

AN ACT

relating to county authority to abate nuisances.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 343.002(1), Health and Safety Code, is amended to read as follows:

(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), (8), or (9), by prohibition or control of access; and

(C) in the case of a nuisance under Section 343.011(c)(11), by removal, remediation, storage, transportation, disposal, or other means of waste management authorized by Chapter 361.

SECTION 2. Sections 343.011(c) and (d), Health and Safety Code, are amended to read as follows:

(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

1 300 feet of a public street for 10 days or more, unless the rubbish  
2 or object is completely enclosed in a building or is not visible  
3 from a public street;

4 (3) maintaining premises in a manner that creates an  
5 unsanitary condition likely to attract or harbor mosquitoes,  
6 rodents, vermin, or disease-carrying pests;

7 (4) allowing weeds to grow on premises in a  
8 neighborhood if the weeds are located within 300 feet of another  
9 residence or commercial establishment;

10 (5) maintaining a building in a manner that is  
11 structurally unsafe or constitutes a hazard to safety, health, or  
12 public welfare because of inadequate maintenance, unsanitary  
13 conditions, dilapidation, obsolescence, disaster, damage, or  
14 abandonment or because it constitutes a fire hazard;

15 (6) maintaining on abandoned and unoccupied property  
16 in a neighborhood, or maintaining on any property in a neighborhood  
17 in a county with a population of more than 1.1 million, a swimming  
18 pool that is not protected with:

19 (A) a fence that is at least four feet high and  
20 that has a latched gate that cannot be opened by a child; or

21 (B) a cover over the entire swimming pool that  
22 cannot be removed by a child;

23 (7) maintaining a flea market in a manner that  
24 constitutes a fire hazard;

25 (8) discarding refuse or creating a hazardous visual  
26 obstruction on:

27 (A) county-owned land; or

1 (B) land or easements owned or held by a special  
2 district that has the commissioners court of the county as its  
3 governing body;

4 (9) discarding refuse on the smaller of:

5 (A) the area that spans 20 feet on each side of a  
6 utility line; or

7 (B) the actual span of the utility easement;  
8 [~~or~~]

9 (10) filling or blocking a drainage easement, failing  
10 to maintain a drainage easement, maintaining a drainage easement in  
11 a manner that allows the easement to be clogged with debris,  
12 sediment, or vegetation, or violating an agreement with the county  
13 to improve or maintain a drainage easement; or

14 (11) discarding refuse on property that is not  
15 authorized for that activity.

16 (d) This section does not apply to:

17 (1) a site or facility that is:

18 (A) permitted and regulated by a state agency for  
19 the activity described by Subsection (c); or

20 (B) licensed or permitted under Chapter 361 for  
21 the activity described by Subsection (c); or

22 (2) agricultural land.

23 SECTION 3. Section 343.013(a), Health and Safety Code, is  
24 amended to read as follows:

25 (a) A county or district court may by injunction prevent,  
26 [~~or~~] restrain, abate, or otherwise remedy a violation of this  
27 chapter in the unincorporated area of the county.

1 SECTION 4. Section 343.021, Health and Safety Code, is  
2 amended to read as follows:

3 Sec. 343.021. AUTHORITY TO ABATE NUISANCE. If a county  
4 adopts abatement procedures that are consistent with the general  
5 purpose of and conform to this chapter, the [A] county may abate a  
6 nuisance under this chapter:

7 (1) by demolition or removal;

8 (2) ~~[or,]~~ in the case of a nuisance under Section  
9 343.011(c)(1), (8), or (9), by prohibition or control of access to  
10 the premises; and

11 (3) in the case of a nuisance under Section  
12 343.011(c)(11), by removal, remediation, storage, transportation,  
13 disposal, or other means of waste management authorized under  
14 Chapter 361 ~~[, if the county adopts abatement procedures that are~~  
15 ~~consistent with the general purpose of this chapter and that~~  
16 ~~conform to this chapter].~~

17 SECTION 5. Section 343.022(a), Health and Safety Code, is  
18 amended to read as follows:

19 (a) The abatement procedures adopted by the commissioners  
20 court must be administered by a regularly salaried, full-time  
21 county employee. A person authorized by the person administering  
22 the abatement program may administer:

23 (1) ~~[, but]~~ the prohibition or control of access to the  
24 premises to prevent a violation of Section 343.011(c)(1), (8), or  
25 (9);

26 (2) ~~[, or]~~ the removal or demolition of the nuisance;  
27 and

1           (3) the abatement of a nuisance described by Section  
2 343.011(c)(11) [~~, may be made by a person authorized by the person~~  
3 ~~administering the abatement program~~].

4           SECTION 6. Section 343.023(a), Health and Safety Code, is  
5 amended to read as follows:

6           (a) A county may:

7                 (1) assess:

8                         (A) the cost of abating the nuisance, including  
9 management, remediation, storage, transportation, and disposal  
10 costs, and damages and other expenses incurred by the county;

11                         (B) the cost of legal notification by  
12 publication; [~~7~~] and

13                         (C) an administrative fee of not more than \$100  
14 on the person receiving notice under Section 343.022; or

15                 (2) by resolution or order, assess:

16                         (A) the cost of abating the nuisance;

17                         (B) [~~7~~] the cost of legal notification by  
18 publication; [~~7~~] and

19                         (C) an administrative fee of not more than \$100  
20 against the property on which the nuisance exists.

21           SECTION 7. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2007.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 3581 was passed by the House on May 4, 2007, by the following vote: Yeas 144, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3581 on May 25, 2007, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3581 on May 27, 2007, by the following vote: Yeas 141, Nays 0, 2 present, not voting.

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Chief Clerk of the House

H.B. No. 3581

I certify that H.B. No. 3581 was passed by the Senate, with amendments, on May 22, 2007, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3581 on May 27, 2007, by the following vote: Yeas 30, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor