

**ORDER #O-10-2018**  
**REVISED ABATEMENT OF PUBLIC NUISANCE ORDINANCE**

STATE OF TEXAS           §  
  §  
COUNTY OF ARANSAS   §

**COMMISSIONERS' COURT**

In the Commissioners' Court of Aransas County, Texas, on this the 8th day of October, 2018, the Commissioners' Court of Aransas County, Texas, being in regular session at regular term of said Court acting pursuant to the authority provided by Chapter 343, 365, 396, 683, of the Texas Health and to include Safety Code and 234 of the Local Government Code, with the following proceedings to-wit:

**WHEREAS**, the Commissioners' Court finds and determines that trash, litter, junked vehicles and junked mobile homes, boats and abandoned structures are detrimental to the public health, safety and welfare of the residents of Aransas County, Texas.

**WHEREAS**, the Commissioners' Court finds and determines that this Order is necessary to promote health, safety and welfare of the residents of Aransas County.

**WHEREAS**, the Commissioners' Court desires to provide regulations to control the storage or accumulation of litter, refuse, rubbish, abandoned vehicles, refrigerators, boats, stoves, furniture, tires and cans in neighborhood areas or maintaining unsanitary or structurally unsafe buildings and premises or unincorporated areas of Aransas County, providing for written notice to the owner, lessee or occupant and calling for enforcement by the elimination, removal, repair, rehabilitation or demolition of the building or nuisance including the right to a hearing before the Commissioners' Court or any commission, board or official designated by the 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, repealing all conflicting orders, if any; providing for severability; providing for publication; and declaring an effective date.

**THEREFORE**, upon motion by Commissioner Brian Olsen seconded by Commissioner Betty Stiles **IS ORDERED BY THE COMMISSIONERS' COURT OF ARANSAS COUNTY, TEXAS, THAT:**

**SECTION 1:           Definitions**

- (1) "Abate" means to eliminate or remedy:
- (A) by removal, repair, rehabilitation, or demolition;
  - (B) in case of a nuisance under Section 343.011(c)(1), (9), or (10) of the Texas Health and Safety Code, by prohibition or control of access; and
  - (C) in the case of a nuisance under Section 343.011(c)(12) of the Texas Health and Safety Code, by removal, remediation, storage, transportation, disposal, or other means of waste management authorized by Chapter 361 of the Texas Health and Safety Code.

- (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 non-decayable waste, including vegetable matter and animal and fish carcasses.
- (10) “Rubbish” means non-decayable waste from a public or private establishment or residence.
- (11) “Weeds” means all rank and uncultivated vegetable growth or matter that:
  - (A) has grown to more than 36 inches in height; or
  - (B) may create an unsanitary condition or become a harborage for 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 2:           Public Nuisance Defined 343.011 H.S.C.**

- (a) This section applies only to the unincorporated area of a county.
- (b) A person may not cause, permit, or allow a public nuisance under this section.

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 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;
- (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) maintain on 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; and
  - (B) a cover over the entire swimming pool that cannot be removed by a child;
- (7) maintaining a flea market in a manner that constitutes a fire hazard;
- (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;
- (9) discarding refuse on the smaller of:
  - (A) the area that spans twenty (20) feet on each side of a utility line; or
  - (B) the actual span of the utility easement;
- (10) 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;
- (11) discarding refuse on property that is not authorized for that activity; or

- (12) surface discharge from an on-site sewage disposal system as defined by Section 366.002 Texas Health and Safety Code.

(d) This section does not apply to:

(1) a site or facility that is:

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

(B) licensed or permitted under Chapter 361 of the Texas Health and Safety Code for the activity described by Subsection (c); or

(2) agricultural land.

**SECTION 3: Exceptions or Variances 343.011 H.S.C.**

(a) The Commissioners' Court of Aransas County may, upon application:

(1) describe the circumstances in which a special exception to the application of Section 343.011 of the Texas Health and Safety Code, or Section 2 of this Order, is available to a person and may grant the special exception in a specific case if the Commissioners' Court finds that the specific case justifies a special exception, that the grant of the exception promotes justice, that the grant of the exception is not contrary to the public interest, and that the grant of the exception is consistent with the general purpose of Section 343.011 of the Texas Health and Safety Code and this Order; and

(2) authorize in a specific case not covered by a special exception a variance from the terms of §343.011 of the Texas Health and Safety Code, if the Commissioners' Court makes the same findings in connection with the specific case that it makes in connection with a special exception under Subdivision (1) and finds that due to special conditions a literal enforcement of Section 343.01 of the Texas Health and Safety Code, and Section 2 of this Order, would result in an unnecessary hardship.

