

Overview of Local Enforcement

Need a Quick Overview of Your Enforcement Options?

Here are the participants and an outline of what's available.

TEXAS HEALTH AND SAFETY CODE
Sec. 121.003. POWERS OF MUNICIPALITIES AND COUNTIES.
(a) The governing body of a municipality or the commissioners court of a county may enforce any law that is reasonably necessary to protect the public health.

There is a fair amount of confusion over three issues:

- (1) What are the main Texas anti-pollution laws?
- (2) Who can enforce these laws?
- (3) What are the most common approaches used for most anti-pollution cases?
- (4) What approaches to abatement are available?

Subsequent chapters of this book will discuss all of these in some depth. This chapter provides a fast overview and may help guide additional reading.

This chapter is also available as a page-size .pdf that you can distribute to other city and county folks needing an overview of enforcement: <https://tinyurl.com/4hc66k37>

The confusion over these basic points often arises because local officials – from senior elected officials to sworn peace officers and employees – are simply unaware of their jurisdiction's enforcement options. Fortunately, this can be fixed through education and reflections on key policy decision points.¹

Senior elected officials [judges, sheriffs, elected prosecutors, mayors, city council members, constables, and commissioners] don't study illegal dumping and Public Health Nuisance enforcement in their diverse professional training. Consequently, elected officials seldom have accurate information when developing effective local anti-pollution policies and political responses to voters. This is unfortunate since the protection of the health of residents is a primary goal of local governments.

Appointed prosecutors and city/county attorneys don't learn the anti-pollution criminal laws in Texas law schools nor usually in their subsequent professional training. New prosecutors, unaware of these criminal laws, will sometimes simply refuse to recognize the applicability of these statutes, but most prosecutors eventually open their minds to incorporating them in their efforts to protect citizens. Of course, prosecutors around the state are extremely busy, and taking time to stop and learn new laws and approaches is often not that attractive, unless the public demands they do so. Local government attorneys working on civil matters— who are perfectly aware of most Texas laws and give competent advice to cities and counties on other matters — may easily find themselves inadvertently providing inaccurate information when it comes to anti-pollution criminal enforcement options. Moreover, criminal prosecution typically focuses on individual violators; many prosecutors have never pur-

¹ Key points of policy decisions often include: (a) Will code violations be enforced against tenants as well as owners or only against owners, who may live elsewhere; (b) Will police respond to felony and misdemeanor violations in cities or attempt to leave criminal enforcement to code officers; (c) Will prosecutors enforce these criminal laws or seek rapid resolution through case dismissals; and, (d) Will Municipal and Justice Court judges follow the sentencing requirements set by the State Legislature?

sued a case against a company or other non-individual actor, although these violators are often the source of major dumping violations.

Judges [JP's, Municipal Court judges, Constitutional County Court judges, Statutory County Court judges, and Criminal District Court judges] typically don't study these violations in their training either. Many JP's have been incorrectly presented with cases that were major misdemeanors or even felonies and were unable to recognize the error and direct the officer to properly file the case. Handling a major misdemeanor or felony as a Class C violation is seldom an effective deterrent to repeated violations by the offender unless it is accompanied by significant community service. A common issue is that of judges failing to follow the sentencing provisions set by the State Legislature.²

Law enforcement officers [city police, deputies, constables, and fire marshals] do not study these criminal laws in the basic police academies. These officers simply have never been trained to recognize and respond to Texas criminal anti-pollution violations. Consequently, peace officers are also missing a great opportunity to use environmental laws as probable causes for search warrants to gain property entrance in other cases.

Local Health Authorities, either acting as individuals in a county or acting as the core of a **local health department** created by a city or county under THSC Chapter 121, seldom use their all their statutory powers to combat Public Health Nuisances. One extremely common omission is the general failure of Local Health Authorities to work with violators who have generated a Public Health Nuisance to abate that nuisance, as mandated by the State Legislature in THSC Sec. 341.012. Health department directors are often surprised to learn of this duty and that of local prosecutors to force Public Health Nuisance abatement.

