



Guidelines for Creating Local River Access Plans

Background:

Effective January 1, 2004, Senate Bill 155 (SB 155) prohibits, with certain exemptions, the use of motorized vehicles in navigable rivers. However, SB 155 does provide for the development of local river access plans which may allow for limited vehicular use in a protected freshwater area^{1,2}. Local plans may be submitted, in writing, by a county, municipality, or river authority, and may not take effect until approved, in writing, by the Texas Parks & Wildlife Department (TPWD). SB 155 also allows for a county, municipality, or river authority to collect fees from persons accessing the protected freshwater area. These fees can be used to implement the approval requirements for local plans. Twenty percent of fees collected for local river access plans will be remitted to TPWD to offset administrative costs.

Overview of SB 155 Approval Criteria for Local River Access Plans:

The intent of local river access plans is to allow local governments to determine what specific recreational needs are desired by the local community and to provide a means of meeting those needs while protecting natural resources, public safety, and private property rights. The purpose of local river access plans is to provide access to specific desired recreational river locations, rather than to serve as motorized vehicle recreation plans. SB 155 established the following approval criteria which TPWD will use to determine whether to approve, disapprove, or modify a local river access plan:

1. Protects fish, wildlife, water quality, and other natural resources
2. Protects public safety
3. Provides for adequate enforcement
4. Coordinates with adjacent and overlapping jurisdictions
5. Provides for and publicizes adequate public access to a protected freshwater area
6. Provides for adequate public services relating to access to a protected freshwater area
7. Protects private property rights

TPWD Guidelines for Local River Access Plans:

These guidelines were developed for county governments, municipalities, or river authorities to use when developing local river access plans sanctioned under Section 90.004 of Senate Bill 155. They are intended to serve as guidelines, and some variability is expected as each guideline may not fit every situation. Common sense and what is best for the resource should prevail when developing local river access plans. Please contact the Texas Parks and Wildlife Department if you have questions or need assistance in developing a local river access plan. A sample plan is attached to provide additional guidance.

1. Protection of Fish, Wildlife, Water Quality, and other Natural Resources

Habitat and water quality are two critically important components contributing to a properly functioning stream system. Habitat provides shelter and space for fish and wildlife to seek refuge from predators, forage for food, and successfully reproduce. Vegetation often is a very important element of stream habitats and also serves to protect various water quality parameters such as temperature and clarity. Therefore, given the importance of vegetation to fish and wildlife, its removal or disturbance within local river access locations should be avoided in all but the rarest circumstances and then kept to a minimum. To aid users of local river access plans in staying within the plan boundaries, it is recommended that channel crossings be clearly indicated. If a designated crossing is established within a typically dry channel bed, procedures for avoiding travel through flowing or standing water when it is present should be included.

To maintain healthy riparian corridors, sponsors should address how vegetation will be protected and conserved. For example, in cases where there is limited parking due to an abundance of vegetative cover, the target access location may need to limit numbers of vehicles to avoid trampling vegetation and to prevent parking in the water. No local plan will be considered that contemplates vehicle oriented recreation in water, other than incidental or as noted herein.

Other important roles vegetation contributes to the health of the stream include:

- Dissipates stream energy associated with high waterflow, thereby reducing erosion and improving water quality
- Filters sediment, captures bedload, and may aid in floodplain development
- Improves flood-water detention and ground-water recharge
- Stabilizes streambanks
- Provides habitat for fish and wildlife
- Provides forage
- Attenuates water temperature

To maximize the protection of vegetation, fish, wildlife, water quality, and other natural resources, TPWD recommends that vehicular use in a protected freshwater area be avoided. However, if vehicular access to a target recreational site by crossing the stream is essential to the purposes of a plan that meets the criteria of SB155, then the following guidelines should be observed:

- Cross at right angles to the stream in the most direct feasible route
- Locate crossings where the channel is straight and exhibits unobstructed flows
- Avoid crossing at bends
- Avoid damage to vegetation
- Avoid standing pools of water
- Crossings should be clearly indicated so that the users can cross at predetermined specified locations
- Appropriate limits on the amount and type of vehicular traffic should be established to ensure compliance with the approval criteria listed above.

