

ORDINANCE NO. 3784

AN ORDINANCE OF THE CITY OF NORTH RICHLAND HILLS, TEXAS, AMENDING AND RESTATING ARTICLE II, OF CHAPTER 58, MUNICIPAL COURT OF RECORD, AUTHORIZING CIVIL ACTIONS AND ESTABLISHING AN ADMINISTRATIVE HEARING PROCESS FOR CODE ENFORCEMENT AND NUISANCE ABATEMENT CASES IN THE NORTH RICHLAND HILLS MUNICIPAL COURT OF RECORD, AND AMENDING APPENDIX A, FEE SCHEDULE, OF THE NORTH RICHLAND HILLS CODE OF ORDINANCES TO ADOPT RELATED FEES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES AND REPEAL OF CONFLICTING PROVISIONS; ESTABLISHING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of North Richland Hills is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, The City Council enacted Code 1975, Sec. 16 ½-1 establishing Chapter 58 of the Code of Ordinances to establish a municipal court of record within the city; and

WHEREAS, The City Council finds it in the best interest of the citizens to expand the city's current municipal court jurisdiction to provide alternatives to adjudication and enforcement of the city's ordinances related to nuisance abatement and substandard structures; and

WHEREAS, The City Council deems it necessary to amend Chapter 58 to modify municipal court authority and procedures to provide a more just and efficient avenue for disposition of cases arising in the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH RICHLAND HILLS, TEXAS:

SECTION 1: That Article II, of Chapter 58 is hereby amended and restated in its entirety and replaced as follows:

ARTICLE II. – MUNICIPAL COURT OF RECORD

DIVISION 1. – GENERALLY

Sec. 58-31 – Municipal court of record established.

A municipal court of record shall exist in the city to be known as the “Municipal Court of Record in the City of North Richland Hills” with two divisions to be known as “Division No. 1” and “Division No. 2.”

Sec. 58-32 – Jurisdiction.

In addition to the jurisdiction provided by general law for municipal courts of record in accordance with Texas Government Code § 30.00005 and for criminal cases arising under ordinances authorized by Texas Local Government Code §§ 215.072, 217.042, 341.903 and 401.002, the Municipal Court of Record in the City of North Richland Hills shall have concurrent jurisdiction with the justice court in any precinct in which the city is located in criminal cases that arise within the territorial limits of the city.

The courts also shall have:

- (1) Civil jurisdiction for the purpose of enforcing municipal ordinances enacted under Subchapter A, Chapter 214, Texas Local Government Code, or Subchapter E, Chapter 683, Texas Transportation Code;
- (2) Concurrent jurisdiction with a district court or a county court at law under Subchapter B, Chapter 54, Texas Local Government Code, within the municipality's territorial limits and property owned by the municipality located in the municipality's extraterritorial jurisdiction for the purpose of enforcing health and safety and nuisance abatement ordinances;
- (3) Civil jurisdiction and administrative enforcement authority under Subchapter C, Chapter 54 of the Texas Local Government Code, within the municipality's territorial limits and property owned by the municipality located in the municipality's extraterritorial jurisdiction, for the purpose of adjudication and quasi-judicial enforcement of health and safety and nuisance abatement ordinances;
- (4) Concurrent jurisdiction with a district court and a justice court over expunction proceedings relating to the arrest of a person for an offense punishable by fine only; and
- (5) Authority to issue:
 - a. Search warrants for the purpose of investigating a health and safety or nuisance abatement ordinance violation; and
 - b. Seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises.

The clerk of the municipal court is authorized to charge and collect fees and costs for litigation and administrative hearings filed in municipal court pursuant to Subchapter B and Subchapter C, Chapter 54 of the Texas Local Government Code. The fees and costs charged and collected will be consistent with those authorized by law to be collected by a clerk of a county court.

The procedures set forth in Subchapter B and Subchapter C, Chapter 54 of the Texas Local Government Code shall govern actions brought under Subchapter B and Subchapter C, Chapter 54 of the Texas Local Government Code, respectively.