Code enforcement officers do not study criminal environmental options in their basic code enforcement certification school. So, most code enforcement officers, while expert in applying local municipal codes, often simply don't recognize when they are dealing with an environmental crime and, therefore, do not know when to get local law enforcement involved. This is a particularly difficult problem since code enforcement officers are usually the first to come across criminal pollution. From high weeds to dumped barrels of hazardous waste, local code officers are almost always the first to know. When code officers are not aware of when to get police involved and where police themselves are unknowledgeable of these anti-pollution criminal laws, citizens are not well protected.

Although municipal code enforcement in Texas is the single greatest source of environmental protection, by itself it is not unable to respond to criminal dumping. Partner with police for that.

Consequently, a good starting point in local environmental enforcement is to recognize that all of us have a great deal of learning to do to become truly effective. Fortunately, the laws themselves are identified and not particularly complex; they just need to be learned and applied. What is very interesting about this area of local governing is the policy question: *"Why do some cities and counties use Texas anti-pollution laws effectively, yet others ignore them completely?"*

² Two common issues are (a) JP's and Municipal judges not treating each day of a continuing violation as a separate offense, as required in THSC Sec. 341.091 and THSC Sec. 343.013 and (b) failure of judges to impose 1 to 60 community service hours on persons convicted of any level of illegal dumping as required at THSC Sec. 365.012(s).

Overview of Local Enforcement

1. INTRODUCTION

- A. There are three kinds of government response to dumping and other forms of pollution
 - 1. ADMINISTRATIVE enforcement by state agencies only
 - a. Texas Commission on Environmental Quality (TCEQ)
 - (1) Staff of around 2,600 in Austin and their 16 regions
 - (2) Regulates over 380,000 registered entities in 73 separate state-managed programs
 - (3) TCEQ doesn't enforce most local illegal dumping [1996 policy decision sent to all County Judges]
 - b. Railroad Commission of Texas (RRC)
 - (1) Administrative enforcement of the oil and gas industry and pipelines
 - (2) Has no criminal enforcement section
 - c. Examples of what agencies enforce Administratively
 - (1) 30 T.A.C. 328, SUBCHAPTER F MANAGEMENT OF USED OR SCRAP TIRES
 - (2) 30 T.A.C. 111 (Subchapter B) ILLEGAL OUT-DOOR BURNING RULES;
 - (3) 16 T.A.C. 3.8 WATER PROTECTION (Regulates oil and gas waste haulers)
 - 2. MUNICIPAL CODE enforcement in 75% of Texas cities, which covers approximately 75% of all Texas residents
 - a. Codes should make property "possessors" (i.e., renters) responsible along with "owners"
 - b. Can work well for "refuse on a lot" when the waste is on the possessor's lot; otherwise not
 - c. Municipal code officers are often the first to spot crimes
 - d. If violations are criminal, response requires action of police
 - e. *"We don't do code!"* is too often the position of police departments, so often no effective response to dumping takes place unless police policy changes
 - 3. CRIMINAL enforcement statewide
 - a. Very limited criminal enforcement from state agencies
 - (1) TCEQ has about a dozen non-law enforcement "Environmental Investigators"
 - (2) TPWD has about six environmental law enforcement officers (Sergeant Game Wardens)
 - (3) RRC has no criminal enforcement unit ... strictly ADMINISTRATIVE
 - (4) Travis County has state-wide venue on THSC Chapter 365 and Texas Water Code Chapter 7 criminal offenses³
 - b. Consequently, almost all anti-pollution criminal enforcement is by local deputies, police, constables, and fire marshals
 - c. Some cities and counties designate specialized environmental enforcement officers, but this is not necessary
 - d. If YOUR local law enforcement doesn't enforce these anti-pollution laws, probably nobody will
- B. Illegal Dumping is disposing any "solid waste" or "litter" in any unauthorized place (terms defined in THSC Chapter 365)

³ In THSC Chapter 365 and TWC Chapter 7 the criminal venues are (a) the county where the alleged violation took place; (b) the county where the accused resides; (c) if the violation involves illegal transportation of waste, every county through which the waste moved; and (d) Travis County.

