LOCAL GOVERNMENT CODE

TITLE 10. PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES

SUBTITLE A. MUNICIPAL PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES

CHAPTER 315. MISCELLANEOUS PROVISIONS RELATING TO MUNICIPAL PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES

Sec. 315.001. MUNICIPAL PARKS OUTSIDE MUNICIPAL LIMITS: CHARGES; CUMULATIVE EFFECT WITH CHARTER PROVISIONS; LIABILITY. (a) The governing body of a municipality with a park or playground outside the municipal limits may fix and collect reasonable charges for use of the facilities by the public. All proceeds from the charges shall be used for the support, maintenance, and improvement of the municipal parks and playgrounds.

(b) The provisions of this title relating to the acquisition, operation, and maintenance of parks or playgrounds outside the municipal limits are cumulative of powers provided by a municipal charter, and the municipal charter may provide different powers in that regard.

(c) A municipality that acquires a park or playground outside the municipal limits is not liable for personal injuries resulting from or caused by any defective, unsound, or unsafe condition of the park or playground that results from or is caused by any negligence, want of skill, or lack of care of any governing board, officer, servant, employee, or other person with regard to the construction, management, conduct, or maintenance of the park or playground.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 315.002. ESTABLISHMENT OF MUNICIPAL STREETS THROUGH CERTAIN PARKS. (a) Unless approved by a majority of the qualified voters voting in a referendum on the question, a municipality may not establish or dedicate a thoroughfare, public street, or alley through property that:

(1) is dedicated or used for park purposes; and

(2) includes land owned by the state on which is situated one or more buildings in the construction of which the

state has expended at least $50,000.

(b) A municipality may, without an election, maintain driveways through the land described by Subsection (a) if the driveways are for park purposes only and are not for use as general thoroughfares.

(c) This section does not apply to the campus of an educational institution or to the grounds of an eleemosynary institution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 315.003. IMPROVEMENT OF PUBLIC GROUNDS BY TYPE A GENERAL-LAW MUNICIPALITY. A Type A general-law municipality may provide for the enclosing of, and regulate and improve, all public grounds belonging to the municipality, and may direct and regulate the planting and preserving of ornaments and shade trees along streets and sidewalks and in public grounds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 315.004. SPECIAL ASSESSMENT TO PAY FOR PARKS: MUNICIPALITY WITH 12,000 OR MORE INHABITANTS. (a) A municipality with 12,000 or more inhabitants that condemns land for laying out, establishing, or enlarging a park, parkway, or pleasure ground may provide by ordinance that the cost of the land and improvements be paid for, wholly or partly to an extent not exceeding the special benefits received, by the property owners who own property in the vicinity of and are benefitted by the park, parkway, or pleasure ground.

(b) The municipality may fix liens against the benefitted property to the extent of the special benefits. Neither an assessment nor a lien is effective against homestead property.

(c) The manner of assessing and collecting from the property owner is the same as provided by law in connection with the opening or widening of streets. Assessments may be made payable in not more than 16 installments, the last maturing in not more than 15 years, and may bear interest at a rate not exceeding eight percent a year.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 315.005. MUNICIPAL LIBRARY IN TYPE A GENERAL-LAW MUNICIPALITY. A Type A general-law municipality may establish a free library in the municipality, adopt rules for the proper management of the library, and appropriate municipal revenues for the library's management or improvement.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 315.006. LIABILITY FOR ADVERSELY AFFECTING HISTORIC STRUCTURE OR PROPERTY. (a) In this section, "historic structure or property" means a historic structure as defined by Section 442.001, Government Code, or a structure or property that is designated as historic by a political subdivision of the state, the state, or the federal government.

(b) A person is liable to a municipality for damages if the municipality has a demolition permit and a building permit procedure and the person:

(1) demolishes, causes to be demolished, or otherwise adversely affects the structural, physical, or visual integrity of a historic structure or property that is located in the municipality; and

(2) does not obtain the appropriate demolition or building permit or other form of written permission from the municipality before beginning to demolish, cause the demolition of, or otherwise adversely affect the structural, physical, or visual integrity of the structure or property.

(c) If the structural, physical, or visual integrity of the structure or property is adversely affected to the extent that it is not feasible to restore the structural, physical, or visual integrity substantially to its former level, the damages are equal to the cost of constructing, using as many of the original materials as possible, a new structure or property that is a reasonable facsimile of the historic structure or property and the cost of attorney's, architect's, and appraiser's fees and other costs related to the enforcement of this section. If it is feasible to restore the structural, physical, or visual integrity of the structure or property substantially to its former level, the damages are equal to the cost of the restoration, using as many of

the original materials as possible, and the cost of attorney's, architect's, and appraiser's fees and other costs related to the enforcement of this section.

(d) Instead of accepting monetary damages, the municipality may permit the liable person to construct, using as many of the original materials as possible, a structure or property that is a reasonable facsimile of the demolished historic structure or property or to restore, using as many of the original materials as possible, the historic structure or property and to pay the cost of attorney's, architect's, and appraiser's fees and other costs related to the enforcement of this section.

(e) Damages recovered under this section shall be deposited in a special fund in the municipal treasury and may be used only to construct, using as many of the original materials as possible, a structure or property that is a reasonable facsimile of the demolished historic structure or property, to restore, using as many of the original materials as possible, the historic structure or property, or to restore another historic structure or property, as determined by the municipality.

(f) The construction of a facsimile structure or property under Subsection (d) or (e) must be undertaken at the location designated by the municipality, which may be the same location as that of the demolished historic structure or property.

(g) The municipality may make contracts and adopt ordinances as necessary to carry out this section.

(h) Each municipality shall file in the real property records of the county clerk's office of each county in which the municipality is located a verified written instrument listing each historic structure or property that is located in the municipality and county and is designated as historic by a political subdivision of the state by:

(1) the street address, if available in the municipal files;

(2) the legal description of the real property on which the structure or property is located; and

(3) the name of the owner of the real property, if the name is available in the municipal files.

(i) Subsections (a) through (g) of this section apply only to a historic structure or property on or after the date the instrument has been filed under Subsection (h) and indexed.

(j) A person is liable to the Texas Historical Commission for damages if:

(1) the person:

(A) demolishes, causes to be demolished, or otherwise adversely affects the structural, physical, or visual integrity of a historic structure or property that is located in the municipality; and

(B) does not obtain the appropriate demolition or building permit or other form of written permission from the municipality before beginning to demolish, cause the demolition of, or otherwise adversely affect the structural, physical, or visual integrity of the structure or property; and

(2) the commission determines that the municipality has not filed a civil action under Subsection (b) and has not taken appropriate action to carry out Subsection (d) before the 90th day after the date the action described by Subdivision (1)(A) occurs.

(k) If the Texas Historical Commission makes a determination under Subsection (j)(2), the commission may enforce this section, and the municipality may not act under this section. Damages recovered under this subsection shall be deposited in the Texas preservation trust fund account.

Added by Acts 1991, 72nd Leg., ch. 594, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1995, 74th Leg., ch. 109, Sec. 22, eff. Aug. 30, 1995.