

## **Chapter 261. Abatement of Public Nuisances, Junked Vehicles, and Litter<sup>1, 2</sup>**

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### **261.001 Definitions**

- (a) "Abate" means to eliminate by removal, repair, rehabilitation, or demolition.
- (b) "Antique auto" means a passenger car or truck that was manufactured in 1925 or before or a passenger car or truck that is at least 35 years old.
- (c) "Building" means a structure built for the support, shelter, or enclosure of a person, animal, chattel, machine, equipment, or other moveable property.
- (d) "Collector" means the owner of one or more antique autos or special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest or antique vehicles or parts of them for personal use in order to

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<sup>1</sup> Chapter 61 was adopted by Travis County Commissioners Court on March 5, 1996 (Item 5.c). The chapter title was changed to include swimming pools on September 14, 2004 (Item 13) and became effective October 1, 2004. Chapter 61 was renumbered as Chapter 261 on June 1, 2018 (approved May 15, 2018, Item 7). Chapter retitled May 29, 2018, Item 8.

<sup>2</sup> Chapter 260 Travis County Rules for Regulation and Permitting of Public Swimming Pools within Unincorporated Areas of Travis County was adopted September 24, 2004 (item 13).

restore, preserve, and maintain an antique or special interest vehicle for historic interest.

- (e) "Commissioners Court" means the Travis County Commissioners Court, the governing body of Travis County, Texas.
- (f) "County Employee" includes any authorized employee of the Austin Public Health Department acting on behalf of Travis County under the Interlocal Cooperation Agreement between the City of Austin and Travis County commencing October 1, 1985.
- (g) "Demolisher" means a person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.
- (h) "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.
- (i) "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.
- (j) "Health Authority" means the City of Austin/Travis County Health Authority, or his/her designated, authorized representative.
- (k) "Junked vehicle" means a motor vehicle as defined in Section 1, Chapter 42, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6701d-11, Vernon's Texas Civil Law Statutes):
  - (1) that is inoperative; and
  - (2) that does not have lawfully affixed to it either an unexpired license plate, or a valid motor vehicle safety inspection certificate, that is wrecked, dismantled, partially dismantled, or discarded, or that remains inoperable for a continuous period of more than 45 days.
- (l) "Litter" means:
  - (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) Nondecayable 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) "Motor vehicle" means a motor vehicle subject to registration under the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes), except that for purposes of these Rules, may include a motorboat, outboard motor, or vessel subject to registration under Chapter 31, Texas Parks and Wildlife Code.
- (n) "Neighborhood" means:
  - (1) A platted subdivision; or
  - (2) Property contiguous to and within 300 feet of a platted subdivision.
- (o) "Platted subdivision" 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.
- (p) "Person" means an individual, corporation or association.
- (q) "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.
- (r) "Public nuisance" means:
  - (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 for ten 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 latch gate that cannot be opened by a child; or
    - (B) a cover over the entire swimming pool that cannot be removed by a child; or
  - (7) Maintaining a flea market in a manner that constitutes a fire hazard.
  - (8) The definition of "Public nuisance" under this Section 261.001(r) does not apply to a site or facility that is permitted and regulated by a state agency.
- (s) "Public street" or "Public highway" means 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, or bridge is: open to the public for vehicular or pedestrian traffic; used as a public recreational area; or is under the state's legislative jurisdiction through its police power.
  - (t) "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.
  - (u) "Refuse" means garbage, rubbish, paper, and other decayable and non-decayable waste, including vegetable matter and animal and fish carcasses.
  - (v) "Rubbish" means non-decayable waste from a public or private establishment or residence.
  - (w) "Rules" means the Travis County Rules for Abatement of Public Nuisances, Junked Vehicles, and Litter.
  - (x) "Special interest vehicle" means a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.
  - (y) "Storage facility" means a garage, parking lot, or any type of facility or establishment for the servicing, repairing, storing, or parking of motor vehicles.
  - (z) "Weeds" means all rank and uncultivated vegetable growth or matter that:
    - (1) has grown to more than 36 inches in height; or
    - (2) may create an unsanitary condition or become a harborage for rodents, vermin, or other disease-carrying pests, regardless of the height of the weeds.

**261.002 Establishment and General Provisions-Authority**

The Travis County Rules for Abatement of Public Nuisances ("Rules") is adopted by the Commissioners Court acting in its capacity as the governing body of Travis County ("County") under the authority of the Litter Abatement Act, Article 4477-9(a), Sections 5.02 and 5.09(a), V.C.S., and Chapter 343 of the Health and Safety Code, Chapter 365 of the Health and Safety Code and other applicable statutes.