1. Americans are just over 4% of world's population
 2. However, Americans are highly productive and generated over 26% of all goods and services produced worldwide in 2023⁴
 3. Over 70% of the American economy are goods and services directly consumed by residents
 4. Since America leads the world in goods and services production, we also lead in waste generation
 5. In Texas in 2023, 60% of waste was generated from households⁵
 6. All material goods used eventually become waste
 7. All waste must be disposed in state-authorized places
- C. There are three categories of illegal dumping
1. COMMERCIAL dumping by businesses and individuals
 - a. Commercial dumping is usually to save money
 - b. A commercial dumper may see himself as making a "rational" decision to externalize the cost of his waste disposal (i.e., put it off onto others) UNTIL he is caught
 - c. In larger communities, this may be over 50% of all dumping
 - d. However, it is seldom prosecuted as dumping by a company
 - e. Statewide, few prosecutors have experience in prosecuting non-individuals
 - f. Lite or no enforcement = more commercial dumping
 2. INDIVIDUAL dumping by households
 - a. Illegal dumping on property possessed by the dumper
 - b. Illegal dumping on other nearby property or at common sites
 3. MIMIC dumping in both COMMERCIAL and INDIVIDUAL categories
 - a. "A Christian is someone who has met a Christian." [Acts 8:26-40]
 - b. "A dumper is someone who has seen dumping."
 - c. "A dumper is someone who thinks only of himself."
- D. Who is primarily trying to stop the illegal dumper?
1. Stopping most illegal dumping is the responsibility of local government, not the TCEQ
 2. Often, NOBODY stops dumping; many cities and counties just ignore the growing problem
 3. Municipal code enforcement handles "refuse on a lot" dumping by property owner or "possessor" where codes are properly written
 4. Local government agencies involved in stopping dumping
 - a. Law enforcement (police, deputies, constables, fire marshals)
 - b. Local Health Departments (fewer than 150 statewide; formed under THSC Chapter 121 LOCAL PUBLIC HEALTH REORGANIZATION ACT)
 - c. Local Health Authorities (almost all counties have one or share one with an adjoining county)
 - d. County and District prosecutors;
 - e. Municipal attorneys
 - f. JP's and Municipal Judges
 - g. Local elected officials and staff

⁴ Worldwide GDP (2023): \$106Trillion; US GDP (2023): \$27.7Trillion. Worldometer; < <https://www.worldometers.info/gdp/gdp-by-country> > [Accessed August 10, 2025].

⁵ Illegal Dumping Enforcement, 2026 Edition, Chapter 1, Footnote 1.

5. Note: None of the state criminal anti-pollution laws must be adopted by city or county before using; the State Legislature has already done that, as they do all criminal laws; all cities and counties can do is enforce them or ignore them
- E. Tools used to educate a dumper to stop dumping
1. Fines; confinement
 2. Community service [1 to 60 hours mandatory for illegal dumping conviction under THSC Chap 365.012(s); also, cleaning dump sites often part of plea agreements]
 3. Self-interest of dumper to avoid being designated a felon
 4. Publicity and public embarrassment
 5. Court-ordered violator education
 6. Warnings and threats of the above
- F. Impact of ignoring dumping and other pollution
1. Decreases our humanity and sense of community
 2. Confuses the public (*"Is local government ignoring dumping because it is incompetent or is it corrupt?"*)
 3. Threatens public health
 - a. **Dumping creates Public Health Nuisances**
 - b. Dumping often pollutes water, our most scarce resource
 - c. Dumping often harbors rats, snakes, and disease vectors
 4. Dumping is dangerous
 - a. Adds fuel to fires, threatening fire fighters
 - b. Hazardous waste direct threat to citizens
 5. Dumping decreases property values

2. ENFORCEMENT OPTIONS

A. Do nothing ... Just live with the mess

1. Error #1: *"A man can do whatever he wants with his own property."*
2. Error #2: *"The voters don't care."*
3. Error #3: *"Stopping dumping is too expensive."*
4. All of these are wrong; the opposite is true in each case

B. Municipal code enforcement

1. Where available, it's the most used tool
2. Not available in all Texas cities (available in 900 of 1,200)
3. Not available in any unincorporated area
4. Not effective for many properties inside city (vacant properties; public property; sometimes commercial property)
5. Not effective where focus is limited to "owners" of property rather than including tenants
6. Code violation involving dumping of trash or refuse:
LG 54.001 allows fine to \$4,000 regardless of volume
7. Code officers are not certified, trained, or authorized to enforce criminal laws
8. However, they are usually very aware of pollution crimes in their community
9. Adopting a Local Scrap Tire Ordinance may have value (30 TAC 328.52 authorizes)