(b) The Commissioners' Court shall keep a record of its proceedings under this section and must include in the record a showing of the reasons for each decision made under this section.

**SECTION 4: Criminal Penalty/Enforcement 343.012 H.S.C.**

Criminal Penalty:

(a) A person commits an offense if:

(1) the person violates Section 343.011(b) of the Texas Health and Safety Code and Section 2 of this Order; and

(2) the nuisance remains unabated after the 30<sup>th</sup> day after the date on which the person receives notice from a county official, agent, or employee to abate the nuisance.

- (b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200.
- (c) 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 \$200 or more than \$1,000, confinement in jail for not more than six months, or both.
- (d) Each day a violation occurs is a separate offense.
- (e) The court shall order abatement of the nuisance if the defendant is convicted of an offense under this section.

**Civil Injunction 343.013 H.S.C.**

- (a) A county or district court may by injunction prevent, restrain, abate, or otherwise remedy a violation of this chapter in the unincorporated area of county.
- (b) Aransas County or a person affected or to be affected by a violation under provisions of Chapter 343 of the Texas Health and Safety Code, including a property owner, resident of a neighborhood, or organization of property owners or residents of a neighborhood, may bring suit under Subsection (a). If the court grants the injunction, the court may award the plaintiff reasonable attorney's fees and court costs.
- (c) Aransas County may bring suit under this section to prohibit or control access to the premises to prevent a continued or future violation of Section 343.011(c)(1),(6),(9) or (10) of the Texas Health and Safety Code, or of Section 2 of this Order. The court may grant relief under this subsection only if the County demonstrates that:
  - (1) the person responsible for causing the public nuisance has not responded sufficiently to previous attempts to abate a nuisance on the premises, if the relief sought prohibits or controls access of a person other than the owner; or
  - (2) the owner of the premises knew about the nuisance and has not responded sufficiently to previous attempts to abate a nuisance on the premises, if the relief sought controls access of the owner.
- (d) In granting relief under Subsection (c), the court:
  - (1) may not, in a suit brought under Section 343.011(c)(10) of the Texas Health and Safety Code or Section 2 of this Order, prohibit or control access by the owner or operator of a utility or utility easement to that utility line or utility easement; and

- (2) may not prohibit the owner of the premises from accessing the property but may prohibit a continued or future violation.

**Rules and Standards 365.013 H.S.C.**

- (a) The Texas Board of Health shall adopt rules and standards regarding processing and treating litter disposed in violation of this subchapter.
- (b) A person commits an offense if the person violates a rule adopted under this section.
- (c) An offense under this section is a Class A misdemeanor.

**SECTION 5: Authority to Abate Nuisance**

By adopting these procedures, Aransas County is authorized to abate a nuisance under this chapter:

- (1) by entry upon the land to engage in demolition or removal;
- (2) in the case of a nuisance under Section 343.011(c)(1), (9) or (10) of the Texas Health and Safety Code and Section 2 of this Order, by prohibiting or controlling access to the premises;
- (3) in the case of a nuisance under Section 343.011(c)(6) of the Texas Health and Safety Code and Section 2 of this Order 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 the swimming pool; or
- (4) in the case of a nuisance under Section 343.011(c)(12) of the Texas Health and Safety Code and Section 2 of this Order, by removal, remediation, storage, transportation, disposal, or other means of waste management authorized under Chapter 361 of the Texas Health and Safety Code and by exhaustion of remedies provided by Section 343.012(e) Health and Safety Code.

**SECTION 6: Nuisance Abatement Officer and Procedures**

- (a) The abatement procedures adopted by the Commissioners' Court will be administered by the County Judge. The County Judge may, by way of a formal delegation of authority entered into the minutes of the Commissioners' Court, authorize another person to conduct such inspections, draft such Notices or Orders, or take such other administrative steps necessary to properly enforce the nuisance abatement procedures outlined in this Order.
- (b) The County Judge, or his or her designee, may engage in the following duties and functions:



- (1) The prohibition or control of access to the premises to prevent a violation of Section 343.011(c)(1), (6), (9) or (10) of the Texas Health and Safety Code or Section 2 of this Order;
- (2) The removal or demolition of the nuisance; and
- (3) The abatement of a nuisance described by Section 343.011(c)(12) of the Texas Health and Safety Code and Section 2 of this Order.