**261.003 Purpose**

The purpose of these rules is to protect the public health, safety, and welfare, to promote the economic welfare of the state, to decrease situations which are nuisances creating a greater likelihood of vandalism and fire, and to prohibit activity which would cause, permit, or allow a public nuisance.

**261.004 Area of Jurisdiction**

- (a) Travis County. These rules shall apply to all of the areas of Travis County except for the areas within the boundaries of the incorporated cities and towns of Travis County.
- (b) Incorporated Areas. These rules shall also apply to those incorporated cities or towns or villages that have adopted these rules and executed cooperative agreements with Travis County for their enforcement.
- (c) Reference. The area of jurisdiction as described in Sections 261.004(a) and 261.004(b) may be referred to herein as "Travis County."

**261.005 Effective Date**

These rules shall become effective upon adoption by the Commissioners Court.

**261.006 Construction, Precedents, and Interpretation**

- (a) Liberal Construction. These rules shall be construed liberally to accomplish their purpose.
- (b) Interpretation. The Commissioners Court shall ultimately resolve any question regarding any interpretation of these rules.
- (c) Conflict. In the event of any conflict between the Rules and a State law, a rule adopted under a State law, or a Municipal Ordinance, the stricter of the two provisions 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 the other number as required.
- (e) Computation of Time. When any period of time is stated in these Rules, 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 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 these Rules.

**261.007 Severability**

If any provision of these rules or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, the validity of the remainder of these rules and the application thereof to other persons and circumstances shall not be affected.

**261.008 Administration of Rules and Order Designating Authorized Person**

- (a) These Rules may be administered by a person, board, commission or official designated by the Commissioners Court.
- (b) Unless the Commissioners Court designates otherwise, or unless otherwise required by statute, the Commissioners Court hereby orders that the Health Authority shall be the designated and authorized representative of the County in all matters concerning application and enforcement of these Rules, and thus have the duty and necessary powers to administer and enforce the provisions of these Rules. Specifically, the Health Authority shall have the following duties and necessary concomitant powers:
  - (1) To enforce these Rules and to make appropriate recommendations to proper County authorities when instances of noncompliance with these Rules have been determined.
  - (2) To make inspections of any property, public or private, as requested or required to enforce these Rules.
  - (3) To conduct hearings regarding violations of these Rules, and to render determinations regarding violations under these Rules.
  - (4) To provide to the Commissioners Court any information concerning these Rules and its implementation which may be requested by the Commissioners Court.
  - (5) To perform all other duties necessary to meet the requirements of these Rules.

**261.009 Nuisances, Prohibition**

The Commissioners Court hereby orders that it shall be unlawful for an owner, occupant, tenant, resident or person in control of any lot or parcel of ground within Travis County to:

- (1) cause, permit, or allow a public nuisance on any premises; or
- (2) fail to keep the property owned or occupied by him or under his control free from stagnant water, weeds, rubbish, garbage, brush, trash or any other objectionable, unsightly or unsanitary matter of whatsoever nature; or
- (3) fail to keep the sidewalk easement adjacent to such property free and clear from the above listed matter from the line of such property to the established curbline next adjacent thereto; or
- (4) fail to fill up, drain or regrade any lots, ground or yards or any other property owned or occupied by him or under his control which shall be unwholesome or have stagnant water thereon, or which from any other cause, is in such condition as to be liable to produce disease; or
- (5) fail to keep any house, building, establishment, lot, yard or grounds owned or occupied by him or under his control at all times free from filth, carrion or impure or unwholesome matter of any kind.

**261.010 General Procedures - Abatement Public Nuisance Other Than Junked Vehicles**

- (a) Application. The requirements of this Section 261.009 shall apply to any public nuisance unless that public nuisance is a junked vehicle or vehicle part as addressed in Section 261.016 of these Rules.
- (b) Administration of Nuisance Procedures. County abatement procedures 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.
- (c) Authority to Enter Premises - Nuisance
  - (1) Entry. A County official, agent, or employee charged with the enforcement of health, including the Health Authority, its authorized representative or other duly authorized person, 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 this chapter.
  - (2) Identification. Before entering the premises, the official, agent, or employee must exhibit proper identification to the occupant, manager, or other appropriate person.

