

# **Questions and Answers for Local Governments**

## **Authority and Jurisdiction**

### **Who is required to implement a landscape irrigation program?**

30 Texas Administrative Code (TAC) 344.24(c) requires municipalities with a population of 20,000 or more to adopt a landscape irrigation ordinance with requirements at least as stringent as the [Texas Commission on Environmental Quality \(TCEQ\) rules](#). Water districts may implement landscape irrigation programs with rules at least as stringent as the TCEQ's rules.

### **How can I determine my municipality's population?**

30 TAC 344 is silent on the source of data to use for determining population. Census data is an acceptable method to determine population.

### **Do the Landscape Irrigation rules apply to residential and commercial irrigation systems?**

Yes, the rules apply to residential and commercial irrigation systems.

### **Where can I find a model ordinance to adopt TCEQ rules?**

The Texas Municipal League has developed a model ordinance for landscape irrigation programs.

[Texas Municipal League Model](#)

### **Who has jurisdiction to enforce landscape irrigation rules or ordinances?**

Situation	Authority
An irrigation system is installed in the city limits of a municipality.	Municipality
An irrigation system is installed in the extraterritorial jurisdiction of a city.	Municipality
An irrigation system is installed in a water district with landscape irrigation rules.	Water District
An irrigation system is installed in an area that does not have landscape irrigation rules or ordinances. (TCEQ does not require a permit) TCEQ may also enforce local rules and ordinances.	TCEQ

An irrigation system is installed in a water district that is located in the extraterritorial jurisdiction of a municipality with a landscape irrigation ordinance.	Municipality
An irrigation system is installed in a water district that has landscape irrigation rules that are more stringent than the adjacent municipality. The water district is in the extraterritorial jurisdiction of the municipality.	Municipality
An individual performing duties and responsibilities of an irrigator, as defined by TCEQ rules, without holding a valid license (House Bill 2507, 82nd legislative session)	Local Justice of the Peace Court

**I need help with my landscape irrigation program. Can I contact someone at TCEQ?**

Yes, the TCEQ Landscape Irrigation Program can provide assistance. Technical questions about the program can be addressed to [install@tceq.state.tx.us](mailto:install@tceq.state.tx.us). Please include the words "Landscape Irrigation" in the subject line. You may also contact 512/239-LAWN (5296).

**What can I do about unlicensed persons performing irrigation services?**

HB2507 relates to the installing of a landscape irrigation system without a license. Offenses can be addressed as Class C misdemeanors. This provides another tool for municipalities and water districts to use in enforcement of unlicensed irrigators performing irrigation installations. The bill also allows individuals to file against an unlicensed irrigator in Justice of the Peace courts. It was effective September 1, 2011.

This means a complaint against an unlicensed irrigator can now be filed in Municipal and Justice of the Peace courts citing a violation of Texas Occupation Code, Sec. 1903.256. This provides an effective tool to use in enforcement of unlicensed irrigators performing irrigation installations.

Filings in Justice of the Peace and Municipal Courts should be completed in accordance with Texas Code of Criminal Procedures, Article 45.019, Requisites of Complaint.

**Can the costs for a landscape irrigation program be recouped?**

Yes, municipalities and water districts may charge a fee for obtaining or renewing a permit for the installation of an irrigation system. House Bill 1656(81<sup>st</sup> legislative session) which resulted in the updates to 30 TAC 344, stated that the fee should be sufficient to recover the cost of administering the irrigation program.

**I am administering the irrigation program for a municipality with a water district that has an irrigation program in our**

## **extraterritorial jurisdiction. Can I enforce the city's irrigation program requirements in their area?**

Yes, cities have the authority to enforce their irrigation program in their extraterritorial jurisdiction. You could consider entering into an inter-local agreement to have the water district administer the requirements of your landscape irrigation program.

## **I am an operator for a water district and have adopted TCEQ's landscape irrigation rules; do I need to have an irrigation inspector on staff?**

No, water districts may hire or contract with an irrigation inspector, plumbing inspector, the district's operator or another governmental entity to administer their landscape irrigation program.

## **Are all irrigation systems required to comply with these rules?**

30 TAC 344 exempts some irrigation systems from the requirements. The exemptions are:

- An on-site sewage disposal system;
- An irrigation system used on or by an agricultural operation; or
- An irrigation system connected to a groundwater well used by the property owner for domestic use.

## **Licensing Requirements**

### **House Bill 1656 refers to an "installer of an irrigation system" and the Texas Commission on Environmental Quality's (TCEQ) rules refers to an irrigator and an irrigation technician. Who can install an irrigation system?**

A Texas Commission on Environmental Quality licensed irrigator can install an irrigation system. The Texas Occupations Code, §1903.002 exempts several types of irrigation system installers from the licensing requirements. The exempt categories are:

- A **plumber** licensed by the Texas State Board of Plumbing Examiners; or
- A licensed **engineer**, registered **architect**, or registered **landscape architect** if the work is incidental to the pursuit of the person's profession.