(c) The abatement procedures shall 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) the person is not the owner, lessee, occupant, agent or person in charge of the premises; and

(B) the person responsible can be identified.

(d) The notice must state:

- (1) the specific condition that constitutes a nuisance;
- (2) that the person receiving notice shall abate the nuisance before the:

(A) 31<sup>st</sup> 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) 10<sup>th</sup> business day after the date on which the notice is served, if the person has previously received a notice regarding a nuisance on the premises;

(3) 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;

(4) that the county may prohibit or control access to the premises to prevent a continued or future nuisance described by Section 343.011(c)(1), (6), (9) or (10); and

(5) that the person receiving notice is entitled to submit a written request for a hearing before the:

(A) 31<sup>st</sup> 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) 10<sup>th</sup> business day after the date on which the notice is served, if the person has previously received a notice regarding a nuisance on the premises.

(e) The notice must be given:

- (1) By service in person or by 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 nuisance exists and by publishing the notice in a newspaper with general circulation in the county two (2) times within 10 consecutive days.

(f) Except as provided in Subsection (g), the abatement procedures must require a hearing before the county abates the nuisance if a hearing is requested. The hearing may be conducted before the Commissioners' Court or any board, commission or official designated by the Commissioners' Court. The Commissioners' Court may designate a board, commission, or official to conduct each hearing.

(g) A county may, before conducting a hearing, abate a nuisance under Section 343.011(c)(6) of the Texas Health and Safety Code, or Section 2 of this Order, by prohibiting or controlling access to the premises on which the nuisance is located and installing a cover that cannot be opened by a child over the entire swimming pool, but only if the county conducts a hearing otherwise in accordance with Subsection (f) after the nuisance is abated.

## **SECTION 7:           Assessment of Costs; Lien**

Aransas County may:

(1) Assess:

- (A) the cost of abating the nuisance, including management, remediation, storage, transportation, and disposal costs and damages and other expenses incurred by the county;
- (B) the cost of legal notification by publication; and
- (C) an administrative fee of not more than \$100 on the person receiving notice under Section 343.022 of the Texas Health and Safety Code, or Section 6 of this Order; or

(2) by resolution or order, assess:

- (A) the cost of abating the nuisance;
- (B) the cost of legal notification by publication; and
- (C) an administrative fee of not more than \$100 against the property on which the nuisance exists.

(3) 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 343.022 of the Texas Health and Safety Code, or Section 6 of this Order.

(4) To obtain a lien against the property to secure an assessment, the Commissioners' Court of the county must file a notice that contains a statement of costs, 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.

- (a) 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.

**SECTION 8:           Use of County Funds**

Aransas County may use any monies available under other law for a cleanup or remediation of private property to abate a nuisance described by Section 343.011(c)(1), (9) or (10) of the Texas Health and Safety Code or provisions of this Order.

**SECTION 9:           Authority to Enter Premises**

- (a) A county official, agent or employee charged with the enforcement of health, environmental, safety or fire laws may enter any premises in the unincorporated area of the county at a reasonable time to inspect, investigate, abate a nuisance or to enforce this chapter.
- (b) Before entering the premises the official, agent or employee must exhibit proper identification to the occupant, manager or other appropriate person.

**SECTION 10:         Severability**

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 11:         Amendment**

Should Chapter 343 of the Texas Health and Safety Code or this Order be amended, revised, re-codified or otherwise altered, such amendments shall be deemed applicable to this unreasonable.

**SECTION 12:         Texas Department of Transportation Code 683.011 & 683.016**

**Authority to take Abandoned Motor Vehicle into Custody 683.011**

- (a) A law enforcement agency may take into custody an abandoned motor vehicle, watercraft, or outboard motor found on public or private property.

- (b) A law enforcement agency may use agency personnel, equipment and facilities or contract for other personnel, equipment and facilities to remove, preserve and store an abandoned motor vehicle, watercraft, or outboard motor taken into custody by the agency under this subchapter.