**261.011 Notice**

- (a) Notice must be in writing and 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.
- (b) The notice must state:
  - (1) the specific condition that constitutes a nuisance;
  - (2) that the person receiving notice shall abate the nuisance before the thirty-first (31st) day after the date on which the notice is received;
  - (3) that failure to abate the nuisance may result in abatement by the County; assessment of costs to the person responsible for causing the nuisance when that person can be identified; and 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 the notice is entitled to submit, before the thirty-first (31st) day after the date on which the notice is received, a written request for hearing.
- (c) The notice must be:
  - (1) given by service in person by an officer or employee of the County; or
  - (2) sent by registered or certified United States mail, return receipt requested, addressed to such owner at his post office address; or
  - (3) if personal service may not be had, or the address of the person to be notified is not known, then notice may be given by:
    - (A) publishing a copy of the notice at least two times within ten consecutive days in some daily newspaper of general circulation published in the County addressed "Sanitary Improvements," "To Whom It May Concern," and such publication shall be deemed sufficient notice; and
    - (B) posting a copy of the notice on or near the front door of each building on the property to which the violation relates, 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.

**261.012 Public Hearing**

- (a) Public Hearing. Subject to Section 261.008 of these Rules, if a public hearing is requested under Section 343.022(d), Texas Health and Safety Code, County must conduct said hearing before the Health Authority, or his designated hearings officer, prior to abatement. In order to request such a hearing the owner, lessee, agent, or person in charge of the property who has received notice that a public nuisance exists on his real estate shall file a

written request for same with the Health Authority within ten (10) days of receipt of said notice, and the Health Authority shall then set a public hearing date within a reasonable time. Health Authority may set a date for hearing without one being requested, and provide notice of that hearing to the person receiving notice under Section 261.011.

- (b) Appeal. Within ten (10) days of the issuance of a determination by the Health Authority after the public hearing under Section 261.012(a), the person receiving notice under Section 261.011 may file a written request for appeal of that determination to the Commissioners Court, at which time a public hearing before the Commissioners Court will be scheduled. During that public hearing, the Commissioners Court will:
  - (1) review the appeal of the determination by the Health Authority; and, if the determination of the existence of a nuisance is confirmed; 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.
- (c) Commissioners Court Action. In the event a hearing is not requested under Section 261.012(a), or an appeal is not requested under Section 261.012(b), the Health Authority will present its determination and necessary information concerning the proposed abatement to the Commissioners Court in a regularly scheduled meeting for a final decision by the Commissioners Court as to the action to be taken by County.
- (d) Further Action. Final determinations by the Commissioners Court may be submitted to any competent court of jurisdiction within Travis County.

**261.013 Assessment of Costs and Expenses**

- (a) Failure to Remedy. In the event any owner shall fail or refuse to remedy any of the conditions prohibited by Section 261.009 after the thirtieth (30th) day after the receipt of notice to do so, the County may abate such condition by demolition or removal, or cause the same to be done, and pay therefor, 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 to the County.
- (b) Assessed Against Property. In addition to other remedies provided herein, and cumulative thereto, the Health Authority, after giving thirty (30) days-notice as specified in Section 261.011, may cause any of the work mentioned in Section 261.013(a) to be done at the expense of the County, on the account of the owner of the property on which such work are done and cause all of the actual cost to the County to be assessed on the real estate or lot on account of which such expense is incurred.
- (c) Assessment of Costs; Lien

- (1) **Assessment.** County may assess the cost of abating the nuisance, the cost of legal notification by publication, and an administrative fee of not more than \$100.00 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 261.011.
- (2) **Lien.** To obtain a lien against the property to secure an assessment, the Health Authority shall cause a statement of the costs incurred in doing such work to be made out and certified to by the Health Authority and filed with the County Clerk, stating the description of the property upon which such work was done, the character of work done and the name of the owner of such property, and follow any other procedure required by law to secure a lien against the 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, and liens for street improvements.
- (4) **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 (10) percent a year.
- (5) **Suit Against Owner.** For any such expenditures and interest under Section 261.013, suit may be instituted and a personal judgment obtained against the owner of such property and recovery and foreclosure had 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.

**261.014 Injunction**

- (a) **Prevention.** A county or district court having jurisdiction may by injunction prevent or restrain a violation of this chapter in the unincorporated area of the county.
- (b) **Suit.** A county or a person affected or to be affected by a violation under this chapter, including a property owner, resident of a neighborhood, may bring suit under Section 261.014(a). If the court grants the injunction, that court may award the plaintiff reasonable attorney's fees and court costs.

**261.015 Criminal Penalty**

- (a) **Commission.** A person commits an offense if:

- (1) the person violates Section 261.009; and
  - (2) the nuisance remains unabated after the thirtieth (30th) day after the date on which a person receives notice from the Health Authority, or any duly authorized County official, agent, or employee to abate the nuisance.
- (b) Misdemeanor Fine. An offense under Section 261.009 is a misdemeanor punishable by a fine of not less than fifty dollars (\$50.00) or more than two hundred dollars (\$ 200.00).\*\*\*
  - (c) Previous Conviction. 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 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.
  - (d) Separate Offense. Each day a violation occurs is a separate offense.
  - (e) Order to Abate. The county or district court having jurisdiction shall order abatement of the nuisance if the defendant is convicted of an offense under this section.

