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Order to approve the Matagorda County Neighborhood Nuisance Abatement Procedures and authorize the County Judge and Commissioners to sign all related documents

BE IT REMEMBERED, that on this 22nd day of December, 2025, the Commissioner's Court of Matagorda County, Texas met in **Regular Session**, with a quorum in attendance, and upon motion duly made by Commissioner Estlinbaum and seconded by Commissioner Cook, with all others concurring, to approve the Matagorda County Neighborhood Nuisance Abatement Procedures and authorize the County Judge and Commissioners to sign all related documents.

PASSED IN OPEN COURT this 22nd day of December, 2025.



**Charles "Bubba" Frick, Judge Pro-Tem
Matagorda County, Texas**

**ORDER AMENDING THE MATAGORDA COUNTY
NEIGHBORHOOD NUISANCE ABATEMENT PROCEDURES**

WHEREAS, Chapter 343 of the Texas Health and Safety Code authorizes the Commissioners Court of a county to adopt procedures for the abatement of public nuisances in unincorporated areas; and

WHEREAS, it is necessary to protect the public health, safety, and welfare, and to maintain the aesthetic and environmental integrity of neighborhoods; the Commissioners Court of Matagorda County having previously adopted such procedures on April 14, 2003, finds that amendment of such procedures is necessary for clarification of procedures and changes in the law since last adopted.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF MATAGORDA COUNTY, TEXAS, that:

1. The document entitled "*First Amended Procedures for the Abatement of Neighborhood Nuisances Pursuant to Chapter 343 of the Texas Health and Safety Code*" attached hereto and incorporated by reference, is hereby adopted.
2. These procedures shall apply to all unincorporated areas of Matagorda County.
3. The County Judge is authorized to sign this Order and all implementing documents on behalf of the Court.
4. This Order shall take effect immediately upon adoption and supersede any prior conflicting procedures.

PASSED AND APPROVED this 22nd day of December, 2025.


County Judge

Charles "Budon" Frick
Judge Pro Tem
Acting Presiding Officer
Matagorda County, TX

E Cook
Commissioner, Precinct 1


Commissioner, Precinct 2

absent
Commissioner, Precinct 3


Commissioner, Precinct 4

ATTEST:

Stephanie Wurtz
County Clerk (Seal)



FIRST AMENDED PROCEDURES FOR THE ABATEMENT OF NEIGHBORHOOD NUISANCES PURSUANT TO CHAPTER 343, TEXAS HEALTH AND SAFETY CODE

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Section 1. Scope and Purpose

- 1.1 These procedures are adopted by the Commissioners Court of Matagorda County pursuant to the Neighborhood Nuisance Abatement Act, codified as Chapter 343 of the Texas Health and Safety Code, shall apply to the unincorporated areas of Matagorda County, Texas.
- 1.2 The procedures provided herein are not intended, nor shall they be construed, to limit in any way other remedies, causes of action, or rights provided for by law. The adoption of these procedures does not restrict, limit, or replace any other County authority from abating public nuisances.
- 1.3 It is the purpose of these procedures to protect and enhance the desirability and the aesthetic character of residential and commercial neighborhoods in the unincorporated areas of Matagorda County and to control and abate certain conditions which lead to neighborhood blight and are detrimental to the overall health, welfare, and safety of the citizens of Matagorda County.

Section 2. Definitions

- 2.1 Definitions not set out in Section 343.002 of the Health and Safety Code
 - 1) "County" means Matagorda County.
 - 2) "Commissioners Court" means the Commissioners Court of Matagorda County, Texas.
 - 3) "Owner" means:
 - (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;
 - i. That person is not the owner, lessee, occupant, agent, or person in charge of the premises; and
 - ii. The person responsible can be identified
 - 4) "Administrator" means: The Matagorda County Environmental Health Director, who is a regularly salaried, full-time county employee or a county employee acting under their supervision and control.
 - 5) "Hearing Examiner" means the Judge of the District Court of Matagorda County (in cases where no hearing is requested or where the owner has not complied with any written agreement to abate) or the Justice of the Peace of Matagorda County who presides over the precinct where the nuisance is located (in cases where a hearing is requested).