### **Taking Abandoned Motor Vehicle into Custody: Notice 683.012**

- (a) A law enforcement agency shall send notice of abandonment to:
  - (1) the last known registered owner of each motor vehicle, watercraft, boat, or outboard motor taken into custody by the agency or for which a report is received under Section 683.031; and
  - (2) each lienholder recorded under Chapter 501 for the motor vehicle or under Chapter 31, Parks and Wildlife (“P&W”) Code, for the watercraft or outboard motor.
- (b) The notice under Subsection (a) must:
  - (1) be sent certified mail not later than the 10<sup>th</sup> day after the date the agency:
    - (A) take the abandoned motor vehicle, watercraft, or outboard motor into custody;
    - or
    - (B) receives the report under Section 683.031;
  - (2) specify the year, make, model and identification number of the item;
  - (3) give the location of the facility where the item is being held;
  - (4) inform the owner and lienholder of the right to claim the item not later than the 20<sup>th</sup> day after the date of the notice on payment of
    - (A) towing, preservation and storage charges; or
    - (B) garagekeeper’s charges and fees under Section 683.032; and
  - (5) state that failure of the owner or lienholder to claim the item during the period specified by Subdivision (4) is:
    - (A) a waiver by that person of all right of, title and interest in the item; and
    - (B) consent to the sale of the item at a public auction.
- (c) notice by publication in one newspaper of general circulation in the area where the motor vehicle, watercraft, or outboard motor was abandoned is sufficient notice under this section if:
  - (1) the identity of the last registered owner cannot be determined;
  - (2) the registration has no address for the owner; or
  - (3) the determination with reasonable certainty of the identity and address of all lienholders is impossible.
- (d) notice by publication:
  - (1) must be published in the same period that is required by Subsection (b) for notice by certified mail and contain all of the information required by that subsection; and
  - (2) may contain a list of more than one abandoned motor vehicle, watercraft, or outboard motor.

### **Storage Fees 683.013**

A law enforcement agency or the agent of a law enforcement agency that takes into custody an abandoned motor vehicle, watercraft, or outboard motor is entitled to reasonable storage fees:

- (1) for not more than ten (10) days, beginning on the day the item is taken into custody and ending on the day the required notice is mailed; and
- (2) beginning on the day after the day the agency mails notice and ending on the day accrued charges are paid and the vehicle, watercraft, or outboard motor is removed.

### **Auction or Use of Abandoned Items: Waiver of Rights 683.014**

- (a) If an abandoned motor vehicle, watercraft, or outboard motor is not claimed under Section 683.012:
  - (1) the owner or lienholder:
    - (A) waives all rights and interest in the item; and
    - (B) consents to the sale of the item by public auction; and
  - (2) the law enforcement agency may sell the item at a public auction or use the item as provided by Section 683.016.
- (b) Proper notice of the auction shall be given. A garagekeeper who has a garagekeeper's lien shall be notified of the time and place of the auction.
- (c) The purchaser of a motor vehicle, watercraft, or outboard motor;
  - (1) takes title free and clear of all liens and claims of ownership;
  - (2) shall receive a sales receipt from the law enforcement agency; and
  - (3) is entitled to register the motor vehicle, watercraft, or outboard motor and receives a certification of title.

### **Auction Proceeds 683.015**

- (a) A law enforcement agency is entitled to reimbursement from the proceeds of the sale of an abandoned motor vehicle, watercraft, or outboard motor for:
  - (1) the cost of the auction;
  - (2) towing, preservation, and storage fees resulting from the taking into custody; and
  - (3) the cost of notice or publication as required by Section 683.012.
- (b) After deducting the reimbursement allowed under Subsection (a), the proceeds of the sale shall be held for 90 days for the owner or lienholder of the vehicle;
- (c) After the period provided by Subsection (b), proceeds unclaimed by the owner or lienholder shall be deposited in an account that may be used for the payment of auction, towing, preservation, storage and notice and publication fees resulting from

taking other vehicles, watercraft, or outboard motors into custody if the proceeds from the sale of the other items are insufficient to meet those fees.

- (d) A municipality or county may transfer funds in excess of \$1,000 from the account to the municipality's or county's general revenue account to be used by the law enforcement agency.

**Law Enforcement Agency Use of Certain Abandoned Motor Vehicles 683.016**

- (a) The law enforcement agency that takes an abandoned motor vehicle into custody that is not claimed under Section 683.012 may use the vehicle for agency purposes.
- (b) The law enforcement agency shall auction the vehicle as provided by this subchapter if the agency discontinues use of the vehicle.
- (c) This section does not apply to an abandoned vehicle on which there is a garagekeeper's lien.
- (d) This section does not apply to a vehicle that is:
  - (1) taken into custody by a law enforcement agency located in a county with a population of 2.4 million or more; and
  - (2) removed to a privately owned storage facility.