Sec. 58-33 – Judges.

The Municipal Court of Record in the City of North Richland Hills shall be presided over by one or more judges in each Division, meeting the requirements of Texas Government Code § 30.00006. The term of office of the municipal judges shall be for two years. Each judge shall be appointed by the city council by ordinance, which shall also include the salary for the term for which such judge is appointed. If a vacancy occurs during a judge’s term, the city council may appoint a person to fill the office for the remainder of the unexpired term.

Sec. 58-34. – Associate judge; Substitute judge.

- (a) The city council may appoint one or more qualified persons to be available to serve as associate judges for either division of the Municipal Court. The associate judges shall have all the powers and shall discharge all the duties of a municipal judge while serving as such.
- (b) The city council may appoint one or more qualified persons to be available to serve for a municipal judge or for an associate judge who is temporarily absent due to illness, family death, continuing legal or judicial education programs, or any other reason. The municipal judges shall select one of such appointees to serve during his or her absence. The substitute judges shall have all the powers and shall discharge all the duties of a municipal judge while serving as such.

Sec. 58-35. - Clerk; other personnel.

The city council shall by ordinance, provide for the appointment of a clerk of the municipal court. The city manager shall provide in the annual budget for such other personnel, including marshals, deputy marshals, deputy clerks, and clerical staff. The clerk and other court personnel shall perform their duties under the direction of the municipal judge. The city manager or his designee shall hire, direct, supervise and remove all personnel authorized in the annual budget for the clerk’s office, as he deems appropriate. The municipal court clerk or his deputy or as otherwise designated by the city manager shall supervise the selection of persons for jury service.

Sec. 58-36. - Recording.

In lieu of a court reporter, proceedings in the municipal court shall, upon request, be recorded by a good quality electronic recording as authorized by Texas Government Code § 30.00010.

Sec. 58-37. – Rules of practice and procedure.

The municipal court judges shall recommend to the city council the adoption of ordinances establishing rules and regulations concerning the practice and procedure for civil and criminal cases in the municipal court. The rules, regulations and amendments thereto, if any, shall not constitute a part of this Code. Copies thereof shall be maintained for public inspection and copying in the city secretary's office and the municipal court. With the consent of the municipal judges, the clerk of the municipal court may cause copies thereof to be published and make the same available at a cost that is equivalent to the cost of publication, provided that no fee shall be imposed for the first copy supplied to any indigent defendant who makes an affidavit that he is unable to pay the cost thereof.

DIVISION 2. – CIVIL ACTION

Sec. 58-38. – Civil Action

- (a) The City may bring a civil action in a district court or county court at law of Tarrant County, Texas, or in the Municipal Court of Record of the City of North Richland Hills, for the enforcement of an ordinance:
 - (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;
 - (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.

Sec. 58-39. – Injunction.

- (a) On 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, the city may obtain against the owner or owner's representative with control over the premises an injunction that:
 - (1) prohibits specific conduct that violates the ordinance; and
 - (2) requires specific conduct that is necessary for compliance with the ordinance.
- (b) It is not necessary for the city to prove that another adequate remedy or penalty for a violation does not exist or to show that prosecution in a criminal action has occurred or has been attempted.

Sec. 58-40. – Civil Penalty.

- (a) In a suit against the owner or the owner's representative with control over the premises, the city may recover a civil penalty if it proves that:
 - (1) the defendant was actually notified of the provisions of the ordinance; and
 - (2) 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.

- (b) A civil penalty under this section may not exceed \$1,000 a day for a violation of an ordinance, except that a civil penalty under this section may not exceed \$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 city.

Sec. 58-41. – Action for Repair or Demolition of Structure.

- (a) The city may bring an action in a district court or county court at law of Tarrant County, Texas, or the Municipal Court of Record of the City of North Richland Hills, to compel the repair or demolition of a structure or to obtain approval to remove the structure and recover the removal costs pursuant to Subchapter B, Chapter 54 of the Texas Local Government Code.