- 6) "Person" has the meaning assigned to that term by subdivision (2) of Section 311.05 of the Government Code as it presently exists or may hereafter be amended.

2.2 Definitions in this section as set out in Health and Safety Code Section 343.002.

- 1) "Abate" means to eliminate or remedy:
 - (A) by removal, repair, rehabilitation, or demolition;
 - (B) in the case of a nuisance under Section 343.011(c)(1), (9), or (10), by prohibition or control of access; and
 - (C) 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.
- 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.
- 10-a) "Undeveloped land" means land in a natural, primitive state that lacks improvements, infrastructure, or utilities and that is located in an unincorporated area at least 5,000 feet outside the boundaries of a home-rule municipality.
- 11) "Weeds" means all rank and uncultivated vegetable growth or matter that:
 - (A) has grown to more than 36 inches in height; or
 - (B) creates an unsanitary condition likely to attract or harbor mosquitoes, 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.

Section 3. A Public Nuisance Is (Section 343.011(c))

- 3.1 Keeping, storing, or accumulating refuse on a premises in a neighborhood unless the refuse is entirely contained in a closed receptacle.
- 3.2 Keeping, storing, or accumulating rubbish, including newspapers, abandoned and / or junked vehicles, abandoned and / or junked boats, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood or within 300 feet of a public street for ten (10) days or more, unless the rubbish or object is completely enclosed within a building or is not visible from a public street.
- 3.3 Maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests.
- 3.4 Allowing weeds to grow on premises in a neighborhood if the weeds are located within 300 feet of another residence or commercial establishment.
- 3.5 Maintaining a building in a matter 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.
- 3.6 Maintaining on abandoned or unoccupied property in a neighborhood a swimming pool that is not protected with:

- 1) a fence that is at least four (4) feet high and that has a latched and locked gate;
and
 - 2) a cover over the entire swimming pool that cannot be removed by a child.
- 3.7 Not Applicable in Matagorda County (requires a population of more than 1.3 million)
- 3.8 Maintaining a flea market in a manner that constitutes a fire hazard.
- 3.9 Discarding refuse or creating hazardous visual obstruction on:
- 1) County-owned land; or
 - 2) Land or easements owned or held by a special district that has the Commissioners Court of the County as its governing body.
- 3.10 Discarding refuse on the smaller of:
- 1) the area that spans 20 feet on either side of a utility line; or
 - 2) the actual span of the utility line easement.
- 3.11 Filling or blocking a drainage easement, failing to maintain a drainage easement, maintaining a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation, or violating an agreement with the county to improve or maintain a drainage easement.
- 3.12 Discarding refuse on property that is not authorized for that activity.
- 3.13 Surface discharge from a non-site sewage disposal system as defined by Section 366.002. All complaints related to Septic Systems / On Site Sewage Facilities shall be reported to the Matagorda County OSSF Office / Inspector for investigation.

Section 4. Public Nuisances Prohibited (Section 343.011(b))

- 4.1 A person may not cause, permit or allow a public nuisance, as that term is defined in Section 3 of this Order.

Section 5. Investigation (Section 343.0111 – Exemption and Section 343.022 – Abatement Procedures)

- 5.1 The Commissioners Court hereby appoint the Environmental Health Director of Matagorda County, a regular salaried full-time Matagorda County employee to administer this program and the abatement procedures described in this Order.
- 5.2 A complaint to abate a public nuisance under these procedures may be initiated by any person by contacting the Administrator in writing, by mail, e-mail or written complaint in person. The Administrator may also initiate a complaint based upon their own personal observations.
- 5.3 The Administrator shall make a written record of all complaints received.

