

PARKS AND WILDLIFE CODE

TITLE 3. PARKS

CHAPTER 26. PROTECTION OF PUBLIC PARKS AND RECREATIONAL LANDS

Sec. 26.001. PROTECTED LAND; NOTICE OF TAKING. (a) A department, agency, political subdivision, county, or municipality of this state may not approve any program or project that requires the use or taking of any public land designated and used prior to the arrangement of the program or project as a park, recreation area, scientific area, wildlife refuge, or historic site, unless the department, agency, political subdivision, county, or municipality, acting through its duly authorized governing body or officer, determines that:

(1) there is no feasible and prudent alternative to the use or taking of such land; and

(2) the program or project includes all reasonable planning to minimize harm to the land, as a park, recreation area, scientific area, wildlife refuge, or historic site, resulting from the use or taking.

(b) A finding required by Subsection (a) of this section may be made only after notice and a hearing as required by this chapter.

(c) The governing body or officer shall consider clearly enunciated local preferences, and the provisions of this chapter do not constitute a mandatory prohibition against the use of the area if the findings are made that justify the approval of a program or project.

Added by Acts 1983, 68th Leg., p. 1035, ch. 235, art. 6, Sec. 2(a), eff. Sept. 1, 1983.

Sec. 26.002. NOTICE OF HEARING. (a) When any program or project requires notice and a public hearing before approval, the notice must be given in writing to the person, organization,

department, or agency that has supervision of the land proposed to be used or taken.

(b) The notice must state clearly the proposed program or project and the date and place for the public hearing. The notice must be given at least 30 days before the date for the public hearing.

(c) Notice must also be given to the public by publishing a notice similar to that specified in this section once a week for three consecutive weeks. The last days of publication must not be less than one week or more than two weeks before the date of the hearing. The notice must be published in a newspaper of general circulation, which paper must be published at least six days a week in the county where the land proposed to be used or taken is situated.

(d) If there is no newspaper that qualifies under Subsection (c) of this section, the notice must be published in a qualifying newspaper that is published in any county adjoining the county where the land is situated. If there is no qualifying newspaper published in any adjoining county, then the notice must be published in a qualifying newspaper published in the nearest county to the county where the land is situated. If there is no qualifying daily newspaper published therein, the notice must be published in any newspaper of general circulation published in the political subdivision affected. If no newspaper is published in the political subdivision, the notice must be published in a newspaper published in the political subdivision nearest the political subdivision affected.

Added by Acts 1983, 68th Leg., p. 1035, ch. 235, art. 6, Sec. 2(a), eff. Sept. 1, 1983.

Sec. 26.003. LIMITATIONS ON JUDICIAL REVIEW. A petition for the judicial review of the approval or disapproval of a program or project under this chapter must be filed within 30 days after the approval or disapproval is announced, or the review is barred.

Added by Acts 1983, 68th Leg., p. 1035, ch. 235, art. 6, Sec. 2(a), eff. Sept. 1, 1983.

Sec. 26.004. EXCLUDED LANDS. A department, agency, board, or political subdivision having control of the public land is not required to comply with this chapter if:

(1) the land is originally obtained and designated for another public use and is temporarily used as a park, recreation area, or wildlife refuge pending its use for the originally designated purpose;

(2) the program or project that requires the use or taking of the land being used temporarily as a park, recreation area, or wildlife refuge is the same program or project for which the land was originally obtained and designated; and

(3) the land has not been designated by the department, agency, political subdivision, county, or municipality for use as a park, recreation area, or wildlife refuge before September 1, 1975.

Added by Acts 1983, 68th Leg., p. 1035, ch. 235, art. 6, Sec. 2(a), eff. Sept. 1, 1983.