet includes the plumbing, heating, air conditioning, and electrical systems of the home; and does not include a recreational vehicle as defined by 24 C.F.R. Section 3282.8(g).
- (n) “Mobile home” is as defined in §1201.003(20) of the Texas Occupation Code which means a structure constructed before June 15, 1976, built on a permanent chassis, designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities, transportable in one or more sections; and in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet, and includes the plumbing, heating, air conditioning, and electrical systems of the home.
- (o) “Motor vehicle” is as defined in §501.002(17)(A)(B)(C)(D)(E), and §683.001(4) Texas Transportation Code, 365.011(7) of the Texas Health and Safety Code meaning:
- 1. Any motor driven or propelled vehicle required to be registered under the laws of this state;
  - 2. A trailer or semi-trailer, other than manufactured housing, that has a gross vehicle weight that exceeds 4,000 pounds;
  - 3. A house trailer;
  - 4. An off-highway vehicle, as defined by Section 551A.001 of the Texas Transportation Code; or
  - 5. A motorcycle that is not required to be registered under the laws of this state.



- (p) “Neighborhood” is as defined in §343.002(4)(A)(B) of the Texas Health and Safety Code:
1. A platted subdivision, or
  2. Property contiguous to and within 300 feet of a platted subdivision.
- (q) “Order” as defined in the Order adopting the County’s Rules and Public Nuisance Abatement Procedures which means the laws adopted by the Commissioners Court acting in its capacity as the governing body of Webb County, Texas.
- (r) “Owner” means:
1. The owner, lessee, occupant, agent or person in charge of the premises; and
  2. The person is 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.---§343.022(b)(1)(2)(A)(B) of the Texas Health and Safety Code.
- (s) “Person” has the meaning assigned to that term by section 311.005(2) of the Government Code as it presently exists or may hereafter be amended.
- (t) “Platted subdivision” as defined in §343.002(5) Texas Health and Safety Code which means a subdivision that has or is required to have its approved or unapproved plat recorded with the County Clerk of the county in which the subdivision is located.
- (u) “Premises” as defined in §343.002(6) of Texas Health and Safety Code 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.
- (v) “Public Health Threat” is a condition that poses or may pose a substantial present or potential danger to human health or the environment.
- (w) “Public street” as defined in §343.002(7) of Texas Health and Safety Code 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.
- (x) “Public highway” as defined in §365.011(8)(A)(B)(C) of the Texas Health and Safety Code:

1. The entire width between property lines of a road, street, way, thoroughfare, bridge, public beach, or park in this state, not privately owned or controlled, if any part of the road, street, way, thoroughfare, bridge, public beach, or park:
  - a) is opened to the public for vehicular traffic;
  - b) is used as a public recreational area; or
  - c) is under the state’s legislative jurisdiction through its police power.
  
- (y) “Receptacle” as defined in §343.002(8) of the Texas Health and Safety Code which 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.
  
- (z) “Refuse” as defined in §343.002(9) of the Texas Health and Safety Code means garbage, rubbish, paper, and other decayable and non-decayable waste, including vegetable matter and animal and fish carcasses.
  
- (z) “Rubbish” as defined in §343.002(10) of the Texas Health and Safety Code means non-decayable waste from a public or private establishment or residence.
  
- (aa) “Sanitary” as defined in §341.001(7) of the Texas Health and Safety Code which means a condition of good order and cleanliness that precludes the probability of disease transmission.
  
- (bb) “Sewage” is as defined in §366.002(9)(A)(B) of the Texas Health and Safety Code-as waste that:
  1. Is primarily organic and biodegradable or decomposable; and
  2. Generally originates as human, animal, or plant waste from certain activities, including the use of toilet facilities, washing, bathing, and preparing food.
  
- (cc) “Weeds” as defined in §343.002(11)(A)(B) of the Texas Health and Safety Code means: all rank and uncultivated vegetable growth or matter that:
  1. Has grown to more than thirty-six (36) inches in height; or
  2. Creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests, regardless of the height of the weeds.