C. THSC Chapter 365 LITTER ABATEMENT ACT

1. Primary criminal law used to control criminal dumping
 - a. Primarily enforced by city and county law enforcement
 - b. Local Health Department may enforce at C Misdemeanor level in unincorporated areas
2. Follow the definitions used in this law very carefully
 - a. "Litter"
 - b. "Solid Waste"
 - c. If what's dumped is not included in these definitions, other laws need to be used, (for oil and gas waste, for instance, use TWC Chapter 29 and NRC Chapter 91)
3. Sets Misdemeanors and State Jail Felony for dumping "Litter" and/or "Solid Waste"
4. Penalties are based on the WEIGHT or VOLUME of what was dumped
5. Covers dumping on land and into water for these violations:
 - a. **Dumping** or allowing or permitting disposal in unauthorized location
 - b. **Receiving** for disposal in any unauthorized location
 - c. **Transporting** for disposal to any unauthorized location
 - d. **"Space Stealing"** - Using someone else's dumpster without permission
6. Venues where dumping cases can be filed
 - a. The county where the alleged violator lives
 - b. The county where the alleged dumping took place (including counties through which illegal transporting for disposal takes place)
 - c. Travis County (although seldom used for these basic violations)
7. All convictions at any level (including Class C) requires community service up to 60 hours (often overlooked by court and not imposed; and where it is used, is usually less than 60 hours) [see THSC Sec. 365.012(s)]
8. This law applies to all public and private property in Texas
9. Strict liability misdemeanor: no culpability needs to be shown for misdemeanor conviction
10. Allows very limited disposal on one's own land provided ALL of these are true:
 - a. It is done by an individual (nor a partnership, corporation, or other non-individual entity);
 - b. The waste is generated and disposed on land the individual owns;
 - c. The waste is not from a commercial activity; and,
 - d. The disposal is not for the purpose of economic gain (i.e., saving/making money)
11. The provisions allowing seizure of a vehicle used in dumping are unworkable
 - a. Only potentially allowed after second or subsequent conviction
 - b. Requires written warning at time of first conviction (seldom given)
 - c. Only applies when the second violation is an A Misdemeanor (but not for SJ Felony) CCP Chapter 59. FORFEITURE OF CONTRABAND [Sec. 59.01(2)(B)(v)]
 - d. More common practice: Impound vehicle as evidence in case, subject to prosecutor's release
12. Statute of Limitations
 - a. This is one of the few anti-pollution laws subject to time limitations following criminal act
 - (1) Laws involving "dumping" and "discharge" have time limits within which an indictment or information must be obtained
 - (2) Laws involving waste storage or an ongoing condition (like water pollution) not subject to limits

- b. Limits for THSC Chapter 365 [see CCP Chapter 12. LIMITATION]
 - (1) Felony: No more than three years to indict following the actual dumping
 - (2) Misdemeanor: No more than two years to produce an information following the dumping
- 13. Additional criminal charges possibly created by the dumping depending on location of dumping, what is dumped, and result of dumping; for example:
 - a. Public Health Nuisance (THSC Chapter 341) [Very commonly caused by dumping]
 - b. Water pollution (TWC Secs. 7.145 & 7.147)
 - c. Hazardous waste violations (TWC Sec. 7.161)
 - d. Medical waste violations (TWC Sec. 7.164 ff)
 - e. Waste motor oil violations (TWC Sec. 7.176)
 - f. Lead-acid battery violations (TWC Sec. 7.185)
 - g. Illegal burning if the waste is burned (TWC Sec. 7.177) [Note sentencing problems for misdemeanor illegal burning; discuss with County Attorney]
- 14. Change by State Legislature effective September 1, 2023:
 - a. Added to THSC Sec. 365.012: *(t) Chapter 15, Penal Code, applies to an offense under this section.*
 - b. This applies Penal Code Chap 15 PREPARATORY OFFENSES to dumping
 - (1) PC Chap 15.01 CRIMINAL ATTEMPT to violate THSC Chap 365 whether one is successful or not (e.g., being stopped from dumping or charged with hauling for disposal)
 - (2) PC Chap 15.02 CRIMINAL CONSPIRACY to violate THSC Chap 365 whether one is successful or not (e.g., boss ordering hauler to dump at unauthorized location)
 - (3) An agreement constituting a violation of PC Chap 15.02 may be inferred from the acts of the parties

