

LOCAL GOVERNMENT CODE

TITLE 13. WATER AND UTILITIES

SUBTITLE A. MUNICIPAL WATER AND UTILITIES

CHAPTER 551. WATER CONTROL BY MUNICIPALITIES

Sec. 551.001. CONTROL OF HARMFUL EXCESS OF WATER BY MUNICIPALITY WITH POPULATION OF 150,001 TO 239,999. (a) In this section, "water control body" means a municipality, county, levee district, water control and improvement district, water improvement district, navigation district, or other body politic created under the laws of the state with statutory powers concerned with the control of harmful excess of water.

(b) To change or abate by mechanical means a harmful excess of water, either constant or periodic, that threatens life and property within its boundaries, a municipality with a population of 150,001 to 239,999 may:

(1) straighten, widen, levee, restrain, or otherwise control or improve a river, creek, bayou, stream, or other body of water;

(2) grade or fill land; or

(3) take other appropriate actions.

(c) The municipality may pay for an improvement, or a part of an improvement, under Subsection (b) in the manner provided by Section [372.041](#) or any other manner not expressly prohibited by the charter of the municipality.

(d) If an improvement under Subsection (b) is provided or operated by a water control body other than the municipality, the municipality may contribute to the payment of the cost, replacement, alteration, extension, maintenance, and operation of the improvement.

(e) If an improvement under Subsection (b) is provided and operated by the municipality, the municipality may solicit and receive from another water control body a contribution for the payment of the cost, alteration, enlargement, maintenance, and operation of the improvement.

(f) The municipality may purchase or otherwise acquire and take over any improvement or the maintenance or operation of any

improvement and may contract to assume an outstanding bond debt or other debt secured by lien if:

(1) the debt was incurred to provide for the improvement; and

(2) the interest on the debt is not greater than six percent a year.

(g) The municipality may not, in purchasing or otherwise acquiring an improvement or the right to maintain and control property of a levee or improvement district, assume the bonded indebtedness outstanding and owing by the district unless the municipality is authorized to do so at an election at which the qualified voters of the municipality approve the assumption of indebtedness or maintenance.

(h) Subsection (f) supersedes any provision in a municipal charter that is not in conformity with that subsection. Subsection (f) does not authorize an increase in the municipal debt limit fixed by law.

(i) The municipality may contract with a water control body to perform, jointly with a water control body or independently, an action authorized by this section.

(j) Water control bodies otherwise having appropriate powers may use this section and contract with one another to accomplish the purposes of this section.

(k) A water control body, under contract with a municipality having power under this section, may provide money required to construct, maintain, and operate an improvement under this section, either separately or jointly under contract with another water control body, in a manner not expressly prohibited by the charter of the municipality or the statute creating the municipality or the water control body.

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

Renumbered from Local Government Code, Section 401.001 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.76(a)(1), eff. April 1, 2009.

Sec. 551.002. PROTECTION OF STREAMS AND WATERSHEDS BY HOME-RULE MUNICIPALITY. (a) A home-rule municipality may prohibit

the pollution or degradation of and may police a stream, drain, recharge feature, recharge area, or tributary that may constitute or recharge the source of water supply of any municipality.

(b) A home-rule municipality may provide for the protection of and may police any watersheds.

(c) The authority granted by this section may be exercised inside the municipality's boundaries or inside the municipality's extraterritorial jurisdiction or outside the municipality's extraterritorial jurisdiction only if required to meet other state or federal requirements. The authority granted by this section for the protection of recharge, recharge areas, or recharge features of groundwater aquifers may be exercised outside the municipality's boundaries and within the extraterritorial jurisdiction provided the municipality exercising such authority has a population greater than 750,000 and the groundwater constitutes more than 75 percent of the municipality's source of water supply.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 4.47, eff. Sept. 1, 1997.

Renumbered from Local Government Code, Section 401.002 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.76(a)(1), eff. April 1, 2009.

Sec. 551.003. NOTICE OF MUNICIPAL DEVELOPMENT REGULATIONS APPLYING TO WATERSHEDS AND FLOOD-PRONE AREAS. (a) The governing body of a home-rule municipality that by resolution, ordinance, or other proceeding regulates and controls the use and development of any watersheds, flood-prone areas, and impoundment areas for flood control and preservation shall file a notice with the county clerk of each county in which the property subject to the regulation is situated.