**SECTION 1.10 Public Nuisance Definitions and Other Nuisance Definitions**

A Public Nuisance includes:

- (a) As defined in §343.011(c) of the Texas Health and Safety Code:

1. Keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle---§343.011(c)(1) of the Texas Health and Safety Code;
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---§343.011(c)(2) of the Texas Health and Safety Code;
3. Maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests--- §343.011(c)(3) of the Texas Health and Safety Code;
4. Allowing weeds to grow on premises in a neighborhood if the weeds are located within 300 feet of another residence or commercial establishment---§343.011(c)(4)
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---§343.011(c)(5) of the Texas Health and Safety Code;
6. Maintaining an abandoned and unoccupied property in a neighborhood a swimming pool that is not protected with:
  - a) A fence that is at least four (4) feet high and that has a latched and locked gate; or
  - b) A cover over the entire swimming pool that cannot be removed by a child.--§343.011(6)(A)(B) Texas Health and Safety Code;
7. Maintaining a flea market in a manner that constitutes a fire hazard--- §343.011(c)(8) Texas Health and Safety Code;
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--- §343.011(c)(9)(A)(B) Texas Health and Safety Code; 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---§343.011(c)(10)(A)(B) Texas Health and Safety Code.
10. Discarding refuse on property this is not authorized for that activity---§343(c)(12) of the Texas Health & Safety Code.
  11. This subsection does not apply to a site or facility that is permitted and regulated by a state agency.

**(b) As defined in §365 of the Texas Health and Safety Code:**

1. Accumulation of litter for more than thirty-days (30) within fifty feet (50) of a public highway---§365.034(a)(1) Texas Health and Safety Code.

**(c) As defined in-§683.072 Texas Transportation Code:**

Possession of a junked vehicle, including a part of a junked vehicle that is visible from a public place or public right-of-way that either:

1. Is detrimental to the safety and welfare of the public;
2. Tends to reduce the value of private property;
3. Invites vandalism;
4. Creates a fire hazard;
5. Is an attractive nuisance creating a hazard to the health and safety of minors; or
6. Produces urban blight adverse to the maintenance and continuing development of municipalities; and
7. Is a public nuisance. ---§ 683.072(1)(2)(3)(4)(5)(6)(7) Texas Transportation Code

**(d) As defined in §341 Texas Health and Safety Code:**

1. A condition that is a breeding place for flies and that is in a populous area is a violation of §341.011(1) of the Texas Health and Safety Code.
2. A restaurant, food market, bakery, other place of business, or vehicle in which food is prepared, packed, stored, transported, sold, or served to the public and that is not constantly maintained in a sanitary condition-§341.011(3) of the Texas Health and Safety Code.
3. A place, condition, or building controlled or operated by a state or local government

agency that is not maintained in a sanitary condition-§341.011(4) of the Texas Health and Safety Code.

4. 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-§341.011(5) of the Texas Health and Safety Code.
  5. 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-§341.011(6) of the Texas Health and Safety Code.
  6. A place or condition harboring rats in a populous area-§341.011(9) of the Texas Health and Safety Code.
  7. The presence of ectoparasites, including bedbugs, lice, and mites, suspected to be disease carriers in a place in which sleeping accommodations are offered to the public-§341.011(10) Texas Health and Safety Code.
  8. The maintenance of an open surface privy or an overflowing septic tank so that the contents may be accessible to flies-§341.011(11) of the Texas Health and Safety Code; and
  9. An object, place, or condition that is a possible and probable medium of disease transmission to or between humans-§341.11(12) Texas Health and Safety Code.
- (e) **Illegal Dumping:** Disposing, allowing, permitting, receiving, or transporting litter or other solid waste at a place that is not an approved solid waste site- §365.012(a)(b)(c) Texas Health and Safety Code.
- (f) The term “**public nuisance**” also includes any definition added to, by subsequent amendment, in §341, §343, §361, §365, and §366 of the Texas Health and Safety Code, §396, and §683 Texas Transportation Code, and §7 Texas Water Code.