D. THSC Chapter 341 MINIMUM STANDARDS OF SANITATION AND HEALTH PROTECTION MEASURES

- 1. This is a long (over 65 pages) “catch-all” law
- 2. However, we use just a few pages defining and controlling Public Health Nuisance (at start) and penalties (at end)
- 3. In force now in all cities and counties in Texas (no local adoption needed)
 - a. Inside cities: This is often the “next step” following Municipal codes if they don’t work or can’t be used
 - b. In unincorporated areas: Use this law alone or with Chapter 343
 - c. Enforcement requires law enforcement officers
- 4. This law requires a specific abatement process that is usually ignored (Sec. 341.012 [b] – [d])
- 5. Consequently, there are many Public Health Nuisances unabated throughout Texas
- 6. Structure of this law
 - a. Sec. 341.001 contains definitions, including an important definition of “sanitary”
 - b. Sec. 341.011 contains a list of twelve Public Health Nuisances
 - c. Sec. 341.013(c) is very useful and a commonly used PHN violation:

Waste products, offal, polluting material, spent chemicals, liquors, brines, garbage, rubbish, refuse, used tires, or other waste of any kind may not be stored, deposited, or disposed of in a manner that may cause the pollution of the surrounding land, the contamination of groundwater or surface water, or the breeding of insects or rodents.

- d. **Sec. 341.012 contains the specific process for abating a Public Health Nuisance:**
 - (1) Property **possessor** (owner; renter) is expected to abate a PHN as soon as he learns of it
 - (2) Otherwise, the Local Health Authority issues a Notice to Abate “**to any person responsible**”
 - (a) No statutory time to abate specified ... time given depends on the situation
 - (b) Copy of Notice to the violator; copy retained for Local Health Authority
 - (c) Copy to city, county, or district prosecutor (this step almost always ignored)
 - (3) If abatement doesn't happen within the time specified
 - (a) Local Health Authority informs the Prosecutor receiving the original notice
 - (b) Prosecutor takes the violator into court for abatement order
 - (c) Continued failure to abate would constitute contempt of court
 - (4) **Alternative unsuccessful process usually followed**
 - (a) Abatement Notice is given to the person re-sponsible for the PHN
 - (b) No copy given to Prosecutor
 - (c) After Notice time passes, Prosecutor not in-formed
 - (d) Local Health Authority representative abandons efforts to cause abatement
 - (e) Instead, Local Health Authority representative issues a citation for underlying violation of THSC Chapter 341
 - (f) But JP or Municipal Judge eventually hearing that case has no authority order abatement (see Sec. 341.091 for list of penalties following conviction)
 - (g) Consequently: If PHN not abated voluntarily, the nuisance may persist much longer than it would have had the mandated process been followed
- e. Sec. 341.017 addresses specific violations on disposal of human excreta
- f. Sec. 341.019 addresses mosquito control on uninhabited residential property
- g. Sec. 341.091 contains penalties for violations (heard by JP or Municipal Judge)
 - (1) Fine of \$10 to \$200 per PHN violation per day (first offense)
 - (2) Each day of a continuing violation is a separate offense (mandatory, but often ignored by judge)
 - (3) Subsequent conviction of violating Sec. 341 within one year of last conviction
 - (a) Fine of \$10 to \$1,000 per PHN per day
 - (b) Up to 30 days in jail

7. Illegal dumping almost always results in creation of Public Health Nuisance

E. THSC Chapter 343 PUBLIC NUISANCE

- 1. Identifies 13 prohibited actions as Public Nuisances (notice that these are not Public *HEALTH* Nuisances)
- 2. This law covers only some unincorporated areas
 - a. Only in force in unincorporated parts of counties
 - b. But not including “agricultural land” or site or facility li-censed, permitted, or regulated by the state to under-take an otherwise prohibited activity
 - c. Some of the 13 prohibitions only apply to platted sub-divisions
 - d. Prohibitions (9) through (12) better enforced using THSC Chapter 365 illegal dumping law
 - e. Prohibition (13) sewage violation requires 30-day notice on open sewage violation; better enforced immediately using THSC Chapter 341

