

10 TAC §1.8, Camping Plan Requirements and Process for Political Subdivisions

(a) Purpose. Subchapter PP of Chapter 2306, Texas Government Code, Property Designated by Political Subdivision for Camping by Homeless Individuals, was enacted in September 2021. §2306.1122 of the Texas Government Code, provides that a Political Subdivision may not designate a property to be used by homeless individuals to Camp unless the Department has approved a Plan as further described by Subchapter PP. This rule provides the Department's policies for such Plans, including the process for Plan submission, Plan requirements, the review process, and the criteria by which a Plan will be reviewed by the Department.

(b) Applicability.

(1) This rule applies only to the designation and use of a property designated for camping by homeless individuals that first begins that use on or after September 1, 2021, except that the rule and requirements of Subchapter PP, Chapter 2306, Texas Government Code, do not apply to a Proposed Property to be located on/in a Public Park. Public Parks are ineligible to be used as a Camp by homeless individuals per Subchapter PP, Chapter 2306, Texas Government Code.

(2) The designation and use of a Proposed Property described by Subchapter PP, Chapter 2306, Government Code that first began before September 1, 2021, is governed by the law in effect when the designation and use first began, and the former law is continued in effect for that purpose.

(3) A Political Subdivision that designated a property to be used by homeless individuals to Camp before September 1, 2021, may apply on or after that date for approval of a Plan pursuant to this section.

(4) A Political Subdivision that authorizes camping under the authority of §48.05(d)(1), (3) or (4), Texas Penal Code, are not required to submit a Plan for those instances.

(c) Definitions.

(1) Camp--Has the meaning assigned by Section 48.05 of the Texas Penal Code.

(2) Department--The Texas Department of Housing and Community Affairs.

(3) Plan--Specifically an application drafted by a Political Subdivision, submitted to the Department by the Political Subdivision, with the intention of meeting the requirements provided for in subsection (e) of this section (relating to Threshold Plan Requirements).

(4) Plan Determination Notice--The notification provided by the Department to the Political Subdivision stating a Plan's Approval or Denial.

(5) Political Subdivision--A local government as defined in Chapter 2306, Texas Government Code.

(6) Proposed New Campers--Homeless individuals that the Political Subdivision intends to allow to Camp at the Proposed Property for which a Plan is submitted.

(7) Proposed Property--That property proposed for use for Proposed New Campers and submitted in the Plan, owned, controlled, leased, or managed by the Political Subdivision.

(8) Public Park--Any parcel of land dedicated and used as parkland, or land owned by a political subdivision that is used for a park or recreational purpose that is under the control of the political subdivision, which is designated by the political subdivision.

(d) Plan Process.

(1) Submission.

(A) Plans may be submitted at any time. Plan resubmissions may also be submitted at any time.

(B) All Plans must be submitted electronically to campingplans@tdhca.texas.gov or state.tx.us.

(C) At least one designated email address must be provided by the Political Subdivision; all communications from the Department to the Political Subdivision regarding the Plan will be sent to that email address. No communication will be sent by traditional postal delivery methods. Up to two email contacts may be provided.

(2) Review Process.

(A) Upon receipt, Department staff will send a confirmation email receipt to the designated email address and initiate review of the Plan. The Plan will be reviewed first to determine that all information specified in subsection (e) of this section (relating to Threshold Plan Requirements) have been included and that sufficient information has been provided by which to evaluate the Plan against the Plan Criteria provided for in subsection (f) of this section (relating to Plan Criteria).

(B) If a Plan as submitted does not sufficiently meet the requirements of §2306.1123, Texas Government Code, and subsection (e) of this section, or does not provide sufficient explanation by which to assess the Plan Criteria provided for in subsection (f) of this section, staff will issue the Political Subdivision a notice of deficiency. The Political Subdivision will have five calendar days to fully respond to all items requested in the deficiency notice.

(i) For a Political Subdivision that satisfies all requested deficiencies by the end of the five calendar day period, the review will proceed.

(ii) For a Political Subdivisions that does not satisfy all requested deficiencies by the end of the five calendar day period, no further review will occur. A Plan Determination Notice will be issued notifying the Political Subdivision that its Plan has been denied and stating the reason for the denial. The Political Subdivision may resubmit a Plan at any time after receiving a Plan Determination Notice.