- (b) In any such action under this Section, the city may also bring a claim for
 - (1) civil penalties under Section 58-40 of this Article or Subchapter B, Chapter 54 of the Texas Local Government Code, as it applies, and
 - (2) an action in rem against the structure that may result in a judgment against the structure as well as a judgment against the defendant.
 - (3) The City may file a notice of lis pendens in the real property records of the Tarrant County Clerk upon the filing of the action.

- (c) The city may use an enforcement action to compel repair or demolition of a structure under this Division even if the city has proceeded with the administrative process for enforcement provided elsewhere in this Article.

DIVISION 3. – ALTERNATIVE ENFORCEMENT.

Sec. 58-42. – Procedure for Administrative Hearing.

The City may enforce ordinances subject to quasi-judicial enforcement through an administrative hearing process as authorized by Chapter 54, Subchapter C, Texas Local Government Code:

- (a) 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;
- (b) 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;
- (c) relating to dangerously damaged or deteriorated buildings or improvements;
- (d) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;
- (e) relating to a building code or to the condition, use or appearance of property in the City;
- (f) relating to animal care and control; or
- (g) relating to the water conservation measures, including watering restrictions.

Sec. 58-43. – Administrative Hearing Officer; Duties.

- (a) An Administrative Hearing Officer shall preside over the administrative adjudication hearings established under this Article, under the direction of the City Attorney. The City Attorney may also provide for substitute Administrative Hearing Officers to preside over the administrative adjudication hearings in the absence of the Administrative Hearing Officer. A substitute Administrative Hearing Officer shall have the same powers, duties and functions, and must meet the same qualifications, as the Administrative Hearing Officer.
- (b) The Administrative Hearing Officer shall:
 - (1) be a licensed attorney in good standing with the State Bar of Texas, with at least five (5) years' experience as a practicing attorney.
 - (2) be authorized to administer oaths and issue orders compelling the attendance of witnesses and production of documents; and
 - (3) act pursuant to the authority granted by Texas Local Government Code Section 54.044 and this Article.

Sec. 58-44. – Notice and Hearing.

- (a) A person charged with a violation of this Article is entitled to notice by citation or summons.
- (b) A citation or summons issued pursuant to the procedures adopted under this Article must:
 - (1) notify the Person charged with a violation under this Article of the right to a hearing;
 - (2) provide information as to the time and place of the hearing;
 - (3) state the type, date and location of violation;
 - (4) state the penalty range for which the Person may be liable; and
 - (5) provide instructions and the due date for paying penalties, costs and fees, as prescribed in Appendix A, Fee Schedule, payment of which shall be an admission of liability for the violation charged.
- (c) The original, or a copy of the summons or citation, shall be kept by the Municipal Court Clerk as a record in the ordinary course of business of the City and is rebuttable proof of the facts it states.
- (d) The person who issued the citation or summons is not required to attend a hearing under this Article.
- (e) A Person charged with a violation of this Article who fails to appear at a hearing authorized under this Article is considered to admit liability for the violation charged. The Administrative Hearing Officer shall issue an order of liability and assess appropriate penalties, costs and fees against the Person charged with a violation under this Article in conformance with Appendix A, Fee Schedule.
- (f) At a hearing under this Article, the Administrative Hearing Officer shall issue an order stating whether the Person charged with a violation of this Article is liable for the violation. Upon a finding of liability, the Administrative Hearing Officer shall issue an order:
 - (a) Notifying the Person charged with a violation under this Article of the provisions of the ordinance violated, and the requirements needed to comply with the ordinance;
 - (b) assessing the penalty, costs and fees;
 - (c) requiring abatement of the violation by a specific date; and
 - (d) any other requirements deemed necessary by the Hearing Officer to obtain compliance.
- (g) Upon a finding of liability, the Administrative Hearing Officer may set the date and time for a compliance hearing. A copy of the order shall be provided to the Person charged with violating this Article as notice of the compliance hearing.
- (h) If, at a compliance hearing, the Administrative Hearing Officer finds that the Person charged with violating this Article has remedied or abated the

violation, the Administrative Hearing Officer may reduce the applicable penalty, fees and costs.

