

# **To Chapter 54 Suit or Not? Deciding the Best Path for Municipal Ordinance Enforcement**

Natalie Thamm

Denton, Navarro, Rodriguez, Bernal, Santee, & Zech P.C.

2500 W. William Cannon Drive, Suite 609

Austin, Texas 78745

[nthamm@rampagelaw.com](mailto:nthamm@rampagelaw.com)

512.279.6431

Presented at Fall Conference 2025

## **Introduction**

Municipalities have a variety of tools to enforce municipal ordinances. However, not every tool will work in every situation, so it is important to know the various options to determine the best path forward to gain compliance for each situation.

### **Legislative Updates Impacting Municipal Ordinance Enforcement**

S.B. 304 – Code Enforcement: allows a city, by ordinance, to provide its municipal court with: (1) civil jurisdiction for the purpose of enforcing certain code enforcement related ordinances; (2) concurrent jurisdiction with a district court or county court of law within the city’s territorial limits and property owned by the city in the city’s extraterritorial jurisdiction, for the purposes of enforcing health and safety nuisance abatement ordinances; (3) the authority to issue search warrants to investigate a health and safety or nuisance abatement ordinance violation, and (4) the authority to issue a seizure warrant to secure, remove, or demolish the offending property and removing debris from the premises.<sup>1</sup>

H.B. 4765 - Code Enforcement Officers: among other things, provides that: (1) a city may only engage in code enforcement without employing an individual registered as a code enforcement official if the individual engaging in code enforcement is exempt from state registration requirements; and (2) that an individual is not required to be registered as a code enforcement officer if the individual is required to be licensed or is registered under another state 27 law and engages in code enforcement under that license or registration.<sup>2</sup>

S.B. 1376 - Code Enforcement Officers: provides that a code enforcement officer in training may engage in code enforcement without supervision if the employer of the code enforcement officer does not also employ a registered code enforcement officer.<sup>3</sup>

## **Criminal Enforcement**

Municipalities may enforce ordinances criminally in their municipal courts. Criminally enforcing ordinances may work in a variety of circumstances for single instance violations, easily remediable violations, or willing to cooperate defendants. However, the criminal process can be inherently limiting for ongoing violations, larger scale violations, or zoning violations. First, a defendant may simply plead guilty or no contest and pay the fine, which ends the case without remedying the underlying violation. Second, even upon a conviction at a trial, the defendant may also simply pay the fine and refuse to remediate. Third, when corporations are responsible for the violation(s), it can be difficult to hold them criminally liable as there are strict procedural requirements and an inability to physically detain a

---

<sup>1</sup> Summary from TML Legislative Update 23, [https://www.tml.org/DocumentCenter/View/5433/LU2025\\_23](https://www.tml.org/DocumentCenter/View/5433/LU2025_23).

<sup>2</sup> Summary from TML Legislative Update 23, [https://www.tml.org/DocumentCenter/View/5433/LU2025\\_23](https://www.tml.org/DocumentCenter/View/5433/LU2025_23).

<sup>3</sup> Summary from TML Legislative Update 23, [https://www.tml.org/DocumentCenter/View/5433/LU2025\\_23](https://www.tml.org/DocumentCenter/View/5433/LU2025_23).

corporation in the same way an individual may be.<sup>4</sup> Fourth, depending on the scale of remediation required, requiring remediation in the plea bargaining stage can be untenable as remediation may take longer than the statutory deadline for deferring adjudication of guilt.<sup>5</sup> While continuances may be utilized to allow remediation without formally entering into a plea to provide appropriate time, this approach still requires a defendant willing to remediate and comply.

### **Civil and Quasi-Judicial Enforcement<sup>6</sup>**

Municipalities may enforce ordinances outside of the criminal process in a variety of ways, depending on the kind of violation. Many of the processes overlap, so municipalities have flexibility in determining which path best suits its needs.

#### **Chapter 342 of Texas Health and Safety Code: Unsanitary Conditions**

Chapter 342 of the Texas Health and Safety Code allows a municipality to abate nuisances, after appropriate notice, that concern unsanitary conditions, including stagnant water, filth, carrion, refuse and rubbish, and weeds.<sup>7</sup> If the municipality provides notice in accordance with Section 342.006 and the owner fails to comply within seven days<sup>8</sup> of the notice, the municipality may abate the nuisance itself or hire someone to abate the nuisance and assess expenses incurred against the real estate on which the work was done or improvements made.<sup>9,10</sup>

#### **Chapter 683 of Texas Transportation Code: Junked Vehicles**

Chapter 683 of the Texas Transportation Code allows a municipality to abate junked vehicles. Subchapter E defines junked vehicles and establishes various procedural requirements. If the municipality provides notice in accordance with Section 683.075 and the owner fails to remove the junked vehicle or request a hearing within 10 days, the municipality may abate the nuisance.<sup>11</sup> The governing body of the municipality, the municipal court, or a quasi-

---

<sup>4</sup> See Texas Code of Criminal Procedure Article 17A.

<sup>5</sup> See Texas Code of Criminal Procedure Article 45A.302(a) On a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by fine only and payment of all court costs, a judge may defer further proceedings for a period not to exceed 180 days without entering an adjudication of guilt.