## **SECTION 2.01      General Abatement Procedures**

- (a) **Application.** The requirements of this Section shall generally apply to any public nuisance.
- (b) **Administration of Nuisance Procedures.** Webb County’s abatement procedures shall be administered by a public official, the public official’s agent, or regularly salaried, full-time County employee (“Administrator”), but the removal or demolition of the nuisance may be made by a person authorized by the person administering the abatement program.
- (c) **Filing of Complaint.**
  1. A complaint to abate a public nuisance under these Rules and Procedures may be

initiated by any Person by written complaint filed with the county official or employee authorized to administer the Rules and Procedures herein prescribed.

2. The Administrator or his/her authorized representative is authorized to initiate abatement procedures on behalf of the County by written complaint.
3. The Administrator shall make a record of all complaints received.

(d) **Authority to Enter Premises - Nuisance**

1. **Entry:** A County official, the county official's agent, or employee charged with the enforcement of this Order, including the Health Authority, its authorized representative or other duly authorized person charged with the enforcement of health, safety, environmental, or fire laws, may enter any premises in an area covered by this Order at a reasonable time to inspect, investigate, abate a nuisance or to enforce this Order §343.024(a) Texas Health and Safety.
2. **Identification:** Upon entering the premises, the official, agent, or employee must exhibit proper identification to the occupant, manager, or other appropriate person- §343.024(b) Texas Health and Safety Code.

**Section 2.02 Abatement Procedures for a Junked Vehicle Nuisance**

- (a) To abate a public nuisance under this section, notice of the nature of the nuisance shall be sent by certified mail with a five-day return requested to:
  1. The last known registered owner of the nuisance;
  2. Each lien holder of record of the nuisance; and
  3. The owner or occupant of:
    - a) The property on which the nuisance is located; or
    - b) If the nuisance is located on a public right-of-way, the property adjacent to the right-of-way---§683.075(a)(1)(2)(3)(A)(B) Texas Transportation Code.
- (b) The notice shall state that:
  1. The nuisance must be abated and removed not later than the 10th day after the date on which the notice was mailed; and
  2. Any request for a hearing must be made before that 10-day period expires, §683.075(b)(1)(2) Texas Transportation Code.
- (c) If the post office address of the last known registered owner of the nuisance is unknown,

notice may be placed on the nuisance or, if the owner is located, hand delivered-§683.075(c) Texas Transportation Code.

- (d) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return-§683.075(d) Texas Transportation Code.
- (e) If the nuisance under this section has not been timely abated, an authorized County employee may initiate and take any action reasonably necessary to abate the nuisance, including but not limited to impoundment of the vehicle.
- (f) Within five (5) days after impoundment, notice shall be given to the Texas Department of Transportation, Webb County Sheriff's Office, and any other appropriate law enforcement, that a junked vehicle has been impounded identifying the vehicle or part thereof impounded.
- (g) Thereafter, the County shall dispose of all impounded junked vehicles in such manner as may be designated by the County consistent with state law.

**SECTION 2.03      Abatement Procedures for other Public Nuisances**

- (a) These abatement procedures shall 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-§343.022(a) Texas Health and Safety Code.
- (b) To initiate abatement procedures, written notice shall be given to:
  - 1. The owner, lessee, occupant, agent, or person in charge of the premises; or
  - 2. The person responsible for causing or maintaining 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---§343.022(b)(1)(2)(A)(B) Texas Health and Safety Code.
- (c) The notice must state:
  - 1. The specific condition that constitutes a nuisance §343.022(c)(1) Texas Health and Safety Code.
  - 2. The person receiving notice shall abate the nuisance before the thirty-first (31st) day after the date on which the notice is received §343.022(c)(2) Texas Health and

Safety Code.