- (i) If, at a hearing under this Article, the Administrative Hearing Officer finds the Person charged with violating this Article is not liable for the violation, the Person shall not be responsible for any penalty, cost or fee.
- (j) An order issued pursuant to this Article shall be filed with the Municipal Court Clerk and the Tarrant County District Clerk, who shall keep the order in a manner of keeping records in the ordinary course of business in separate index and file. The order may be recorded using microfilm, microfiche, or data processing techniques.

Sec. 58-45. – Establishing Penalty.

- (a) The establishment of a penalty shall be consistent with and pursuant to the provisions of Section 54.044 of the Texas Local Government Code, and as amended.
- (b) The penalty range to be assessed against a Person found liable under this Article shall be:
 - (1) not less than \$250, nor more than \$1,000 a day for a first violation;
 - (2) not less than \$500, nor more than \$1,000 a day for a second violation;
 - (3) not less than \$750, nor more than \$1,000 a day for a third or subsequent violation; or
 - (4) in the event of egregious violations, hazardous conditions that endanger the health or safety of the public, or other statutory provisions that authorize a higher penalty, the Administrative Hearing Officer may increase the penalty as deemed appropriate as authorized by law.
- (c) In addition to the penalty assessed, the Administrative Hearing Officer may require the Person found liable for a violation under this Article to pay fees and costs.
- (d) In determining the amount of penalty to be assessed, the Administrative Hearing Officer shall consider the following factors:
 - (a) the gravity of the violation;
 - (b) any actions taken by the Person found liable for a violation of this Article to correct the violation;
 - (c) any previous violations committed by the Person;
 - (d) the actual costs of repairs to the City due to the violation as supported by receipts or testimony or other evidence;
 - (e) indigence of the Person; and
 - (f) any other relevant evidence.

Sec. 58-46. – Enforcement of Order.

An order issued against a Person found liable for a violation of this Article may be enforced by:

- (a) filing a civil suit for the collection of a penalty assessed against the Person;
- (b) obtaining an injunction that:
 - (1) prohibits specific conduct that violates the ordinance; or
 - (2) requires specific conduct necessary for compliance with the ordinance; and
- (c) referral to a collection agency for non-payment of assessed penalties, costs and fees, with the cost to the City for collection services assessed as costs and added to the judgment.

Sec. 58-47. – Appeal.

- (a) A Person who is found liable by an Administrative Hearing Officer for a violation of this Article may appeal the determination by filing a petition in the Municipal Court before the 31st day after the date the Administrative Hearing Officer's order is filed. An appeal does not stay enforcement and collection of the judgment unless the Person, before filing the appeal petition, posts a bond with the Municipal Court in the amount of the penalties, costs and fees ordered by the Administrative Hearing Officer in accordance with Appendix A, Fee Schedule.
- (b) If a Person found liable for a violation of this Article does not timely appeal the Administrative Hearing Officer's order, the order shall become a final judgment.

Sec. 58-48. – Disposition of Administrative Penalties, Costs and Fees.

- (a) Penalties, costs and fees assessed under this Article shall be paid into the City's general fund for the use and benefit of the City.
- (b) A portion of each penalty assessed and paid under this Article shall be deposited into the Compliance Assistance Account established in Section 58-49 of this Article, as deemed appropriate by the Municipal Court Clerk.

Sec. 58-49. – Compliance Assistance Account.