**SECTION 13: Texas Transportation Code 396.001 through 396.045 to include Subchapter 234**

- (1) "Automotive wrecking and salvage yard" means an outdoor place where a person stores three or more wrecked vehicles for the purpose of dismantling or wrecking the vehicles to remove parts for sale or for use in an automotive repair or rebuilding business.
- (2) "Junk" means copper, brass, iron, steel, rope, rags, batteries, tires, or other material that has been discarded or sold at a nominal price by a previous owner of the material. The term does not include a wrecked vehicle.
- (3) "Junkyard" means a place where a business that owns junk and is operated to store, buy, or sell junk and keeps all or part of the junk outdoors until the business disposes of the junk.
- (4) "Recycling business" means a business primarily engaged in the business of
  - (A) converting metal or other material into raw material products that have:
    - (i) prepared grades; and
    - (ii) an existing or potential economic value;
  - (B) using raw material products described by Paragraph (A) in the production of new products; or
  - (C) obtaining or storing metal or other material for a purpose described by Paragraph (A) or (B).

- (5) “Wrecked vehicle” means a discarded, junked, damaged, or worn-out automotive vehicle that is not in a condition to be lawfully operated on a public road.

### **Screening Requirements 396.021**

- (a) This section does not apply to:
- (1) an automotive wrecking and salvage yard as defined by and subject to Chapter 397; (concerning a county with a population of two million or more)
  - (2) a junkyard as defined by Section 391.001 and subject to Subchapter E, Chapter 391; (located within 1,000 feet of an interstate highway)
  - (3) a recycling business; or
  - (4) a junkyard or an automotive wrecking and salvage yard entirely in a municipality and regulated by the municipality.
- (b) A person who operated a junkyard or an automotive wrecking and salvage yard in a county with a population of 200,000 or less shall screen the junkyard or automotive wrecking and salvage yard to at least six feet in height along the portion of the junkyard or automotive wrecking and salvage yard that faces a public road or residence. The person may screen the yard by any appropriate means, including:
- (1) a fence;
  - (2) natural objects; or
  - (3) plants.

### **Location of Yard 396.022**

- (a) A junkyard or an automotive wrecking and salvage yard may not be located within 50 feet of the right-of-way of a public street, state highway, or residence.
- (b) A person may not accumulate or stack materials associated with a junkyard or an automotive wrecking and salvage yard higher than eight feet about ground level.
- (c) This section does not apply to a junkyard or an automotive wrecking and salvage yard used only for farm equipment.

### **Effect of Local Ordinance 396.023**

A person who operates a junkyard or an automotive wrecking and salvage yard, in screening the yard, shall comply to the extent practicable, with an applicable ordinance adopted by a political subdivision; and

Under Subchapter A, Chapter 234, Local Government Code, the commissioners' court may establish visual aesthetic standards for automotive wrecking and salvage yards, junkyards, recycling businesses, flea markets, demolition businesses, and outdoor resale businesses in the unincorporated area of the County. Existing businesses must be given 12 months to comply.

**Penalty 396.024**

- (a) a person commits an offense if the person knowingly violates Section 396.021 or 396.022.
- (b) an offense under this section is a misdemeanor punishable by a fine of not less than \$100 or more than \$500.
- (c) Each day a violation continues is a separate offense.

**County License 396.041**

- (a) This section does not apply to:
  - (1) a recycling business;
  - (2) a junkyard or automotive wrecking and salvage yard located entirely in a municipality and subject to regulation by the municipality; or
  - (3) a junkyard or automotive wrecking and salvage yard in operation before June 1, 1987.
- (b) To protect the public health, safety, or welfare, the commissioners' court of a county may by ordinance require a junkyard or automotive wrecking and salvage yard to be licensed by the county.
- (c) An ordinance may:
  - (1) impose a fee of \$25 for the issuance of renewal of a license;
  - (2) impose a fee of not more than \$150 for the issuance of renewal of a license, if the ordinance is adopted by the commissioners' court of a county with a population of one million or more that contains two or more municipalities, each of which has a population of 250,000 or more;
  - (3) condition the license on the operation of the junkyard or automotive wrecking and salvage yard only at a location approved by the commissioners' court; or
  - (4) establish grounds for suspending or revoking a license if the junkyard or automotive wrecking and salvage yard is not screened.
- (d) The county shall deposit each license fee received to the credit of the county general fund.