<sup>6</sup> Each process is summarized for purposes of brevity and quick reference. There may be procedures listed in the applicable statute not discussed in this paper.

<sup>7</sup> See Texas Health and Safety Code §§ 342.001, 342.002, 342.003, 342.004, and 343.011(c)(1)-(3).

<sup>8</sup> Some municipal codes require longer time periods.

<sup>9</sup> Texas Health and Safety Code §§ 342.006 and 342.007.

<sup>10</sup> Municipalities have additional authority to abate weeds that have grown higher than 48 inches and pose an immediate danger under Texas Health and Safety Code § 342.008.

<sup>11</sup> Note: If a citation is issued for a junked vehicle and a defendant is convicted in municipal court, the court shall order the abatement and removal of the vehicle. Texas Transportation Code § 683.073.

judicial body established under Chapter 54, Subchapter C may conduct any required hearing.<sup>12</sup>

### Chapter 214 of Texas Local Government Code: Dangerous Structures

Under Chapter 214 of the Texas Local Government Code, municipalities may, by ordinance, establish procedures that comply with the Chapter that require the vacation, relocation of occupants, securing, repair, removal, or demolition of a building that is: dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare; unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or boarded up, fenced, or otherwise secured in any manner if: the building constitutes a danger to the public even though secured from entry and the means used to secure the building are inadequate to prevent unauthorized entry or use of the building.<sup>13</sup> The governing body of the municipality, the municipal court<sup>14</sup>, or a quasi-judicial body established under Chapter 54, Subchapter C<sup>15</sup> may conduct the hearing required under 214.001. If a building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the municipality may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense<sup>16</sup> and assess expenses on and receive a lien against the property, unless it is a protected homestead.<sup>17</sup>

Though the statute includes a substantial evidence review standard, the Texas Supreme Court held in *City of Dallas v. Stewart* nuisance determinations are reviewed de novo as they include “questions of law that determine the constitutionality of a property’s demolition...[that] are outside the competence of administrative agencies.”<sup>1819</sup> Because a nuisance determination impacts the validity of takings claim, it is advisable to allow the statutory deadline to appeal the nuisance determination to run prior demolishing a building.<sup>20</sup>

### Chapter 54 of Texas Local Government Code, Subchapter C: Quasi-Judicial Enforcement

---

<sup>12</sup> Texas Transportation Code §§ 683.076(a) and 683.0765; Texas Government Code §§ 29.003(a-1)(1) and 30.00005(d)(1).

<sup>13</sup> Texas Local Government Code § 214.001(a).

<sup>14</sup> Texas Local Government Code § 214.001(p).

<sup>15</sup> Texas Local Government Code §§ 54.036 and 54.044(a).

<sup>16</sup> Texas Local Government Code § 214.001(m).

<sup>17</sup> Texas Local Government Code § 214.001(n).

<sup>18</sup> *City of Dallas v. Stewart*, 361 S.W.3d 562, 578 (Tex. 2012).

<sup>19</sup> This arguably would not apply to municipal courts of record where the judge is a licensed attorney. See *Rhone v. City of Texas City, Texas*, 93 F.4th 762 (5th Cir. 2024).

<sup>20</sup> The deadline to file is 30 calendar days from receipt of order. See Texas Local Government Code § 214.0012(a).

Subchapter C of Chapter 54 of the Texas Local Government Code establishes procedures related to quasi-judicial enforcement of health and safety ordinances. Section 54.032 lays out the ordinances quasi-judicial enforcement may occur for. It reads as follows:

Sec. 54.032. ORDINANCES SUBJECT TO QUASI-JUDICIAL ENFORCEMENT. This subchapter applies only to ordinances:

- (1) for the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;
- (2) relating to the fire safety of a building or improvement, including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;
- (3) relating to dangerously damaged or deteriorated buildings or improvements;
- (4) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;
- (5) relating to a building code or to the condition, use, or appearance of property in a municipality;
- (6) relating to animal care and control; or
- (7) relating to water conservation measures, including watering restrictions.

There are three ways that a municipality may enforce ordinances that fall under Section 54.032.

First, a Building and Standards Commission (“BSC”) may be created to hear and determine cases concerning alleged violations of the types of ordinances listed in Section 54.032. The statute lays out, among other things, order of proceedings,<sup>21</sup> notice requirements,<sup>22</sup> functions,<sup>23</sup> available civil penalties,<sup>24</sup> and judicial review of decisions.<sup>25</sup> A determination by a BSC related to amount and duration of civil penalties is final, binding, and constitutes prima facie evidence of the penalty in a court of competent jurisdiction in a civil suit brought by the municipality for final judgement in accordance with the established penalty.<sup>26</sup> Finally, on appeal of a decision of a BSC order, the reviewing court limited to the substantial

---

<sup>21</sup> Texas Local Government Code § 54.034.

<sup>22</sup> Texas Local Government Code § 54.035.

<sup>23</sup> Texas Local Government Code § 54.036.

<sup>24</sup> Texas Local Government Code § 54.037.

<sup>25</sup> Texas Local Government Code § 54.039.