- (a) The Compliance Assistance Account is composed of penalties collected under this Article and under Section 58-45. The Compliance Assistance Account shall be used for the purpose of rehabilitating, repairing or abating nuisances of properties and premises in the City for Persons who:

- (1) have been found liable for an administrative violation under this Article;
- (2) are found by the Administrative Hearing Officer to be indigent and financially unable to comply with an administrative order issued under this Article;
- (3) file a request with the Neighborhood Services Department for the purpose of rehabilitating and/or repairing the Person's property or premises until it complies with the Administrative Order;
- (4) have not received funds from the Compliance Assistance Account within the preceding 36 months;
- (5) do not qualify for other home repair or rehabilitation assistance programs available through the City: and
- (6) own and occupy the property.

(b) The Municipal Court Director, in consultation with the City's Finance Director, shall adopt policies and procedures consistent with this Article for the administration of the fund.

SECTION 6. That Appendix A, Fee Schedule, of the North Richland Hills Code of Ordinances be amended by adopting the schedule of fees for assessing civil and administrative penalties and charges as established by Chapter 58, Article II, of the City of North Richland Hills Code of Ordinances, and as set forth in Exhibit "A," attached hereto and made a part of this Ordinance for all purposes.

SECTION 7: That this Ordinance shall be cumulative of all provisions of the Code of Ordinances of the City of North Richland Hills, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 8: That it is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 9: That all rights and remedies of the City of North Richland Hills are expressly saved as to any and all violations of the provisions of any ordinances in the

Code of Ordinances of the City of North Richland Hills that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 10: That the City Secretary is hereby authorized and directed to cause the publication of the descriptive caption and penalty of this ordinance two times in the official City newspaper.

SECTION 11: That this ordinance shall be in full force and effect thirty (30) days from and after its passage, and upon publication as required by Section 10 herein.

AND IT IS SO ORDAINED.

PASSED AND APPROVED on the 6th day of March 2023.

CITY OF NORTH RICHLAND HILLS

By: _____
Oscar Trevino, Mayor

ATTEST:

By: _____
Alicia Richardson, City Secretary
Chief Governance Officer

APPROVED TO FORM AND LEGALITY:

By: _____
Maleshia B. McGinnis
City Attorney

RECOMMENDED:

By: _____
Karen Manila
Assistant City Manager

EXHIBIT "A"

THIS ORDINANCE AMENDS APPENDIX A, FEE SCHEDULE, TO ADD FEES FOR ARTICLE II, OF CHAPTER 58, MUNICIPAL COURT OF RECORD, OF THE CODE OF ORDINANCES OF THE CITY OF NORTH RICHLAND HILLS.

EXHIBIT "A"

Article II, Chapter 58-31 to 58-49			
Administrative Court Filing Fees & Court Costs	Cost	Per Item	Notes
Administrative Hearing Fee	\$100	Per Violation	
Appeal Fee	\$150	Per Violation	Respondent will have to pay to perfect appeal
Appeal Bond	Same as Penalty Owed		Respondent will have to pay to perfect appeal
Certified Transcript	\$7	Per Page	Respondent will have to pay to perfect appeal
Collection Fees	30%	Per Case	
Civil Lawsuit Filing Fees & Court Costs	Cost	Per Item	Notes
Court Administration Fee	\$100	Per Violation	
Process Service Issuance Fee	\$8	Per Issuance	
Service Processor Fee	\$65	Per Service	
Service Processor Fee - Out of County	\$50	Per Service	
Court Reporter Administrative Hearing	\$350	Per Docket	
Court Reporter Hearing Transcripts	\$7	Per Page	
Court Reporter Depositions	\$250	\$5.50 per page	\$250 minimum
Court Reporter Video/Technical	\$6	Per Page	
Court Reporter Copy Rate	\$2.50	Per Page	
Court Reporter Video/Technical Copy Rate	\$2.75	Per Page	
Court Reporter Exhibits Black & White	\$0.60	Per Page	
Court Reporter Exhibits Color	\$1.70	Per Page	
Court Reporter Binding Fee	\$15	Per Volume	
Court Certification Filing Fee	\$35	Per Certification	
Court Reporter Appearance Fee	\$200	Per Appearance	