- 5.4 The Administrator shall either themselves investigate or assign the complaint to a county employee acting under their supervision and control. In order to administer these procedures, the Administrator or any county employee acting under their supervision and control may enter any premises in the unincorporated areas of the County at a reasonable time to inspect, investigate, or abate a nuisance, or to enforce Chapter 343 of the Texas Health and Safety Code. Before entering the premises, the Administrator, official, agent, or employee must exhibit proper identification to the occupant, manager, or other appropriate person.
- 5.5 If the Administrator determines that a public nuisance does not exist, they will recommend closure of the complaint. The Administrator shall make a final determination of the closure of complaints.
- 5.6 If the Administrator determines that a public nuisance exists, they shall serve a written Notice to Abate the Public Nuisance on the owner, lessee, occupant, agent, or person in charge of the premises. Such Notice must also be given to the person responsible for causing the nuisance when that person can be identified and that person is not the owner, lessee, occupant, agent, or person in charge of the premises. Notice to Abate the Public Nuisance shall comply with and be served as provided in Section 6 of this Order. A copy of the Notice shall be sent to the County Attorney. The County Attorney's office will then:
- 1) Review the case to determine if all parties have properly been notified.
 - 2) If additional persons require notification the County attorney's office will inform the Administrator to issue those additional notices as if no prior action had been taken on the complaint as set out in section 6.2 of this Order.
- 5.7 After the expiration of 31 days from the date on which the County's Notice to Abate the Public Nuisance is served on the last person, the Administrator shall inspect the premises described in the complaint.
- 5.8 If Administrator determines that the public nuisance has been abated, the Administrator shall make a record of the findings and take no further action thereon other than to notify the county attorney that the abatement had occurred.
- 5.9 If the Administrator determines that the nuisance has not been abated, but there has been no request for a hearing, the Administrator shall follow the procedures set out in Section 7 of this Order.
- 5.10 If the Administrator determines that the public nuisance had not been abated and a hearing has been requested, the Administrator shall follow the procedures set out in Section 8 of this Order.

Section 6. Notice Requirements (Section 343.022(b))

- 6.1 Each Notice to Abate the Public Nuisance must contain the following information:
- 1) The specific condition that constitutes the nuisance;

- 2) The street address or other general description of the property on which the nuisance exists;
- 3) That the person receiving the notice shall abate the nuisance
 - (A) before the 31st day after the date on which the notice is served;
 - (B) or before the 10th day if the person has previously received a notice regarding a nuisance on the premises.
- 4) 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;
- 5) That the County may prohibit or control access to the premises to prevent a continued or future nuisance described by Texas Health and Safety Code Section 343.011(c)(1), (6), (9), or (10);
- 6) That Section 343.012 of the Texas Health and Safety Code provides if a public nuisance remains unabated after the 31st day after the date on which the person receives notice from a county official, agent, or employee to abate the nuisance, that person commits a misdemeanor punishable by a fine of not less than \$50 or more than \$200, and if the person has been previously convicted of an offense under this section by a fine of not less than \$200 or more than \$1,000, confinement in jail for not more than six months, or both.
- 7) That person receiving notice is entitled to submit a written request for a hearing:
 - (A) Before the 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) Before the 10th business day after the date in which the notice is served, if the person has previously received notice regarding a nuisance on the premises;
- 8) That said written request for a hearing be made to the Administrator by e-mail, by hand delivery to their office or by certified mail, address to the Administrator. The Notice to Abate shall provide the physical address where the Administrator can be located.
- 9) That the owner, lessee, occupant, agent, or person in charge of the premises is entitled to appear at the scheduled hearing and is entitled to present

testimony and other evidence, examine witnesses, and argue on their behalf.

6.2 The Notice to Abate the Public Nuisance shall be served on the owner, lessee, occupant, agent, executor, administrator, trustee and / or person in charge of the premises in the following manner:

- 1) In person or 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 public nuisance exists and by publishing the notice in a newspaper with general circulation in the County, two times within 10 consecutive days.

Section 7. Procedures When No Hearing is Requested

7.1 If the Administrator determines 31 days after additional parties have been notified that the public nuisance still has not been abated and a hearing has not been requested in compliance with Section 6.1 of this Order, then the Administrator shall again present findings to the County Attorney's Office. The County Attorney's Office, in an effort to protect the property rights of the owners, shall make every reasonable effort to resolve the matter without the need of court intervention by following the procedure below:

- 1) The County Attorney shall send a final notice to the owner and/or occupant requesting an informal settlement conference in lieu of proceeding with abatement with a hard stop of 10 days from the notice. If the owner responds, the County Attorney will set up a conference to negotiate a plan to abate the nuisance.
- 2) During the conference the County Attorney, along with the Administrator or designee, will confirm that property owners understand the possible consequences of proceeding with abatement of the property by the County as set out in the Health and Safety Code 343.022.
- 3) The owner and/or representative shall be entitled to propose his/her plan to abate the public nuisance and to explain why it has not yet been abated.
- 4) After review of the proposal and negotiation of terms a written agreement shall be made between the Administrator and the offending party(ies). This written agreement shall be used as evidence in any future hearing wherein the abatement has not occurred in compliance with the agreement.
- 5) Any negotiation and agreement of additional time to abate the nuisance will depend upon the severity of the public nuisance.