<sup>26</sup> Texas Local Government Code § 54.036(5).

evidence rule<sup>27</sup>, costs may not be assessed against the BSC, and so long as the decision of the BSC is not substantially reversed, the municipality may recover all attorney's fees and other costs and expenses incurred.<sup>28</sup>

Second, the municipality may adopt by ordinance an alternative procedure ("AP") for an administrative hearing under Section 54.044. Section 54.044 also lays out notice, order of proceedings, and allowable orders, among other provisions. The AP is presided over by a hearing officer, the order may be appealed to the municipal court, and the appeal does not stay the proceeding unless a bond is filed.<sup>29</sup> Unlike with a BSC where the order is prima facie evidence of the penalty and only the order is required for a judgement on the penalty, an order issued under this process requires the filing of a civil suit for collection of costs and suit to obtain an injunction.<sup>30</sup>

Finally, a municipality may establish an alternative adjudication process ("AA") that must contain provisions relating to notice, the conduct of proceedings, permissible orders, penalties, and judicial review that are similar to the provisions of Subchapter C.<sup>31</sup>

#### Chapter 54 of Texas Local Government Code, Subchapter B; Civil Enforcement

Subchapter B of Chapter 54 establishes a civil cause of action for municipal health and safety ordinance violations in specifically delineated categories, of which there are twelve.<sup>32</sup> They are as follows:

- (1) for the preservation of public safety, relating to the materials or methods used to construct a building or other structure or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;
- (2) relating to the preservation of public health or to the fire safety of a building or other structure or improvement, including provisions relating to materials, types of construction or design, interior configuration, illumination, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;
- (3) for zoning that provides for the use of land or classifies a parcel of land according to the municipality's district classification scheme;

---

<sup>27</sup> *But see City of Dallas v. Stewart*, 361 S.W.3d 562, 578 (Tex. 2012) (holding that a nuisance determination by an administrative agency is evaluated under a de novo review as it relates to takings claims).

<sup>28</sup> Texas Local Government Code § 54.039(f)-(h).

<sup>29</sup> Texas Local Government Code § 54.044.

<sup>30</sup> Texas Local Government Code § 54.044(j).

<sup>31</sup> Texas Local Government Code § 54.043.

<sup>32</sup> Texas Local Government Code § 54.012.

- (4) establishing criteria for land subdivision or construction of buildings, including provisions relating to street width and design, lot size, building width or elevation, setback requirements, or utility service specifications or requirements;
- (5) implementing civil penalties under this subchapter for conduct classified by statute as a Class C misdemeanor;
- (6) relating to dangerously damaged or deteriorated structures or improvements;
- (7) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;
- (8) relating to the interior configuration, design, illumination, or visibility of business premises exhibiting for viewing by customers while on the premises live or mechanically or electronically displayed entertainment intended to provide sexual stimulation or sexual gratification;
- (9) relating to point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into a sewer system, including a sanitary or storm water sewer system, owned or controlled by the municipality;
- (10) relating to floodplain control and administration, including an ordinance regulating the placement of a structure, fill, or other materials in a designated floodplain;
- (11) relating to animal care and control; or
- (12) relating to water conservation measures, including watering restrictions.

To obtain an injunction under Subchapter B of Chapter 54, a municipality must present a showing of substantial danger of injury or an adverse health impact to any person or to the property of any person other than the defendant.<sup>33</sup> An injunction obtained under this Section may prohibit specific conduct that violates the ordinance and requires specific conduct that is necessary for compliance with the ordinance,<sup>34</sup> and the municipality may recover civil damages not to exceed \$1,000 a day<sup>35</sup> if the municipality proves that the defendant was actually notified of the provisions of the ordinance and after the defendant received notice of the ordinance provisions, the defendant committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance.<sup>36</sup> Finally, actions to compel the repair or demolition of a structure or to obtain approval to remove the structure and recover removal costs may be brought in rem and, upon a filing of a lis pendens in the office of the county clerk, a subsequent purchaser or mortgagee who acquires an interest in

---

<sup>33</sup> Texas Local Government Code § 54.016(a).

<sup>34</sup> Texas Local Government Code § 54.016(a).

<sup>35</sup> Up to \$5,000 a day for a violation of an ordinance relating to point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into a sewer system, including a sanitary or storm water sewer system, owned or controlled by the municipality.

<sup>36</sup> Texas Local Government Code § 54.017.

the property takes the property subject to the enforcement proceeding and subsequent orders of the court.<sup>37</sup>

Appeals of injunctions issued under Subchapter B are governed by the Texas Rules of Appellate Procedure.<sup>38</sup>

### **To Chapter 54 Suit or Not? – Questions to Consider**

Does the violation qualify for civil enforcement under Chapter 54, Subchapter B?

Can a showing of substantial danger be made?

Are there alternative methods of enforcement that could also gain compliance?

---

<sup>37</sup> Texas Local Government Code § 54.018.

<sup>38</sup> Proceeding brought by a municipality with a population of 500,000 or more relating to dangerously damaged or deteriorated structures or improvements are governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure. See Texas Local Government Code § 54.0155.