

TRANSPORTATION CODE
CHAPTER 315. ARTIFICIAL LIGHTING
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 315.001. DEFINITIONS. In this chapter:

(1) "Abutting property" means property abutting a street on which lighting improvements are made or proposed to be made.

(2) "Special benefit" means the amount of enhanced value that a property receives as a result of lighting improvements.

(3) "Street" includes a portion, not less than one block, of a street.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.002. APPLICABILITY. This chapter applies only to a municipality with a population of more than 5,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. AUTHORITY AND INITIAL PROCEDURES

Sec. 315.021. ESTABLISHMENT OF LIGHTING IMPROVEMENTS. (a) A municipality may install and maintain lighting improvements for a local public street as provided by this chapter if the governing body of the municipality adopts a resolution:

(1) on its own motion if:

(A) the governing body considers it more advantageous to the public; and

(B) public money is available for that purpose;

or

(2) following the receipt of a petition from the owners of property abutting a street to install and maintain street lighting improvements.

(b) Adoption of the resolution is conclusive of the public necessity and benefit of the lighting improvements. Failure to give notice of the adoption of a resolution does not affect the resolution's validity.

(c) The resolution must describe:

(1) the nature and extent of the lighting improvements to be made;

(2) any street or district composed of streets, highways, or alleys to be lighted;

(3) the materials to be used; and

(4) the method of paying the cost of the improvements.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.022. CONTENTS OF PETITION. (a) A petition submitted under Section 315.021(a)(2) must:

(1) state that a street or a district composed of streets, highways, or alleys should be lighted;

(2) state that lighting improvements are needed for that purpose;

(3) name and describe the street or district to be lighted;

(4) state that the lighting will be a public improvement and will be conducive to the public welfare; and

(5) be signed by a majority of the owners of property abutting streets designated in the petition.

(b) A petition submitted under Section 315.021(a)(2) may:

(1) provide plans and specifications for the requested lighting improvements; and

(2) specify the kind of poles, lights, or other material necessary to properly install the improvements or any part of the necessary material.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.023. PLANS AND SPECIFICATIONS. (a) The governing body may:

(1) order the use of all or any part of the materials specified in the petition in constructing the lighting improvements;

(2) if materials specified in the petition are not available, order the use of materials similar in kind and quality to the specified materials; or

(3) reject any or all plans and specifications included in the petition and have new plans and specifications prepared by the municipal engineer.

(b) On adoption of a resolution as provided by Section 315.021, the municipal engineer shall:

(1) prepare plans and specifications for the lighting improvements ordered by the resolution; and

(2) submit the completed plans and specifications to the governing body for approval.

(c) If there is no municipal engineer, the municipal official whose duties most closely correspond to those of a municipal engineer shall prepare and submit the plans and specifications.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.024. OWNERSHIP AND CONTROL. After lighting improvements made under this chapter are installed and accepted by the municipality, the improvements become a part of the municipality's lighting system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.025. USE OF AVAILABLE MONEY. A municipality may use available money to assist in financing lighting improvements.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. BIDS AND CONTRACTS

Sec. 315.041. ADVERTISEMENT FOR BID. (a) On approval and adoption of plans and specifications by the governing body of a municipality, the municipal secretary or other officer designated by the governing body shall advertise for sealed bids for installing the lighting improvements according to the specifications.

(b) The advertisement shall be published in a daily newspaper of general circulation in the municipality and shall state the time within which bids may be received.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.042. FILING OF BID. (a) The governing body of a municipality may prescribe a period of not less than 10 or more than 15 days after the date on which the advertisement for bids is published within which bids may be received.

(b) Bids shall be filed with the municipal secretary or another officer designated by the governing body.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.043. AMENDMENT OF BID PROHIBITED. A bid may not be amended after it has been filed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.044. OPENING OF BIDS; ACCEPTANCE OR REJECTION. (a) Bids shall be opened and read at a public meeting of the governing body of a municipality.

(b) The governing body may:

(1) accept a bid it considers most advantageous to the owners of abutting property; or

(2) reject any or all bids.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.045. CONTRACTS. (a) After the governing body of a municipality has accepted a bid for lighting improvements, the municipality shall contract with a contractor whose bid has been accepted.

(b) A contract shall be:

(1) executed by the municipality's chief executive; and

(2) attested with the corporate seal by the municipal secretary or other officer designated by the governing body.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. PAYMENT OF COSTS

Sec. 315.061. AUTHORITY TO ASSESS COSTS. (a) A municipality may assess against owners of abutting property who will specially benefit from lighting improvements the entire cost, including labor and material, of installing the improvements.

(b) A municipality may impose a lien against abutting property to secure the payment of the assessment against that property.