7.2 If the County Attorney's office determines that all attempts to contact and notify owners and any other responsible persons have been exhausted (including by posting and publishing as set out in 343.022(d)) OR that owners were contacted and failed to reach agreement to abate the issue OR failed to comply with the written agreement, then the County Attorney will return to the matter to the Administrator's and the Administrator shall:

- 1) estimate the cost to abate the public nuisance;
- 2) estimate the cost of legal notification by publication (if any);
- 3) access an administrative fee of not more than \$100.00; and
- 4) forward the estimate of the cost to the Commissioners Court and County Attorney's office.

7.3 The County Attorney shall then bring suit and set the matter for a hearing.

7.4 If convicted and after receipt of the estimate of cost, the Commissioners Court or designee shall, by Resolution or Order, access (after evidence that the owner or owner's agent has received notice and had opportunity to abate the nuisance):

- 1) the cost of abating the public nuisance;
- 2) the cost of legal notification by publication; and
- 3) an administrative fee of not more than \$100.00 against the property on which the nuisance exists.

7.5 Upon the issuance of the Resolution or Order the County will proceed with abatement of the nuisance pursuant to sections 9 and 10 below.

Section 8. Procedures When a Hearing is Requested

8.1 A person receiving a Notice to Abate the Public Nuisance under this Order is entitled to a Public Hearing before a Hearing Examiner. Said request for a public hearing may be made upon the Administrator in compliance with Section 6.1 of this Order.

8.2 If a hearing is requesting in compliance with Section 6.1 of this Order, the Administrator will present the request to the Justice of the Peace of Matagorda County who presides over the precinct where the nuisance is located. The Justice of the Peace will serve as the Hearing Examiner.

8.3 The Justice of the Peace office shall set a hearing date and send a Notice of Hearing to the person requesting the hearing, all parties with an ownership interest in the subject property, and / or any other party that has access to or use of the subject property, or by serving the owner in the same manner as used for serving the

Notice to Abate the Public Nuisance in Section 6.2 of this Order. The Notice of Hearing shall state the date, time, and place of the hearing and shall be provided at least ten (10) days prior to the date of the hearing. The ten-day notice requirement may be waived by the person filing the request for hearing if such waiver is in writing and signed by the person filing the Request for Hearing.

- 8.4 The owner and / or their representative present at the hearing can choose to negotiate an agreement with the Administrator which shall be put into writing OR they can choose to go forward and shall be entitled to present testimony and other evidence, examine witnesses, and argue on the owner's behalf.
- 8.5 Any interested person, including the Administrator, may appear and present testimony and other evidence.
- 8.6 All persons testifying at the hearing shall be under oath.
- 8.7 The Hearing Examiner shall be allowed to question any person testifying.
- 8.8 The Hearing Examiner shall assess the testimony fairly and impartially and in accordance with the law.
- 8.9 The Hearing Examiner shall make a written determination as to whether a public nuisance exists and sign such written determination. A copy shall be sent to the Administrator. Upon receipt of the copy of the written determination, the Administrator or designated representative shall hand deliver or send by certified mail, return receipt requested, and regular mail, a copy of the written determination of the Hearing Examiner to all parties that participated in the hearing and made written request for such determination. If mailed, it shall be mailed to the address designated in said request.

Section 9. Post-Hearing Procedures

- 9.1 If the Hearing Examiner under section 8.8 determines that a nuisance exists, the Administrator shall inspect the subject premises to determine whether the public nuisance has been abated 10 days after the party ordered to abate the nuisance receives the Hearing Examiner's determination.
- 9.2 If the public nuisance has been abated, then the Administrator shall make a record thereof and take no further action thereon.
- 9.3 If the public nuisance has not been abated, the Administrator will estimate the cost to abate the public nuisance and forward the estimate to the Commissioners Court.
- 9.4 The Commissioners Court shall determine whether:
 - 1) to order the abatement of the public nuisance and the assessment of a lien; or

- 2) to assess additional fines under 343.012; or
- 3) to dismiss the proceedings.