(b) The notice required by this section must:

(1) be signed in the name of the municipality by its clerk, secretary, or mayor or other officer performing the duties of one of those officers;

(2) show that the governing body of the municipality by resolution, ordinance, or other proceeding has enacted regulations of the area; and

(3) give or attach the boundaries of the land subject to the regulation.

(c) A notice required by this section need not give details or be sworn to or acknowledged. The notice may be filed at any time.

(d) A county clerk with whom a notice is filed under this section shall record the notice in the records of deeds and shall index it in the name of the municipality.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.07(a), eff. Aug. 26, 1991.

Renumbered from Local Government Code, Section 401.003 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(1), eff. April 1, 2009.

Sec. 551.004. PROTECTION OF PLAYA LAKES BY CERTAIN HOME-RULE MUNICIPALITIES. (a) In this section, "playa lake" means a natural saucer-like depression in the topography, typically having a clayey bottom that is normally located in an arid or semiarid part of the state and collects runoff from rain but is subject to rapid evaporation. The term includes all areas within the basin projected to be inundated by pooled storm water runoff, as determined by an engineering analysis performed according to the specific requirements adopted by and in effect for a municipality.

(b) The governing body of a home-rule municipality with a population of 185,000 or more may regulate the filling of a playa lake within the municipality's extraterritorial jurisdiction as a means for the effective management of storm water runoff to prevent:

- (1) harmful flooding; or
- (2) excess surface water.

(c) A regulation adopted under this section may not:

(1) interfere with normal agricultural practices, including moving soil, berming for tail water reuse, plowing, seeding, cultivating, and harvesting for the production of food or fiber; or

(2) prohibit any practice or activity that does not decrease the water holding capacity of a playa lake.

Added by Acts 1999, 76th Leg., ch. 120, Sec. 1, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 401.004 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(1), eff. April 1, 2009.

Sec. 551.005. RESTRICTION ON PUMPING, EXTRACTION, OR USE OF GROUNDWATER. (a) For the purpose of establishing and enforcing a municipal setting designation, the governing body of a municipality may regulate the pumping, extraction, or use of groundwater by persons other than retail public utilities, as defined by Section 13.002, Water Code, to prevent the use of or contact with groundwater that presents an actual or potential threat to human health.

(b) For the purpose of establishing and enforcing a municipal setting designation, the governing body of a municipality by ordinance may extend to the extraterritorial jurisdiction of the municipality the application of municipal ordinances adopted under this section.

Added by Acts 2003, 78th Leg., ch. 731, Sec. 4, eff. Sept. 1, 2003.

Renumbered from Local Government Code, Section 401.005 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(1), eff. April 1, 2009.

Sec. 551.006. IRRIGATION SYSTEMS. (a) A municipality with a population of 20,000 or more by ordinance shall require an installer of an irrigation system:

(1) to hold a license issued under Section 1903.251, Occupations Code; and

(2) to obtain a permit before installing a system within the territorial limits or extraterritorial jurisdiction of the municipality.

(b) The ordinance shall include minimum standards and specifications for designing, installing, and operating irrigation systems in accordance with Section 1903.053, Occupations Code, and any rules adopted by the Texas Commission on Environmental Quality under that section.

(c) A municipality may employ or contract with a licensed plumbing inspector or a licensed irrigation inspector to enforce

the ordinance.

(d) A municipality may charge an installer of an irrigation system a fee for obtaining or renewing a permit under Subsection (a)(2). The municipality shall set the fee in an amount sufficient to enable the municipality to recover the cost of administering this section.

(e) This section does not apply to:

(1) an on-site sewage disposal system, as defined by Section 366.002, Health and Safety Code; or

(2) an irrigation system:

(A) used on or by an agricultural operation as defined by Section 251.002, Agriculture Code; or

(B) connected to a groundwater well used by the property owner for domestic use.

Added by Acts 2007, 80th Leg., R.S., Ch. 874 (H.B. 1656), Sec. 3, eff. June 15, 2007.

Transferred from Local Government Code, Section 401.006 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(66), eff. September 1, 2009.

Sec. 551.007. WATER CONSERVATION BY HOME-RULE MUNICIPALITY.

A home-rule municipality may adopt and enforce ordinances requiring water conservation in the municipality and by customers of the municipality's municipally owned water and sewer utility in the extraterritorial jurisdiction of the municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 1352 (H.B. 4), Sec. 12, eff. June 15, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.31, eff. September 1, 2007.

Transferred from Local Government Code, Section 401.006 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(67), eff. September 1, 2009.