(c) Costs may not be assessed against any property or property owner and personal liability for costs may not be finally determined until after the hearing under Section 315.066 and the adjustment of equities between or among abutting property owners under Section 315.063.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.062. METHOD OF ASSESSMENT. (a) An assessment against abutting property or an owner of abutting property shall be made according to the frontage of that property on a street to be improved in proportion to the total frontage on all streets to be improved.

(b) The costs shall be apportioned according to the frontage or front foot rule but may not exceed the special benefit to the

property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.063. ADJUSTMENT OF EQUITIES. If the governing body of a municipality considers that assessing and apportioning costs as provided by Section 315.062 would be unjust or unequal in a particular case, the governing body shall assess and apportion the costs justly and equally, considering the special benefit to each owner, the equities of the owners, and the adjustment of the apportionment, so as to produce a substantial equality of benefits received by and burdens imposed on each owner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.064. STATEMENT OF OWNERSHIP AND COSTS. (a) After the governing body of a municipality has approved and executed a contract for lighting improvements, the municipal engineer shall prepare and submit to the governing body a written statement that:

(1) lists the owners of property abutting any street to be improved;

(2) states the number of front feet owned by each owner;

(3) describes, by lot and block number or by another method that identifies the property, the abutting property owned by each owner; and

(4) estimates:
(A) the total cost of the improvement;
(B) the amount for each front foot to be assessed against abutting property and its owner; and
(C) the total amount to be assessed against each owner.

(b) If there is no municipal engineer, the municipal official whose duties most closely correspond to those of a municipal engineer shall prepare and submit the statement.

(c) The governing body shall examine the statement and correct any error in the statement.

(d) An error or omission in a statement prepared under this section does not invalidate an assessment or a lien or claim of personal liability imposed under an assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.065. NOTICE OF HEARING. (a) After the governing body of a municipality has examined and approved a statement prepared under Section 315.064, the governing body by resolution shall direct publication of notice of a hearing to owners of abutting property.

(b) Notice shall be published for 10 consecutive days in a daily newspaper of general circulation in the municipality where the lighting improvements are to be made.

(c) If there is no daily newspaper, the governing body shall notify the owners by registered mail before the 10th day before the date of the hearing.

(d) The notice must:
(1) state the place and time of the hearing;
(2) generally describe the lighting improvements;
(3) name any street to be improved;
(4) state the amount proposed to be assessed against abutting property for each front foot; and
(5) notify each owner of abutting property and each interested person to appear at the hearing.

(e) The notice is not required to describe any property or to include the name of an owner. The notice is nonetheless binding on and conclusive against an owner of abutting property or a person interested in or having a lien or claim on the property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.066. HEARING. (a) A hearing:
(1) is before the governing body of the municipality;
and

(2) may not be held before the 10th day after the date of notice under Section 315.065.

(b) At any time before the close of the hearing, a person interested in property that may be claimed to be subject to assessment under this chapter is entitled to be heard on:

(1) any matter affecting the property itself;
(2) the benefit of the proposed improvement to the property;
(3) a claim of liability relating to the property;
(4) the proposed lighting improvements;
(5) any invalidity or irregularity in a proceeding

regarding the proposed improvements; or

- (6) any other objection to the proposed improvements.
- (c) An objection must be filed in writing.
- (d) At the hearing, an interested person may:
 - (1) produce evidence and witnesses; and
 - (2) appear in person or by attorney.
- (e) The governing body:
 - (1) shall give a full hearing on an objection presented under this section;
 - (2) may, from time to time and without further notice, adjourn the hearing;
 - (3) may inquire into and determine all facts necessary to adjudicate an objection or ascertain the special benefit to an owner; and
 - (4) shall render a just decision in each case.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.067. RULES. The governing body of a municipality may adopt rules governing hearings or notice of hearings that the governing body considers advisable to give all property owners a full hearing on assessments against them because of the special benefits.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.068. WAIVER OF OBJECTION. An objection to an irregularity in a proceeding regarding proposed lighting improvements under this chapter or to the validity of an assessment or adjudication of personal liability against abutting property or an owner of abutting property is waived unless presented at the time and in the manner prescribed by Section 315.066.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.069. ASSESSMENT ORDER. (a) After the close of a hearing held under Section 315.066, the governing body of the municipality by ordinance shall assess against each owner of abutting property the proportionate cost of the lighting improvements as decided by the governing body.

- (b) The ordinance shall:
 - (1) impose a lien on the property;
 - (2) declare the owner of the property personally liable for the amount assessed; and
 - (3) prescribe the time and manner of payment of the assessed amount.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.070. INSTALLMENTS. (a) The governing body may order the assessments payable in not more than six installments and prescribe the amount, time, and manner of payment of the installments.

