

**WATER LAWS
OF THE STATE OF
TEXAS
THAT MAY BE
OF INTEREST
TO THE
WATER USERS
ON A
COMMUNITY DITCH**

THE FOLLOWING ARE SEVERAL WATER LAWS OF THE STATE OF TEXAS (VERNON'S TEXAS CODES ANNOTATED) THAT MAY BE OF INTEREST TO THE WATER USERS ON A COMMUNITY DITCH WHERE TWO OR MORE WATER USERS USE THE SAME DITCH.

Sec. 11.040 PERMANENT WATER RIGHT

- (a) A permanent water right is an easement and passes with the title to land.
- (b) A written instrument conveying a permanent water right may be recorded in the same manner as any other instrument relating to a conveyance of land.
- (c) The owner of a permanent water right is entitled to use water according to the terms of his contract. If there is no contract, the owner is entitled to use water at a just, reasonable, and nondiscriminatory price.

Added by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.048 COST OF MAINTAINING IRRIGATION DITCH

- (a) If an irrigation ditch is owned or used by two or more persons, mutual or cooperative companies, or corporations, each party who has an interest in the ditch shall pay his proportionate share of the cost of operating and maintaining the ditch.
- (b) If a person who owns a joint interest in a ditch refuses to do or to pay for his proportionate share of the work that is reasonably necessary for the proper maintenance and operation of the ditch, the other owners may, after giving him 10 days written notice, proceed themselves to do his share of the necessary work and recover from him the reasonable expense or value of the work or labor performed. The action for the cost of the work may be brought in any court having jurisdiction over the amount in controversy.

Added by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.083 OTHER UNLAWFUL TAKING

- (a) No person may wilfully open, close, change, or interfere with any headgate or water box without lawful authority.
- (b) No person may wilfully use water or conduct water through his ditch or upon his land unless he is entitled to do so.

Added by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977;

Amended by Acts 1997, 75th Leg., ch. 1072, Sec. 4, eff. Sept. 1, 1997.

Sec. 11.086 OVERFLOW CAUSED BY DIVERSION OF WATER

- (a) No person may divert or impound the natural flow of surface waters in this state, or permit a diversion or impounding by him to continue, in a manner that damages the property of another by the overflow of the water diverted or impounded.

WATER LAWS (continued)

Sec. 11.086 OVERFLOW CAUSED BY DIVERSION OF WATER (continued)

(b) A person whose property is injured by an overflow of water caused by an unlawful diversion or impounding has remedies at law and in equity and may recover damages occasioned by the overflow.

(c) The prohibition of Subsection (a) of this section does not in any way affect the construction and maintenance of levees and other improvements to control floods, overflows, and freshets in rivers, creeks, and streams or the construction of canals for conveying water for irrigation or other purposes authorized by this code. However, this subsection does not authorize any person to construct a canal, lateral canal, or ditch that obstructs a river, creek, bayou, gully, slough, ditch, or other well-defined natural drainage.

(d) Where gullies or sloughs have cut away or intersected the banks of a river or creek to allow floodwaters from the river or creek to overflow the land nearby, the owner of the flooded land may fill the mouth of the gullies or sloughs up to the height of the adjoining banks of the river or creek without liability to other property owners.

Added by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.088 DESTRUCTION OF WATERWORKS

No person may willfully cut, dig, break down, destroy, or injure, or open a gate, bank, embankment, or side of any ditch, canal, reservoir, flume, tunnel or feeder, pump or machinery, building, structure, or other work which is the property of another, or in which another owns an interest, or which is lawfully possessed or being used by another, and which is used for milling, mining, manufacturing, the development of power, domestic purposes, agricultural uses, or stock raising, with intent to:

- (1) maliciously injure a person, association, corporation, water improvement or irrigation district;
- (2) gain advantage for himself; or
- (3) take or steal water or cause water to run out or waste out of the ditch, canal, or reservoir, feeder or flume for his own advantage, or to the injury of a person lawfully entitled to the use of the water or the use or management of the ditch, canal, tunnel, reservoir, feeder, flume, machine, structure, or other irrigation work.

Added by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1997, 75th Leg., ch. 1072, Sec. 7, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 966, Sec. 2.06, eff. Sept. 1, 2001.

WATER LAWS (continued)

Sec. 11.089 JOHNSON GRASS OR RUSSIAN THISTLE

(a) No person who owns, leases, or operates a ditch, canal or reservoir or who cultivates land abutting a reservoir, ditch, flume, canal, wastewater, or lateral may permit Johnson Grass or Russian Thistle to go to seed on the waterway within 10 feet of the high-water line if the waterway crosses or lies on the land owned or controlled by him.

(b) The provisions of this section are not applicable in Tom Green, Sterling, Irion, Schleicher, McCullough, Brewster, Menard, Maverick, Kinney, Val Verde, and San Saba counties.

Added by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1997, 75th Leg., ch. 1072, Sec. 8, eff. Sept. 1, 1997.

Sec. 11.090 POLLUTING AND LITTERING

No person may deposit in any canal, lateral, reservoir, or lake used for a purpose named in this chapter, the carcass of any dead animal, tin cans, discarded buckets or pails, garbage, ashes, bailing or barbed wire, earth, offal, or refuse of any character, or any other article which might pollute the water or obstruct the flow of a canal or similar structure.

Added by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1997, 75th Leg., ch. 1072, Sec. 9, eff. Sept. 1, 1997.

Sec. 11.091 INTERFERENCE WITH DELIVERY OF WATER UNDER CONTRACT

No person may willfully take, divert, appropriate, or interfere with the delivery of conserved or stored water under Section 11.042 of this code.