(C) Plan Determination Notice.

(i) Upon completion of the review by staff, the Political Subdivision will be notified that its Plan has been Approved or Denied in a Plan Determination Notice.

(ii) Not later than the 30th day after the date the Department receives a plan or resubmitted Plan, the Department will make a final determination regarding approval of the Plan and send a Plan Determination Notice to the Political Subdivision. For a Political Subdivision that had a deficiency notice issued, and that satisfied all requested deficiencies by the end of the five calendar day period, the Department will strive to still issue a final determination notice by the 30th day from the date the Plan was originally received, however the date of issuance of the Plan Determination Notice may extend past the 30th day by the number of days taken by the Political Subdivision to resolve any the deficiencies.

(iii) A Political Subdivision may appeal the decision in the Plan Determination Notice using the appeal process outlined in §1.7 of this chapter (relating to Appeals Process).

(D) Reasonable Accommodations may be requested from the Department as reflected in §1.1 of this subchapter (relating to Reasonable Accommodation Requests to the Department).

(e) Threshold Plan Requirements. A Plan submitted for approval to the Department must include all of the items described in paragraphs (1) - (8) of this subsection for the property for which the Plan is being submitted:

(1) pertinent contact information for the Political Subdivision as specified by the Department in its Plan template;

(2) the physical address or if there is no physical address the legal description of the property;

(3) the estimated number of Proposed New Campers to be located at the Proposed Property;

(4) a description with respect to the property of the five evaluative factors that addresses all of the requirements described in subparagraphs (A) - (E) of this paragraph:

(A) Local Health Care. Provide:

(i) A description of the availability of local health care for Proposed New Campers, including access to Medicaid services and mental health services;

(ii) A description of the specific providers of the local health care and mental health services available to Proposed New Campers. Local health/mental health care service providers do not include hospitals or other emergency medical assistance, but contemplate access to ongoing and routine health and mental health care. Providers of such services can include, but are not limited to: local health clinics, local mental health authorities, mobile clinics that have the location in their service area, and county indigent healthcare programs;

(iii) A description or copy of a communication from the Texas Department of Health and Human Services specific to the Political Subdivision and specific to the population of homeless individuals must be provided to establish the availability of access to Medicaid services;

(iv) A map or clear written description of the geographic proximity (in miles) of each of those providers to the Proposed Property;

(v) The cost of such care and services, whether those costs will be borne by the Proposed New Campers or an alternative source, and if an alternative source, then what that source is; and

(vi) A description of any limitations on eligibility that each or any of the providers may have in place that could preclude Proposed New Campers from receiving such care and services from the specific providers.

(B) Indigent Services. Provide:

(i) A description of the availability of indigent services for Proposed New Campers. For purposes of this factor, indigent services are any services that assist individuals or households in poverty with their access to basic human needs and supports. Indigent service providers include, but are not limited to: community action agencies, area agencies on aging, mobile indigent service providers that have the location in their service area; and local nonprofit or faith-based organizations providing such indigent services;

- (ii) A description of the specific providers of the services and what services they provide;
- (iii) A map or clear written description of the geographic proximity (in miles) of each of those providers to the Proposed Property; and
- (iv) A description of any limitations on eligibility that each or any the providers may have in place that could preclude Proposed New Campers from receiving such services from the specific providers.

(C) Public Transportation. Provide:

- (i) A description of the availability of reasonably affordable public transportation for Proposed New Campers. Reasonably affordable for the purposes of this Section means the rate for public transportation for the majority of users of that public transportation; if for instance the standard bus fare in an area is \$2 per ride, then that rate is considered the reasonable affordable rate for the Proposed Property; Proposed New Campers should not have to pay a rate higher than that standard fare;
- (ii) A description of the specific providers of the public transportation services and their prices;
- (iii) A description of the closest proximity of the property to a specified entrance to a public transportation stop or station, with a sidewalk or an alternative pathway identified by the Political Subdivision for pedestrians, including a map of the closest stop and public transportation route shown in relation to the Proposed Property;
- (iv) A description of the route schedule of the closest proximate public transportation route; and
- (v) If public transportation is available upon demand at the property location, identification of any limitations on eligibility that each or any of the providers may have in place that could preclude Proposed New Campers from receiving such transportation services from that specific on-demand provider.