(b) The last payment may not be deferred beyond the fifth anniversary of the municipality's acceptance of the completed lighting improvement.

(c) The ordinance shall prescribe the rate of interest, not to exceed seven percent a year, to be charged on deferred payments.

(d) The ordinance may provide for the maturity and collection of all deferred payments on the default of an installment of principal or interest.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.071. DISCHARGE OF OBLIGATION. An owner of abutting property may discharge the total amount assessed against the owner, or any installment of that amount, at any time before maturity, on payment of the amount with accrued interest.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.072. LIEN. (a) An assessment under this subchapter against a property or property owner and any costs and reasonable attorney's fees incurred are a personal claim against the owner secured by a lien against the property.

(b) A lien under this section reverts back and takes effect as of the date of the original resolution ordering the lighting improvement. Adoption of the resolution is notice of the lien to all persons.

(c) A person who owns property on the date of an ordinance providing for an assessment against the property under Section 315.069 is personally liable for that person's respective portion of the assessment.

(d) Assessing in one assessment more than one parcel of property owned by a single owner or owned jointly by two or more persons does not invalidate the assessment or a lien or claim of personal liability under the assessment.

(e) An error in the name of an owner of assessed property in the ordinance providing for the assessment does not invalidate the lien or personal liability created by the ordinance. The lien or personal liability exists against the true owner of the property as if the owner had been correctly described.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.073. PRIORITY OF LIEN. A lien under Section 315.072 is superior to any other lien, claim, or title, except a municipal, county, or state tax.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.074. CERTIFICATE OF OBLIGATION. (a) The governing body of a municipality may provide that:

(1) a contractor to whom work is let under this chapter may recover the costs assessed against abutting property and the owners of abutting property only from the property or property owners; and

(2) the municipality has no liability for the costs.

(b) The governing body may also authorize assignable certificates against abutting property or owners of abutting property.

(c) A recital in a certificate that states that the procedure for making the lighting improvement was in compliance with law and that all prerequisites to imposing the lien and to creating the personal liability of the property owner were performed is prima facie evidence in all courts that the procedure and prerequisites were performed as stated in the certificate.

(d) A certificate authorized under this section shall be:

(1) executed by the municipality's chief executive; and

(2) attested with the corporate seal by the municipal secretary or other officer designated by the governing body.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.075. PAYMENT FROM AVAILABLE MONEY. (a) The cost of lighting improvements made without a petition by property owners shall be paid by the municipality out of the municipality's available money.

(b) The amount paid by a municipality to a contractor under this section shall be reimbursed to the municipality by assessments against abutting property owners under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. JUDICIAL PROCEEDINGS

Sec. 315.091. SUIT ON LIEN. Personal liability established under Section 315.072 may be enforced by bringing suit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.092. SUIT TO CONTEST ASSESSMENT OR PROCEEDING. (a) A person who has an interest in property that may be subject to assessment under this chapter or who has any other financial interest in a proposed lighting improvement or the manner in which the cost of the proposed improvement is to be paid may bring suit to contest on any ground:

(1) the validity of a proceeding held on the making of the improvement; or

(2) the validity in whole or in part of an assessment, lien, or personal liability imposed by the proceeding.

(b) A suit under this section must be brought not later than the 10th day after the date on which the hearing under Section 315.066 concludes.

(c) The municipality and any person to whom a contract has been awarded shall be made defendants in a suit under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.093. ESTOPPEL. (a) A person who does not bring suit within the period prescribed by Section 315.092 or who does not diligently and in good faith prosecute a suit to final judgment may not contest or raise as a defense in another action the validity of a proceeding or an assessment, lien, or personal liability imposed by the proceeding.

(b) Estoppel under this section binds a person's heirs, successors, administrators, and assigns.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.094. AFFIDAVIT. (a) In a suit brought under Section 315.092, an affidavit must be attached to the plaintiff's petition stating:

(1) that the matters alleged in the petition are true, except for matters alleged on information and belief; and

(2) that the suit is brought in good faith and not to

injure or delay the municipality, the contractor, or an owner of abutting property.

(b) If the plaintiff does not attach the affidavit required by this section, the court shall dismiss the suit on a defendant's motion and the plaintiff is barred to the same extent as if suit had not been brought.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.095. SUSPENSION OF WORK. When suit is brought under Section 315.092, the municipality or the contractor may suspend performance of work until a final judgment is rendered in the case and all appellate remedies are exhausted.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.096. APPEAL. (a) An appeal or writ of error must be perfected not later than the 30th day after the date of adjournment of the term of the court of original jurisdiction during which judgment was rendered in the suit.

(b) An appeal or writ of error under this section is entitled to precedence in state courts of appellate jurisdiction and shall be heard and determined as soon as practicable.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.