Added by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1997, 75th Leg., ch. 1072, Sec. 10, eff. Sept. 1, 1997.

Sec. 11.092 WASTEFUL USE OF WATER

A person who owns or has a possessory right to land contiguous to a canal or irrigation system and who acquires the right by contract to use the water from it commits waste if he:

- (1) permits the excessive or wasteful use of water by any of his agents or employees; or
- (2) permits the water to be applied to anything but a beneficial use.

Added by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977.

WATER LAWS (continued)

Sec. 11.093 ABATEMENT OF WASTE AS PUBLIC NUISANCE

(a) A person who permits an unreasonable loss of water through faulty design or negligent operation of any waterworks using water for a purpose named in this chapter commits waste, and the commission may declare the works causing the waste to be a public nuisance. The commission may take the necessary action to abate the nuisance. Also, any person who may be injured by the waste may sue in the district court having jurisdiction over the works causing the waste to have the operation of the works abated as a public nuisance.

(b) In case of a wasteful use of water defined by Section 11.092 of this code, the commission shall declare the use to be a public nuisance and shall act to abate the nuisance by directing the person supplying the water to close the water gates of the person wasting the water and to keep them closed until the commission determines that the unlawful use of water is corrected.

Added by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977.

Sec. 49.221 RIGHT TO ENTER LAND

(a) The directors, engineers, attorneys, agents, operators, and employees of a district or water supply corporation may go on any land to inspect, make surveys, or perform tests to determine the condition, value, and usability of the property, with reference to the proposed location of works, improvements, plants, facilities, equipment, or appliances. The cost of restoration shall be borne by the district or the water supply corporation.

(b) District employees and agents are entitled to enter any public or private property within the boundaries of the district or adjacent to any reservoir or other property owned by the district at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the district. District employees or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection and shall notify any occupant or management of their presence and shall exhibit proper credentials.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 55.194 TRANSFER OF WATER RIGHTS

If there is land in a district which has a water right from a source of supply acquired by the district but the land is difficult or impracticable to irrigate from that source of supply, the district may allow transfer of the water right to other land which is adjacent to the district. The adjacent land may be admitted to the district with the same right of water service as other land already in the district.

Acts 1971, 62nd Leg., p. 446, ch. 58, Sec. 1, eff. Aug. 30, 1971.

WATER LAWS (continued)

Sec. 55.361 WATER SERVICE DISCONTINUED

(a) If a landowner fails or refuses to pay any water assessment or a person fails to pay a charge, fee, rental, or deposit imposed under this chapter or Chapter 49 when due, the landowner's or person's water supply shall be cut off, and no water shall be furnished to the land until all back assessments or other amounts owed to the district are fully paid. The discontinuance of water service is binding on all persons who own or acquire any interest in land for which assessments or other amounts owed to the district are due.

(b) A landowner or person whose water service has been discontinued under Subsection (a) may request that the board reconsider the discontinuance related to a charge, fee, rental, deposit, or penalty, and may not request that the board reconsider a discontinuance related to an assessment. If the board declines to reconsider the discontinuance, the landowner or person may file a petition under Section 11.041. That petition filed with the commission is the sole remedy available to a landowner or person described by this subsection.

Acts 1971, 62nd Leg., p. 457, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by Acts 2013, 83rd Leg., R.S., ch. 90 (S.B. 611), Sec. 24, eff. Sept. 1, 2013.

Sec. 55.362 SUITS FOR DELINQUENT ASSESSMENTS

Suits for delinquent water assessments or other amounts owed to the district under this subchapter may be brought either in the county in which the irrigation district is located or in the county in which the defendant resides. All landowners are personally liable for all assessments imposed under Section 55.354(a).

Acts 1971, 62nd Leg., p. 457, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by Acts 2013, 83rd Leg., R.S., ch. 90 (S.B. 611), Sec. 25, eff. Sept. 1, 2013.

JUSTICES OF THE PEACE

<u>Upper Valley</u>	<u>Fox Plaza</u>	<u>Ysleta</u>
Precinct #1	Precinct #3	Precinct #5
Robert Pearson 424 Executive Ste 100 El Paso, TX 79902 534-3917	Guadalupe "Lupe" Aponte 500 E San Antonio Ste 308 El Paso, TX 79901 546-2170	John Chatman 9521 Socorro Rd, Ste B2 El Paso, TX 79927 859-3744

<u>Clint-Fabens</u>	<u>Clint-Fabens</u>	<u>Canutillo</u>
Precinct #6 -1	Precinct #6 -2	Precinct #7
Ruben Lujan 190 N San Elizario Rd (PO Box 597) Clint, TX 79836 851-2019	Enedina "Nina" Serna 14608 Greg Dr El Paso, TX 79938 855-3062	Kelly Dickson 350 Vinton Rd Anthony, TX 79821 886-2597 or 886-2598

Your Justice of the Peace can help you pertaining to Section:

Sec. 11.048 COST OF MAINTAINING AN IRRIGATION DITCH of the water laws. You must follow the information as provided for in paragraph (b):

(b) If a person who owns a joint interest in a ditch refuses to do or to pay for his proportionate share of the work that is reasonably necessary for the proper maintenance and operation of the ditch, the other owners may, after giving him 10 days written notice, proceed themselves to do his share of the necessary work and recover from him the reasonable expense or value of the work or labor performed. The action for the cost of the work may be brought in any court having jurisdiction over the amount in controversy.

JUSTICE OF THE PEACE MAP PRECINCT'S # 1-7