**Public Hearing 396.042**



- (a) Before adopting an ordinance under Section 396.041, the commissioners' court must hold a public hearing.
- (b) Any interested member of the public may appear and testify at the hearing about the subject of the proposed ordinance.

**Notice of Hearing 396.043**

- (a) The commissioners' court shall:
  - (1) post in a public place in the county courthouse a notice of the time, place and general subject of the public hearing; and
  - (2) publish the notice in a newspaper of general circulation in the county.
- (b) The notice must be:
  - (1) posted for the 10 days preceding the date of the public hearing; and
  - (2) published at least once a week for the three weeks preceding the week the public hearing is held.

**Conflict with other Laws:**

If a requirement, standard or condition established under this subchapter conflicts with another law of this state, a rule adopted under state law, or a municipal ordinance, the stricter of the two provisions prevails.

**Penalty 396.045**

- (a) A person commits an offense if the person violates an ordinance adopted under this subchapter that defines an offense.
- (b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 and not more than \$500
- (c) Each day a violation continues is a separate offense.

**SECTION 14:        Repeal of conflicting orders:**

All orders of parts of Orders in conflict with this Order are repealed to the extent of such conflict.

**SECTION 15:        Severability**

If any provision of this Order, or the application thereof to any person or circumstances shall be held invalid or unconstitutional by a court of competent Jurisdiction, such invalidity shall not affect the other provision or application 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 16: Publication**

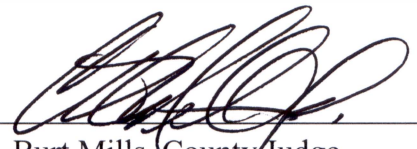
The Aransas County Clerk shall publish the caption or a descriptive title of this Order one-time within ten (10 days after final passage of the Order in a newspaper of general circulation in the Count of Aransas.

**SECTION 17: Distribution**

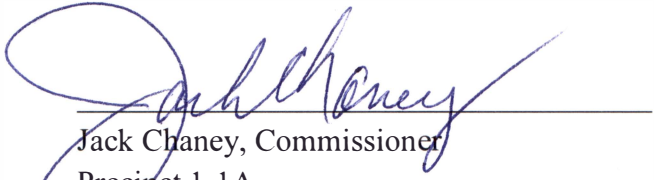
A certified copy of this Order shall be delivered to the Environmental Health Department, Sheriff, County District Attorney, County Treasurer, Constables and County Auditor of Aransas County, Texas, for their information and observance.

**SECTION 18: Effective Date**

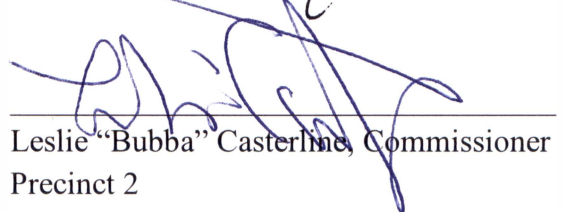
The above and foregoing instrument passed by unanimous vote of the Commissioners' Court of Aransas County, Texas, this 8<sup>th</sup> day of OCTOBER \_\_\_\_\_ 2018, and hereinafter has the effect of the law.



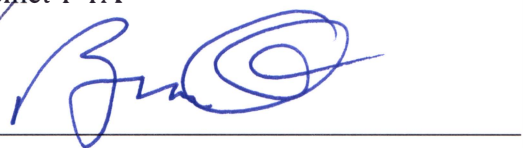
C.H. Burt Mills, County Judge



Jack Chaney, Commissioner  
Precinct 1-1A



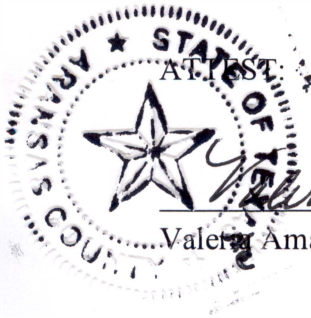
Leslie "Bubba" Casterline, Commissioner  
Precinct 2



Brian Olsen, Commissioner  
Precinct 3



Betty Stiles, Commissioner  
Precinct 4



Valerie K. Amason, Aransas County Clerk