3. Originally passed in 1989 prohibiting substandard structures in rural Harris County
4. Now its 13 prohibitions apply to all counties in Texas, regardless of population
5. Clumsy to use: Requires a 30-day warning notice from the county before citation, hence two trips must be made by officer to inspect the site
6. Definitions [Sec. 343.002]
 - a. This law applies to all privately owned property in the applicable areas
 - b. Includes a comprehensive set of definitions
 - c. Definition of “weeds” more stringent than in most cities
7. Allows county prohibition or control of access to property for some of the 13 nuisances under some circumstances [Sec. 343.013]
8. Criminal Penalties [Sec. 343.012]
 - a. Fine of \$50 to \$200 per day per offense
 - b. Each day of a continuing violation is a separate offense
 - c. JP Court must order abatement of nuisance upon conviction (differs from THSC SEC. 341.091 where judge does NOT order abatement)
 - d. Subsequent conviction ever in the life of the violator:
 - (1) Fines \$200 to \$1,000 per violation per day
 - (2) Up to six months in jail
9. County and “person affected” can both seek injunctions to stop a violation
10. County commissioners court **may** adopt procedures de-scribed in Subchapter C to abate nuisance and set liens
 - a. Probably 25 Texas counties have adopted such a set of procedures
 - b. Note: Subchapters A and B are already adopted by the Legislature and are in effect statewide without commissioners court needing to approve them
11. Officers working in unincorporated areas may use Secs. 343 and 341 together
 - a. Works where a Sec. 341 Public Health Nuisance and a Sec. 343 Public Nuisance are both present
 - b. Officer gives an immediate citation for the Sec. 341 PHN
 - c. Writes on the citation language such as: “This constitutes the beginning of the required 30-day warning for the following violation of THSC Chapter 343: ____.”
 - d. When the Sec. 341 violation comes before the JP, he or she then knows that a Sec. 343 violation may soon follow and council the Sec. 341 violator accordingly
12. Enhanced rights to enter property to “inspect, investigate, or abate a nuisance or to enforce this chapter” provided at Sec. 343.024

F. Texas Water Code Chapter 7 (Subchapter E)

1. Contains approximately 50 additional specialized anti-pollution criminal laws
2. Some are commonly used; others have probably never been used so far
3. Cover such things as water pollution; hazardous waste; medical waste; used oil; lead-acid batteries; felony and misdemeanor illegal outdoor burning; and some obscure areas
4. Most are special misdemeanors and felonies with very large fines
5. Example: Water Pollution: “Unauthorized Discharge”
 - a. “Water” definition very wide; includes beds/banks of dry watercourses
“Water” or “water in the state” means ground-water, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands,

marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

- b. Each day of a continuing violation is a separate offense
- c. Primary Offenses
 - (1) TWC 7.145: Intentional or Knowing Unauthorized Discharge (Felony)
 - (a) Individual: Fine of \$1K to \$100,000 and/or 5 years confinement
 - (b) Non-individual: Fine of \$1K to \$250,000
 - (c) Two ways to prove the violation; one requires no water testing⁶
 - (2) TWC Sec. 7.147: Unauthorized Discharge (Misdemeanor)
 - (a) Individual: Fine of \$1K to \$50,000 and/or 1 year confinement
 - (b) Non-individual: Fine of \$1K to \$100,000
 - (c) Only one way to prove violation: always requires water testing
 - (d) Strict liability misdemeanor: no culpability needs to be proven
- 6. Used Oil [TWC Sec. 7.176]
 - a. Criminalizes just about everything your father said to do with waste oil
 - b. First conviction: Fine of \$1K to \$50K; 5 years in jail
 - c. Subsequent conviction: Fine of \$1K to \$100K; to 15 years confinement
 - d. Law silent as to volumes; however, local grand juries may not be willing to indict for small volumes
- 7. Lead-acid batteries (TWC Sec. 7.185)
 - a. Include car, boat, and motorcycle batteries
 - b. Must be disposed in accordance with THSC Sec. 361.451 (i.e., no disposal on land or in landfills; special disposal process only)
 - c. Dumping is a Class A misdemeanor (presumed two year limitation on charging)
 - d. Be sure to have battery tested to show it is actually lead-acid
- 8. Illegal Outdoor Burning
 - a. Felonies defined at TWC Secs. 7.182 and 7.183
 - b. Felony penalties: \$1,000 to \$500,000 + confinement to 5 years
 - c. Misdemeanor illegal burning [TWC Sec. 7.177(a)(5)] has contradictory penalties and is difficult to enforce; some jurisdictions charge Illegal Dumping rather than misdemeanor burning; Consult with your county attorney before charging misdemeanor burning