2. Public Safety

- Public safety must be considered in local access plans. Measures to be considered include: conflict between motorized vehicles and other river uses such as boating, hiking, swimming, and fishing. Where motorized vehicles are permitted, vehicle operators should be required to operate with caution. An example of a mechanism that would protect all river users would be to limit vehicles to very low speeds.
- It is recommended that glass containers be prohibited from local access locations.

3. Enforcement

Local plans should include assurances of adequate enforcement. It is recommended that the local plan sponsors coordinate with the appropriate local law enforcement entity to develop agreements to ensure enforcement of any local ordinances pertaining to local river access plans. The commitment of law enforcement resources should be consistent with the amount and type of access proposed: generally, the greater the access, the greater the need for commitment of law enforcement resources.

4. Coordination with Adjacent and Overlapping Jurisdictions

Local plans should consider whether or not the locations specified in the plans overlap county/municipal boundaries. If so, it is recommended that the overlapping county/municipality should join in the administration/sponsorship of the local access plan. It is also recommended that plans sponsored by a county or municipality coordinate with the river authority for the stream in question. Written comments, public testimony, phone logs, etc. are a few examples of showing that coordination did occur. Adequate enforcement should be ensured in all jurisdictional areas affected by the plan.

5. Adequate Publicity of Public Access Locations

- A county, municipality, or river authority sponsoring a local access plan must adequately advertise access locations. Some examples of adequately posting access locations include posting the sites on the internet, signage, media, or other means. Texas Parks & Wildlife can assist in publishing public access locations on the internet through our "River Guide" website.

6. Provides for adequate public services relating to access to a protected freshwater area

- Where appropriate, it is recommended that sanitary facilities be provided in pocket parks or other access points. Portable toilets are acceptable and have environmental benefits in that they can be removed from the floodplain during flood events.
- In addition, providing and maintaining trash receptacles in pocket parks or other access points should be considered.

- Where such facilities are included, specific commitment for proper maintenance should be addressed in the plan.

7. Protection of Private Property Rights

Because of the diverse array/nature of rivers across the State of Texas, the protection of private property rights will entail different measures depending on the nature of the proposed plan and the characteristics of the streambed in question.

As specified in SB155, private property rights may not be infringed upon when creating local access plans. Therefore, local plans should be drafted accordingly. For example, if the plan involves driving adjacent to private property, a gradient boundary survey or off-stream boundary agreement(s) with the adjacent landowner(s) may need to be provided in order to clearly define the plan boundaries and ensure that trespass on private property does not occur. Specific mechanisms for protecting private property also should be addressed within the enforcement provisions of the plan.

TPWD Review Process and Assistance:

TPWD can assist a requesting county, municipality, or river authority in developing a local plan. For questions regarding local river access plans, please contact:

Melissa Parker
Texas Parks & Wildlife Department
P.O.B. 1685
San Marcos, Texas 78667
512/754-6844

When a county, municipality, or river authority submits a local plan to the above address, the plan will be reviewed by a TPWD committee established to review local river access plans. The committee will make comments and suggestions and will send the plan back to the sponsor for consideration. Local access plans may not be implemented until receiving written approval from TPWD.

TPWD will conduct periodic reviews of local plans to monitor effectiveness of the plan. The department may adopt rules necessary to implement local access plans and for locations in which boats may be launched in protected freshwater areas. In addition, TPWD may conduct studies necessary to implement local river access plans.

Texas General Land Office (GLO) Assistance:

The GLO can assist in determining the limits of the bed of the river within the gradient boundary. For assistance in determining where the public riverbed boundary is located at a given site, contact:

Surveying Division
Texas General Land Office
1700 North Congress
Austin, Texas 78701
512/475-1585

Revoking a Local River Access Plan:

A person may file a petition for revocation of a local plan with TPWD at the address listed under "TPWD Assistance" in the above section. TPWD will revoke a local plan if, as a result of periodic review, or as a result of a petition for revocation, the plan fails to meet the above approval criteria.

¹ "Protected freshwater area" means that portion of the bed, bottom, or bank of any navigable river or stream that lies at or below the gradient boundary of the river or stream. The term does not include that portion of a bed, bottom, or bank that lies below tidewater limits.

² "Navigable river or stream" means a river or stream that retains an average width of 30 or more feet from the mouth or confluence up.