(D) Law Enforcement Resources. Provide:

- (i) A description of the local law enforcement resources in the area;
- (ii) The description should include a brief explanation of which local law enforcement patrol beat covers the Proposed Property;
- (iii) A description of local law enforcement resources and local coverage in several other census tracts or law enforcement beats/areas with similar demographics to that of the beat/area of the Proposed Property to provide a comparative picture;
- (iv) a description of any added resources for the area or proposed specifically for the property, and how proximate those resources are; and
- (v) any explanation of reduced (or lower than typical of similar demographic areas) local law enforcement coverage in the area.

(E) Coordination with Local Mental Health Authority. Provide:

- (i) a description of the steps the Political Subdivision has taken to coordinate with the Local Mental Health Authority to provide services for any Proposed New Campers; and

(ii) a description must include documentation of meetings or conversations, dates when they occurred, any coordination steps resulting from the conversations, and whether any ongoing coordination is intended for the Proposed Property.

(5) The Political Subdivision must provide evidence that establishes that the property is not a Public Park. Evidence must include documentation addressing the definition of a Public Park as defined in subsection (c)(8) of this section.

(6) Plans should be limited in length. Plans in excess of 15 pages of text, not including documentation and attachments, will not be reviewed.

(7) The Political Subdivision must include documentation that the site will include basic human sanitation services including toilets, sinks, and showers. Such facilities may be temporary fixtures such as portable or mobile toilets, sinks and showers.

(8) Any Plan that is a resubmission of a denied Plan, submitted again for the same Proposed Property, must include a short summary at the front of the Plan explaining what has been changed in the resubmitted Plan from the original denied Plan.

(f) Plan Criteria

(1) Approval. In no case will a Plan be approved if the Department has determined that the Proposed Property referenced in a Plan is a Public Park as defined in subsection (c)(6) of this section. Plans for other properties will be approved if the five factors are satisfied as described in subparagraphs (A) - (E) of this paragraph:

(A) Local health care, including access to Medicaid services (or other comparable health services) and mental health services, are within one mile of the Proposed Property, are accessible via public transportation, can be provided on-site by qualified providers, or transportation is provided (which includes mobile clinics that have the location in their service area), and the Political Jurisdiction commits to a goal that such services are available at little, low or no cost for at least 50% Proposed New Campers (some limited exceptions from providers as may be described in accordance with subsection (d)(5)(A)(v) of this section will not preclude approval for this factor);

(B) There are indigent services providers that have locations within one mile of the Proposed Property, are accessible via public transportation, can provide services on-site, or transportation is provided (which includes mobile indigent service providers that have the location in their service area), and the Political Subdivision commits to a goal that such services are available for at least 50% of Proposed New Campers are expected to be eligible;

(C) The property is within 1/2 mile or less from a public transportation stop or station that has scheduled service at least several times per day for at least six days per week, or there is on demand public transportation available, and the Political Subdivision commits to a goal that at least 50% of the Proposed New Campers are eligible for that on-demand public transportation;

(D) The local law enforcement resources for the patrol zone or precinct that includes the Proposed Property are not materially less than those available in other zones or precincts of the local law enforcement entity, unless the Political Subdivision provides a specific plan for security in and around the property that the Political Subdivision has determined is appropriate for law enforcement services in that area; and

(E) the Political Subdivision has had at least one meeting to discuss initial steps and coordination with the Local Mental Health Authority, specific to this particular Proposed Property and the volume/service needs of Proposed New Campers.

(2) A Plan that meets at least four of the five factors in paragraph (1) of this subsection, may be approved if significant and sufficient mitigation is provided that delivers similarly comprehensive resources as required, to justify how the remaining factor not met will still be sufficiently addressed through some other means.

(3) Denial. An Application that does not meet all of the requirements in paragraph (1) of this subsection, or that does not meet the requirements of paragraph (2) of this subsection will be issued a Plan Determination Notice within 30 days of Plan application (which may be extended by the amount of calendar days the Political Subdivision took to respond to deficiencies) reflecting denial.

(g) Information Sharing. When the Department receives a complaint under §1.2 of this subchapter (relating to Department Complaint System to the Department) or information that a Political Subdivision is allowing camping by homeless individuals on a property that is not the subject of a Plan approved under this section, the Department will refer such information to the Office of the Attorney General, for possible action under Chapter 364, Local Government Code, or other law.