3. The failure to timely abate the nuisance may result in criminal prosecution of any person noticed and responsible for the nuisance.
  4. Each day a violation occurs is a separate violation-§343.012(a)(2)(b)(d) Texas Health and Safety Code.
  5. That under certain conditions, failure to abate a public nuisance may result in assessment of costs and the imposition of a lien against the property on which the nuisance exists-§343.022(c)(3)(B) Texas Health and Safety Code.
- (d) If there is a failure to abate the public nuisance a second notice must be given by certified mail, return receipt stating:
1. Failure to abate the public nuisance may result in a forced abatement of the nuisance by the County with assessment of costs to the owner and/or person responsible for causing or maintaining the nuisance when that person can be identified-§343.022(c)(3)(A)(B) Texas Health and Safety Code.
  2. A lien will be filed against the property on which the nuisance exists, if the person responsible for causing or maintaining the nuisance has an interest in the property-§343.022(c)(3)(C) Texas Health and Safety Code; and
  3. The person receiving the notice is entitled to submit, before the thirty-first (31st) day after the date on which the forced abatement notice is received, a written request for a public hearing §343.022(c)(4) Texas Health and Safety Code.
- (e) **The forced abatement notice must be:**
1. Given by service, in person, by an officer or employee of the County, or sent by registered or certified United States Mail, return receipt-§343.022(d)(l) Texas Health and Safety Code.
  2. If personal service may not be had or the address of the person to be notified is unknown, then notice may be given by:
    - a) Publishing a copy of the notice at least two times within ten consecutive days in a newspaper of general circulation published in the County; and
    - b) Posting a copy of the notice on the premises on which the nuisance exists, or if the property contains no building, by posting a copy of the notice on a placard attached to a stake driven into the ground of the property to which the violation relates-See generally §343.022(d)(2) Texas Health and Safety Code.



## SECTION 2.04 Public Hearing for Forced Abatement

- (a) **Public Hearing:** If a public hearing is requested under §343.022(e) Texas Health and Safety Code, or §683.076 Texas Transportation Code, the County must conduct said hearing before the Commissioners Court or any board, commission, or official designated by the commissioners court prior to abatement. In order to request such a hearing, the person who has received notice that a public nuisance exists on his real estate must file a written request for a hearing with the Commissioners Court or the Courts designee within thirty (30) days of receipt of said notice, and the Commissioners Court or the Courts designee shall then set a public hearing date within a reasonable time.
- (b) Conduct of the Hearing.
1. An Owner receiving a “Notice to Abate a Public Nuisance” under these rules and procedures is entitled to a hearing before the Commissioners Court or its designee.
  2. The Owner and/or their representative(s) shall be entitled to attend the hearing, present testimony and other evidence, examine witnesses, and argue on their behalf.
  3. The Administrator and/or his representative shall have the right to attend the hearing, present testimony and other evidence, examine witnesses, and argue on the County’s behalf.
  4. Any other interested person may appear and present testimony and other evidence.
  5. The Commissioners Court or its designee shall be allowed to question any person testifying at the hearing.
  6. All persons testifying at the hearing shall be under oath.
- (c) During that public hearing, the Commissioners Court or its designee will:
1. Review the determination by the county official, agent, or employee charged with the enforcement of this Order; and, if the determination of the existence of a nuisance is confirmed, pursuant to any applicable nuisance provision; then,
  2. Review the issue of abatement, including the costs of such abatement and make a final determination as to the actual course of action to be taken by the County pursuant to Sections 2.05 of this Order.
- (d) In the event a public hearing is not requested, the county official, agent, or employee charged with the enforcement of this Order will present a determination and necessary information concerning any proposed abatement, other than junked vehicles or public health threats, to the Commissioners Court in a regularly scheduled meeting or to any board, commission, or official designated by the commissioners court for a final decision which states the action to be taken by County.