**261.016 Prohibition**

- (a) Declared to be a Nuisance. Because junked vehicles are detrimental to the safety and welfare of the general public, tending to reduce the value of private property, to invite vandalism, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the city, county, and state by producing urban blight which is adverse to the maintenance and continuing development of the County, such vehicles that are visible from a public place or public right-of-way are hereby declared to be a public nuisance and subject to abatement as provided in these Rules.
- (b) Prohibited on Private Property. The Commissioners Court hereby orders that the owner or occupant or person in control of any real property within the County shall keep such property free of, and shall not permit or suffer the presence of any junked vehicles on such property in violation of these Rules.

**261.017 General Procedures - Junked Vehicle**

- (a) Administration by Authorized Person. The procedure herein shall be administered by regularly salaried, full-time employees of the city, town, or County, except that the removal of a vehicle or vehicle part from property may be by any duly authorized person.
- (b) Entry by Authorized Person. A person authorized by the County to administer the procedures authorized by this article, including the Health Authority or its authorized representative, may enter private property for the purposes

specified in the procedures to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle, and remove or cause the removal of a vehicle or vehicle part that constitutes a nuisance.

**261.018 Exemptions - Junked Vehicle Requirements**

- (a) Concealed or Special Vehicles. The provisions of this Article shall not apply to:
- (1) a vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
  - (2) a vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard; or
  - (3) unlicensed, operable or inoperable antique and special interest vehicles stored by a collector on his property, provided that the vehicles and the outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery or other appropriate means.
- (b) Obstruction of Traffic. This article does not affect a law authorizing the immediate removal, as an obstruction to traffic, of a vehicle left on public property.

**261.019 Written Notice to Abate - Junked Vehicle**

- (a) Notice Requirements. Whenever any junked vehicle is located on any private property in violation of these Rules, the Health Authority shall order the owner or the occupant of the premises whereon such public nuisance exists, to abate or remove the same. The notice shall:
- (1) Be in writing; and
  - (2) State the nature of the public nuisance and that it must be abated within ten (10) days after the service of notice; and
  - (3) State that a request for a hearing to determine whether or not the motor vehicle is a junked motor vehicle in violation of these Rules must be made to the Health Authority, either in person or in writing and without the requirement of bond, before the expiration of said ten (10) day period.
  - (4) State that in the event that no request for a hearing is received before the expiration of said ten (10) day period, it shall be conclusively presumed that said vehicle is a junked vehicle in violation of these Rules.

- (5) Be mailed by certified or registered United States mail with a five (5) day return receipt requested to the last known registered owner of the junked motor vehicle, any lien holder of record, and the owner or occupant of the private premises on which the public nuisance exists. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle, or, if the last known registered owner is physically located, the notice may be hand delivered. If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten (10) days after the day of the return.
- (b) Notice if Vehicle Owner Cannot be Found. If there is a junked motor vehicle, as herein defined, on premises that are occupied or unoccupied, and neither the owner nor the occupant of the premises can be found and notified to remove same; or the notice required is returned undelivered by the U.S. Post Office and ten (10) days after the return of such notice the nuisance has not been abated; then, upon a showing of such facts to the Health Authority in a public hearing, the Health Authority may issue an order directing the removal of the vehicle or vehicle part, and the Health Authority shall take possession of such junked vehicle and remove it from the premises.

**261.020 Visible Notice on Junked Vehicles**

- (a) Contents of Notice. At the time notice is given under Section 261.019 regarding a vehicle which is in violation of these Rules in addition to any other notices required herein, a visible notice, brightly colored, but of a color different from that used for notices of abandonment, may be securely affixed to such vehicle. Such notice shall:
  - (1) state that the vehicle is a public nuisance and that it must be abated within ten (10) days from the date on such notice; and
  - (2) state that a request for a hearing to determine whether or not the motor vehicle is a junked motor vehicle as defined herein must be made to the Health Authority, either in person or in writing and without the requirement of bond, before the expiration of said ten (10) day waiting period; and
  - (3) state that in the event that no request for a hearing is received before the expiration of said ten (10) day period, it shall be conclusively presumed that said vehicle is a junked vehicle in violation of these Rules as defined under state law and city and county rules; and
  - (4) State the date it was affixed.
- (b) Failure to Affix. Affixing the notice set out herein shall not be a condition or requirement precedent to any proceeding or official action to abate such public nuisance, and such proceeding or action shall not be rendered void or

voidable, nor in any way affected by failure to affix the visible notice prescribed herein.