G. Additional Specified Major Misdemeanors and Felonies (Applies everywhere in Texas)

TWC Sec. 7.141 to TWC Sec. 7.185

These carry a wide range of penalties, including major fines and confinement time. As in the case of hazardous waste mishandling or dumping, illegal dumping or other polluting activity may meet the elements in one or more of these statutes. These violations are all enforced by Peace officers.

Not Classified:

Sec. 7.142. Unlawful Use of State Water

Sec. 7.143. Violation Of Minimum State Standards or Subdivision Rules

⁶ See Chapter 7. Water Pollution and Special Violations.

Water Related:

- Sec. 7.148. Failure to Properly Use (Water) Pollution Control Measures;
- Sec. 7.149. False Statement (Water Related);
- Sec. 7.150. Failure to Notify or Report Spill (TWC Chapter 26)
- Sec. 7.152. Intentional or Knowing Unauthorized Discharge and Knowing Endangerment
- Sec. 7.153. Intentional or Knowing Unauthorized Discharge and Endangerment
- Sec. 7.154. Reckless Unauthorized Discharge and Endangerment
- Sec. 7.155. Violation Relating to Discharge or Spill

Miscellaneous Sub-Surface Violations:

- Sec. 7.156. Violation Relating to Underground Storage Tanks
- Sec. 7.157. Violation Relating to Injection Wells
- Sec. 7.158. Violation Relating to Plugging Wells
- Sec. 7.159. Violation Relating to Water Wells or Drilled or Mined Shafts
- Sec. 7.161. Violation Relating to Solid Waste in Enclosed Containers or Vehicles

Medical Waste:

- Sec. 7.164. Violations Relating to Medical Waste: Large Generator
- Sec. 7.165. Violations Relating to Medical Waste: Small Generator
- Sec. 7.166. Violations Relating to Transportation of Medical Waste
- Sec. 7.167. False Statements Relating to Medical Waste
- Sec. 7.168. Intentional or Knowing Violation Relating to Medical Waste and Knowing Endangerment
- Sec. 7.169. Intentional or Knowing Violation Relating to Medical Waste and Endangerment
- Sec. 7.170. Intentional or Knowing Release of Medical Waste into Environment and Endangerment
- Sec. 7.171. Reckless Release of Medical Waste into Environment and Endangerment

Sewage System Related:

- Sec. 7.172. Failure of Sewage System Installer to Register
- Sec. 7.173. Violation Relating to Sewage Disposal
- Sec. 7.1735. Violation Relating to Maintenance of Sewage Disposal System
- Sec. 7.174. Violation of Sewage Disposal System Permit Provision

Additional Air Violations:

- Sec. 7.178. Failure to Pay Fees Under Clean Air Act
- Sec. 7.179. False Representations Under Clean Air Act
- Sec. 7.180. Failure to Notify Under Clean Air Act
- Sec. 7.181. Improper Use of Monitoring Device
- Sec. 7.1831. Violation of Locally Enforced Motor Vehicle Idling Limitations
- Sec. 7.184. Violations Relating to Low-Level Radioactive Waste

Lead-Acid Batteries:

- Sec. 7.185. Knowing or Intentional Unauthorized Disposal of Lead-Acid Batteries (Class A misdemeanor).