**SECTION 2.05      Assessment of Costs and Expenses**

- (a) **Failure to Remedy:** In the event any owner or person responsible for the nuisance fails or refuses to remedy any of the conditions prohibited by Sections 1.02 and 1.10 after the thirtieth (30th) day after the receipt of notice to do so, the County may abate such condition by demolition, removal, impoundment, or other appropriate means, or cause the same to be done and charge the expenses in doing or having such work done to the owner of the property with such charge being a personal liability of such owner or other responsible person.
  
- (b) **Assessed Against Property:** In addition to other remedies provided herein, and cumulative thereto, the county official, agent, or employee charged with the enforcement of this Order, after giving thirty (30) days' notice as specified in Section 2.03, may seek final approval from Commissioners Court to cause any of the work mentioned in Sections 2.03 and 2.04 to be done at the expense of the County on behalf of and on the account of the owner of the property on which the work is to be done and cause all of the actual cost to the County to be assessed on the real estate on account of which such expense is incurred.
  
- (c) **Assessment of Costs-Lien**
  - 1. **Assessment:** At the discretion of the County, the cost of legal notification by publication and an administrative fee of not more than \$100.00 may be assessed on the person receiving notice or, by order or resolution, assess said costs against the property on which the nuisance exists. The County may not make an assessment against property unless the owner or owner's agent receives notice of the nuisance in accordance with Section 2.02.
    - a) At the discretion of the County, any personal property that constitutes a public nuisance may be liquidated as surplus County property and the proceeds shall be applied to offset the costs of the abatement of that Public Nuisance.
    - b) In the event that the proceeds from the liquidation of personal property exceed the cost of abatement of the public nuisance, the excess shall be returned to the landowner.
  
  - 2. **Lien:** To obtain a lien against the property to secure an assessment, the Commissioners Court shall approve a statement of the costs incurred in doing such work to be submitted and certified by the county official, agent, or employee charged with the enforcement of this Order and filed with the County Clerk. The statement of costs shall describe the property upon which such work was done, the character of work done and name the owner of such property.
  
  - 3. **Inferiority of Lien:** The County's lien to secure an assessment 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 of the County in which the real property is located before the date on which the County begins abatement and liens for lawful ad valorem taxes or for street improvements

4. **Guidelines for Forced Abatement by County for Public Nuisance**

- a) Any recommendation for an expenditure of County Funds for a forced abatement of a Public Nuisance will be determined by the Administrator administering this Order after following its Rules and Procedures.
- b) Determinative Factors may include but are not limited to:
  - i. Non-Compliance
  - ii. Inability to Comply
  - iii. Lack of Financial Resources
  - iv. Inability to identify or locate property owner

5. **Interest:** The County is entitled to accrued interest beginning on the thirty-first (31st) day after the date of the assessment against the property at the rate of ten percent (10%) a year.

6. **Suit Against Owner:** For any expenditures and interest under Sections 2.02 and 2.03, suit may be instituted and a personal judgment obtained against the owner of such property or other responsible person. Recovery of the costs may include foreclosure against the real property to which the lien is attached in the name of the County against the owner of such property in any court having jurisdiction, and the statement of expenditures so made and filed, or a certified copy thereof, shall be prima facie proof of the amount expended in any such work.

**SECTION 2.06 Abatement of Public Health Nuisances and Public Health Threats**

- (a) If the Webb County public health authority receives information and proof that a public health nuisance exists in the health authority’s jurisdiction, the health authority shall issue a written notice ordering the abatement of the nuisance to any person responsible for the nuisance. The local health authority shall, at the same time, send a copy of the notice to the county or district attorney-§341.012(b) Texas Health and Safety Code.
- (b) The notice must specify the nature of the public health nuisance and designate a reasonable time within which the nuisance must be abated-§341.012(c) Texas Health and Safety Code.
- (c) If the public health nuisance is not abated within the time specified by the notice, the local health authority shall notify the county or district attorney who shall proceed to abate the public health nuisance--§341.012(d)(1)(2) Texas Health and Safety Code.
- (d) If the local health authority receives information and proof that a public health nuisance exists in the local health authority’s jurisdiction, the local health authority may declare that

a Public Health Threat exists at the specific location.