**261.021 Public Hearing**

- (a) **Hearing Request.** The owner or occupant of any premises on which a junked vehicle is located may, within ten (10) days after service of a notice to abate said nuisance, request of the Health Authority, either in person or in writing, and without the requirement of the bond, that a date and time be set when he may appear before the Health Authority for a hearing to determine whether or not the motor vehicle is a junked motor vehicle in violation of these Rules. If a hearing is not requested, one will be set by the Health Authority.
- (b) **Determination.** The Health Authority shall hear any case brought before the it, as set out herein, and shall determine by a preponderance of the evidence whether or not the motor vehicle is a junked motor vehicle and in violation of these Rules. At the hearing, it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. Such hearing shall not be criminal in nature and shall be as summary as due process and orderly procedure allows. Upon finding that such motor vehicle is in violation of these Rules, the Health Authority shall order such defendant to abate such nuisance within ten (10) days, the same being a reasonable time. If the defendant shall fail and refuse within ten (10) days to abate the nuisance, or the owner or occupant does not request a public hearing, the Health Authority may issue an order including the current identification number and license number of the vehicle, if available at the time, to have the same removed, and the County shall take possession of such junked vehicle.
- (c) **Authority to Abate. Public Hearing.** In all cases, before the removal of a vehicle or vehicle part as a nuisance by County, a public hearing must be held before the governing body of the County or any board, commission, or official of County as designated by the Commissioners Court pursuant to Section 261.022. The Commissioners Court hereby designates the Health Authority, or his appointed hearings examiner to conduct these hearings.

**261.022 Impoundment of Junked Vehicle**

- (a) **Notice.** Notice shall be given to the Texas Highway Department that a junked vehicle has been impounded within five (5) days after the removal of the junked motor vehicle as provided in this provision, identifying the vehicle or part thereof impounded.
- (b) **Disposition of Impounded Vehicles.** The Health Authority shall dispose of all impounded junked vehicles in such manner as may be designated by the County, consistent with state law, provided such vehicle shall not be reconstructed or made operable. Disposal may be by removal or sale, with or without competitive bidding, to a scrap yard, to a demolisher, or to any

suitable site operated by the City or County for processing as scrap or salvage.

**261.023 Penalty.**

- (a) If a person is found guilty of maintaining a junked vehicle in violation of these Rules, the person shall be guilty of a misdemeanor, and subject to a fine not to exceed two hundred dollars (\$200.00), and the Health Authority shall order abatement of the nuisance.\*\*\*

**261.024 Definitions**

- (a) "Litter" has the meaning as assigned by Section 261.001(l) except that the term does not include equipment used for agricultural purposes.
- (b) "Public highway" has the meaning as assigned by Section 261.001(s).

**261.025 Prohibition**

- (a) The Commissioners Court hereby orders that the accumulation of litter for more than thirty (30) days on a person's property within fifty (50) feet of a public highway in the County is prohibited.

**261.026 Notice - Litter Violation**

- (a) Written Notice. Before the Commissioners Court takes any action to remove or dispose of litter under this Section, the Commissioners Court shall send a written notice by certified mail to the record owners of the property on which the litter is accumulated in violation of an order adopted under this section of that violation, and of his/her right to request a hearing before the Health Authority.
- (b) Request for Public Hearing. The property owner so notified under Section 261.026(a) may request a hearing before the Health Authority within fifteen (15) days of the receipt of such notice.
- (c) Thirty (30) Day Limit. The Commissioners Court may not remove or dispose of the litter or assess the costs of the removal or disposition against a property owner before the thirtieth (30th) day after the date the notice is sent under this section.

**261.027 Removal and Disposition of Litter**

- (a) Removal. Litter accumulated near a public highway in violation of Section 261.025(a) may be removed and disposed of by the County.
- (b) Assessment of Costs. The Commissioners Court may assess against a person who owns the property from which litter is removed under Section 261.027(a) the costs incurred by the County in removing and disposing of the litter.

**261.028 Penalties - Litter Violation**

- (a) Lien. If a person assessed costs under this section does not pay the costs within sixty (60) days after the date of assessment:
  - (1) A lien in favor of the County attaches to the property from which the litter was removed to secure the payment of the costs and interest accruing at an annual rate of ten percent on any unpaid part of the costs; and
  - (2) The Commissioners Court shall file a record of the lien in the office of the County Clerk.
- (b) Misdemeanor. The violation of section 261.025 is a Class C misdemeanor.