9.5 The Commissioners Court Order determining the final disposition shall be entered in the Minutes of the Commissioners Court. A copy of such Commissioners Court Order shall be sent by the Administrator by certified mail, return receipt requested and by regular mail to the person requesting the hearing and by regular mail to any other person who attend the hearing and requested a copy in writing via e-mail or regular mail.

9.6 The County may not make an assessment against property unless the owner or owner's agent receives notice of the public nuisance in accordance with Section 6 of this Order.

9.7 The County may abate a nuisance under this Order:

- 1) by demolition or removal;
- 2) in the case of a nuisance under Texas Health and Safety Code Section 343.011(c)(1), (9), or (10), by prohibiting or controlling access to the premises; in the case of a nuisance under Section 343.011(c)(6), by:
 - (A) prohibiting or controlling access to the premises and installing a cover that cannot be opened by a child over the entire swimming pool; or
 - (B) draining and filling in the swimming pool; or
- 3) 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 under Chapter 361.

Section 10. Additional Duties

10.1. If an owner fails or refuses to abate a public nuisance and the Commissioner's Court orders the abatement of same pursuant to this Order, then the Administrator shall contact the Commissioner for the Precinct in which the property is located to initiate the abatement and once complete provide a statement of cost back to the Administrator. The abatement of the public nuisance shall be in compliance with any applicable federal, state, and local laws, rules, procedures, and ordinances. Upon completion of such abatement, the Administrator shall calculate the cost that the County incurred in abating the nuisance.

10.2 If the commissioners Court has ordered assessment of the cost of abating the public nuisance against the property on which the public nuisance exist, the Administrator shall provide all documentation back to the County Attorney for the preparation of a Notice of Lein which shall then be recorded in the official Public Records of Real Property of Matagorda County. The Notice must contain 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 of the County in which the property is located.

- 10.3 The 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 of the County in which the real property is located before the date on which the county files the notice of lien with the County Clerk.
- 10.4 The 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 per year.
- 10.5 The statement of costs or a certified copy of the statement of costs is a prima facie proof of the costs incurred to abate the nuisance.
- 10.6 Upon the satisfaction of any order issued pursuant to these procedures, the Administrator is authorized to sign any release or other document, upon review and approval by the County Attorney, to confirm that said orders or judgments have been complied with. This includes, but is not limited to releases of liens filed in the Official Public Records of Real property of Matagorda County.

Section 11. Violations and Penalties

- 11.1 This Order adopts and incorporates all applicable penalty provisions related to public nuisance, which includes, but is not limited to, those found in Chapter 343 of the Texas Health and Safety Code.
- 11.2 A person responsible for a public nuisance when said nuisance remains un abated after 31 days after the date on which the person received notice from a county official, agent, or employee to abate the nuisance commits a criminal misdemeanor offense punishable by a fine of not less than \$50 or more than \$200.
- 11.3 If it is shown on the trial of the person responsible of the public nuisance that they have been previously convicted of an offense under Chapter 343 of the Texas Health and Safety Code, the person may be punished by a fine of not less than \$200 or more than \$1,000, confinement in jail for not more than six months, or both.
- 11.4 Each day a violation occurs is a separate offense.
- 11.5 The abatement of a nuisance shall be ordered by the Hearing Examiner if a person is convicted of an offense under Chapter 343 of the Health and Safety Code.

Section 12. Severability

12.1.1 Should any section of Chapter 343 of the Texas Health and Safety Code, or of this Order, be determined to be unlawful or unenforceable by a court of competent jurisdiction, that section alone shall be deemed invalid, and shall not affect, impair, or restrict reliance upon any other Section of Chapter 343 of the Texas Health and Safety Code, or of this Order.

Section 13. Amendment

13.1 Should Chapter 343 of the Texas Health and Safety Code, or this Order, be amended, revised, recodified, or otherwise altered, such amendment shall be deemed applicable to this Order, unless such a construction of the amended statute renders such a construction unreasonable.