### **SECTION 3.00 Civil Enforcement**

- (a) Relative to the purposes of this Order, the Webb County Commissioners Court, by and through its, Attorney, County or District Attorney, may bring a civil suit for injunctive relief and civil penalty for any violation of state law, rules implemented to advance state law or this Order.
- (b) Relative to the purposes of this Order, any person affected or to be affected by a violation of state law, rules implemented to advance state law or this Order, may bring a civil suit for injunctive relief and civil penalty.
- (c) The district court in Webb County may by injunction prevent or restrain continuing violations of this Order.
- (d) For the purposes of prosecuting a civil action brought to enforce this Order, the Texas Rules of Civil Procedure shall guide and control the litigation.
- (e) If the court grants the relief sought, that court may award the plaintiff reasonable attorney's fees and recover court costs.

### **SECTION 4.00 Criminal Enforcement & Penalty**

- (a) A person commits an offense if:
  - 1. The person violates any section or subsection of this Order; and
  - 2. The nuisance remains unabated after the thirtieth (30th) day after the date on which a person receives notice from the county official, agent, or employee charged with the enforcement of this Order to abate the nuisance.
- (b) **Misdemeanor:** An offense under this Order unless otherwise noted, is a Class C misdemeanor punishable by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) §343.012(b) Texas Health and Safety Code.
- (c) **Previous Conviction:** If alleged and shown on the trial of the defendant that the defendant has been previously and finally convicted of an offense under this section, conviction for a subsequent offense under this Order unless otherwise noted is punishable by a fine of not less two hundred dollars (\$200.00) or more than one thousand dollars (\$1,000.00), confinement in jail for not more than six (6) months, or both §343.012(c) Texas Health and Safety Code.
- (d) **Illegal Dumping:** The degree of penalty is based on weight or volume of the litter or solid waste on the property pursuant to §365.012 of the Texas Health and Safety Code and whether it is alleged and shown at trial that the defendant has previously been convicted

under one of the sections found in §365.012(c)(d)(e)(f)(g) Texas Health and Safety Code.

- (e) **Separate Offense:** Each day a violation occurs is a separate offense.
- (f) **Order to Abate:** The court having jurisdiction over the offense shall order abatement of the nuisance if the defendant is convicted of an offense under this section.
- (g) **Other Penalties:** If a state law or rule or order of Webb County specifies a penalty for conviction of an offense(s) or subsequent offense(s) that is in conflict with this Order, the state law or rule or other order of Webb County shall prevail.

#### **SECTION 5.00      Conflicting Orders**

All orders or part of orders that conflict with this Order are to be harmonized to the extent a conflict would result in the improper application of this Order.

#### **SECTION 6.0      Severability.**

If any provision of this Order, or the application thereof to any person or circumstance, shall be held invalid or unconstitutional by a Court of competent jurisdiction, such invalidity shall not affect the other provisions, or applications thereof, of this Order which can be given effect without the invalid provision or application, and to this end the provisions of this Order are declared to be severable.

#### **SECTION 7.00      Publication.**

The Webb County Clerk is directed to publish the caption or a descriptive title to this Order one time within ten (10) days after the final passage of the Order in a newspaper of general circulation in the County of Webb, Texas.

#### **SECTION 8.00      Distribution.**

A certified copy of this Order shall be delivered to the Administrator appointed by the Commissioners Court to oversee the enforcement of the *Webb County Public Nuisance Abatement Rules and Procedures*, District Attorney, County Attorney, County Treasurer, and County Auditor of Webb County, Texas, for their information and observance.

#### **SECTION 9.00      Effective Date.**

The above and foregoing instrument passed by vote of the Commissioners Court of Webb County, Texas, is effective this 13th day of December, 2021 and hereafter has the effect of law.