3. ABATEMENT OPTIONS

A. DO NOTHING

1. Most popular option in many counties and parts of cities
2. Official excuses always available

B. Abatement By Possessor BEFORE Local Government Intervention

1. These property possessors routinely follow municipal codes with-out being reminded
2. Public Health Nuisances abated by possessor when possessor discovers the PHN [Sec. 341.012(a)]
3. Rural Public Nuisances abated before county gives notice [Sec. 343.012(a)(2)]
4. Residents and companies routinely properly dispose of waste as normal practice rather than dumping

C. Abatement FACILITATED by Local Government

1. Regional planning commission, city, county waste amnesty events
2. City managed permanent household hazardous waste, tire, battery drop-off station
3. Non-government clean-up jamborees in neighborhoods

D. Abatement REQUESTED by Local Government

1. Municipal codes are followed when resident is requested to do so by city;
2. Public Health Nuisance abated after notice from Local Health Authority [THSC Sec. 341.012 (b) – (d)];
3. Rural Public Nuisance abated by potential violator during the 30-day notice period [THSC Sec. 343.012 (a)(2)];
4. Illegally dumped material abated by violator when re-requested by officer; charges may or may not be filed for THSC Chapter 365 violation, depending on local policy.

E. Abatement FORCED by Local Government

1. Abatement follows order of municipal court;
2. Public Health Nuisance abated through intervention of Local Health Authority [THSC Sec. 341.012 (b) – (d)];
3. Rural Public Nuisance abated following order by JP [THSC Sec. 343.012(e)]
4. Illegal Dumping – Mandatory community service time spent picking up litter [THSC Sec. 365.012(s)];
5. Illegal Dumping “Abatement Through Enforcement”

F. Abatement DONE by Local Government

1. Supplemental Environmental Projects [TWC Sec. 7.076];
2. County precincts occasionally cleaning dumping on public lands as time and budget constraints allow;
3. Cities endlessly cleaning up behind dumpers using city staff or contractors (generally a bad policy);
4. Done by counties who have adopted and are using the process of rural forced abatement [THSC Sec. 343, Sub-chapter C]

G. General good ideas involving abatement

1. Always require a landfill receipt when abatement done by violator to prevent re-dumping
2. THSC Chapter 343 requires JP to order abatement
3. THSC Chapter 341 uses the Local Health Authority and prosecutor

4. Local Health Authority is often AWOL, so Public Health Nuisances unabated all over Texas

4. WHAT WE'VE LEARNED SO FAR (LESSONS FROM ACROSS TEXAS)

- A. Stopping illegal dumping is primarily the job of local government, not the TCEQ
- B. By itself, code enforcement can't stop illegal dumping
- C. Local law enforcement agencies are often reluctant to get involved
- D. The laws are easy to learn, but are not studied in police academies and law schools
- E. In some jurisdictions, small businesses are the source of most COMMERCIAL dumping
- F. Local government departments must coordinate their activities and be aligned in their objectives to control illegal dumping
 1. If sheriff, prosecutors, or commissioners don't want these laws enforced, they won't be
 2. "Just clean it up and we'll ignore the crime" does not constitute enforcement and just makes dumpers cleverer
- G. Local Enforcement Programs are often under attack and must act to remain sustainable
 1. Local enforcement programs should emphasize their value to community health
 2. Most local programs fail to maintain sufficient numeric records objectively showing their value
 3. As city and county budgets shrink, local enforcement programs may lose funding
 4. Too many local enforcement programs are successful because of one or two strong personalities rather than overall strong managerial practices or elected official support; when the strong personality leaves, the program collapses
 5. Even-handed enforcement occasionally directly impacts an elected official or the friend or relative of an official, generating push-back
 6. Routine turnover in elected officials may result in pressures to curtail or close a local enforcement program if the new officials don't see its value
 7. Local programs should use social media and other forms of publicity to create and maintain public support

5. OFFICER SAFETY

- A. Physical threats come in all sizes: viruses; bacteria; chemicals; people; weather
- B. Organizations need to increase focus on officer protection, including training in dealing with mentally ill people
- C. Anticipate your work environment to become more chaotic

You might ponder Jesus' directions to his disciples before sending them out on a mission. It is certainly good advice for municipal code officers and for law enforcement officers as well. Both will often be telling citizens that, for the first time, they aren't allowed to dump their waste anywhere they want, including on their own property:

"Behold, I am sending you like sheep in the midst of wolves; so be shrewd as serpents and simple as doves." [Matthew 10:16]
- D. In addition to physical dangers, enforcement jobs are also inherently emotionally and spiritually stressful since they often put officers in conflict with violators. Officers need to do a better job of taking care of their physical and emotional health, especially given the increased demands of working in the coming hotter, drier, and stormier Texas environment.

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