

ALLISON, BASS & MAGEE, L.L.P.

Attorneys at Law

1301 Nueces Street, Suite 201
AUSTIN, TEXAS 78701
(512) 482-0701
FAX (512) 480-0902

JAMES P. ALLISON
j.allison@allison-bass.com

ROBERT T. BASS
r.bass@allison-bass.com

J. ERIC MAGEE
e.magee@allison-bass.com

SUSANA NARANJO-PADRON
s.naranjo-padron@allison-bass.com

Illegal Dumping on County Roads

**Hon. Mark Gillespie, Commissioners Atascosa County &
Eric Magee, Allison, Bass & Magee, L.L.P.**

Illegal dumping costs taxpayers millions of dollars each year – clean-up costs from litter and illegal dumpsites are a major economic burden on local governments. Illegal dumping is not only unsightly, but it diminishes property values and presents serious public health and environmental safety hazards to all county citizens. It ranges anywhere from throwing the cigarette butt and/or trash out the car window, to throwing bags of household garbage in the county ditch, to dumping a truck/trailer load of house junk or yard trash, to throwing away appliances, furniture and other large items, to hazardous chemical and biological waste or to dumping construction debris. These dumpsites attract disease carrying pests and affect the quality of the air we breathe and water we drink. If not cleaned-up quickly, illegal dumpsites often invite more illegal dumping, as it primarily is a crime of opportunity.

Counties have the authority and responsibility to protect the health, safety and welfare of its citizens. There are many statutes pertaining to environmental issues and the authority of the Commissioners Court. Below is a table of some significant statutes related to illegal dumping.

Tex. Health & Safety Code § 365.012	Illegal Dumping; Discarding Lighter Materials; Criminal Penalties
Tex. Health & Safety Code § 365.017	Regulation of Litter by County – Commissioners Court may adopt regulations to control the disposal of litter and the removal of illegally dumped litter from private property in unincorporated areas of that county.
Tex. Health & Safety Code § 365.034	County Regulation of Litter Near Public Highway; Criminal Penalty – Commissioners Court by order may: (1) prohibit the accumulation of litter for more than 30 days on a person's property within 50 feet of a public highway; (2) order for the removal and disposition of litter; (3) provide for the assessment against a person who owns the property from which litter is removed.
Tex. Health & Safety Code § 343.011	Public Nuisance – (1) keeping, storing, or accumulating refuse on premises in a neighborhood

	<p>unless the refuse is entirely contained in a closed receptacle;</p> <p>(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;</p> <p>(3) maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests;</p> <p>(9) discarding refuse or creating a hazardous visual obstruction on: county-owned land; or land or easements owned or held by a special district that has the commissioners court of the county as its governing body;</p> <p>(12) discarding refuse on property that is not authorized for that activity;</p>
Tex. Health & Safety Code § 343.012	Criminal Penalty for Public Nuisance – misdemeanor punishable by fine; if previously convicted, punishable by fine and/or confinement in jail.
Tex. Health & Safety Code § 343.013	Injunction – a county may bring suit for an injunction to prevent, restrain, abate or otherwise remedy a Public Nuisance.
Tex. Health & Safety Code § 343.021	County Authority to Abate Nuisance – County may abate a nuisance if County has adopted abatement procedures.
Tex. Health & Safety Code § 343.022	County Abatement Procedures – Must be administered by regularly salaried, full-time county employee; written notice to individual at premises and state condition of nuisance; individual may request hearing.
Tex. Health & Safety Code § 343.023	Assessment of Costs; Lien – County may assess the cost of abating the nuisance, cost of legal notice and administrative fee; County may obtain a lien against the property to secure an assessment
Tex. Health & Safety Code § 343.024	County Authority to Enter Premises -- May enter any premise at a reasonable time to inspect, investigate or abate a nuisance.