Also exempted from the licensing requirements:

- Irrigation or yard sprinkler work performed by a **property owner** on premises owned or occupied by the person as the person's home;
- Irrigation repair work, excluding extension or replacement of an irrigation system, that is performed by a **maintenance person** that does not act as an irrigator or engage in construction or maintenance of irrigation systems for the general public; and is incidental to and on the premises owned by the business in

which the person is regularly employed or engaged (For example, a maintenance person employed by a corporation to perform general "handyman" work can replace a broken sprinkler head. The maintenance person cannot add a new zone to an irrigation system.);

- Irrigation work performed by an employee of a **railroad** on the premises of the railroad;
- Irrigation work performed on **public property** by a person regularly employed by a political subdivision of the state;
- Irrigation work performed by an agriculturist, agronomist, horticulturist, forester, gardener, contract gardener, garden or lawn caretaker, nurseryman, grader or cultivator of land on land owned by that person;
- Irrigation work performed by a member of a **property owner's association** on property owned by the association or in common by the association's members if the property is: less than one-half acre in size and used for aesthetic or recreational purposes;
- Irrigation work is performed using a garden hose, hose sprinkler, hose-end product, or agricultural irrigation system;
- Activities involving a **commercial agricultural** irrigation system;
- A person who assists in the installation, maintenance, alteration, repair, or service of an irrigation system under the **direct supervision** of a licensed irrigator; and
- An **owner of a business** that employs a licensed irrigator.

### **When is a licensed irrigation technician needed?**

Beginning January 1, 2009, a licensed irrigation technician can connect an irrigation system to a water supply. Beginning January 1, 2009, a licensed irrigation technician or a licensed irrigator can perform the walk through with the irrigation system owner to explain how the irrigation system works and sign the maintenance checklist. Beginning January 1, 2010, either a licensed irrigation technician or a licensed irrigator must be on-site when an irrigation system is installed, maintained, altered, repaired or serviced. Of course, a home or property owner and other exempt people can perform these services.

### **Based on the legislation effective January 1, 2009, can an irrigation inspector inspect the "tie-in" to the private water line that serves the irrigation system or does a licensed plumbing inspector have to inspect that particular item?**

Beginning January 1, 2009, a TCEQ licensed irrigation inspector can inspect the "tie-in" between the backflow prevention device and the water meter as part of the irrigation system.

### **Can a plumbing inspector inspect landscape irrigation systems?**

Yes, a plumbing inspector can inspect a landscape irrigation system.



TCEQ's rules mention an irrigator, inspector, irrigation inspector and irrigation technician, can you describe their roles and qualifications?

### License Requirements

<b>Irrigator</b>	Sells, designs, consults, installs, maintains, alters, repairs, services an irrigation system or supervises the installation, maintenance, alteration, repairs or services an irrigation system	Licensed by TCEQ. License are valid for 3 years, license renewed between April and December 2009 are valid for one year and will expire in 2010.
<b>Inspector</b>	A licensed plumbing inspector, an irrigation inspector (see the next item), and in addition, a water district may use the district's operator or another governmental entity.	
<b>Irrigation Inspector</b>	A licensed person that inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor.	Licensed by TCEQ. Licenses are valid for 3 years.
<b>Irrigation Technician</b>	A licensed person that works for a licensed irrigator. A licensed irrigation technician may supervise or install, maintain, alter, repair or service an irrigation system. A licensed irrigation technician may connect an irrigation system to a private or public, raw or potable water supply system.	Licensed by TCEQ. Licenses are valid for 3 years.

Where can I find more information to determine if a person is licensed and when the license expires?

[TCEQ's Licensing Database](#)

[Texas State Board of Plumbing Examiners Database](#)

License searches on the TCEQ's Licensing Database can be conducted by name (you will need the initial of the first name) or by license number (all irrigator license numbers are nine characters and begin with **LI**). If you do not have a nine character number, use "0" after LI to fill-in. You may also conduct a group search to get a list of irrigators by municipality or county. TCEQ licenses individuals, not companies.

### **Advertisements**

**There are advertisements in my local newspaper for landscape irrigation services. Some of the advertisements do not include a licensed irrigator number. What should I do?**

Licensed landscape irrigators must display their license number in advertisements and on vehicles that are used to perform irrigation system installation, maintenance, alteration, repair, or service. If there are no jurisdiction issues, local governments may take action to ensure future advertisements include the license numbers.

### **Irrigation Plan Review**

**I've heard that municipalities must review landscape irrigation plans before issuing a permit, is this true?**

TCEQ's rules are generally silent on how each area implements a landscape irrigation program. The rules do require that municipalities with a population of 20,000 or more and water districts that choose to implement an irrigation system program:

- or that designs and installs the irrigation system is licensed;
- Issue a permit prior to installation of the irrigation system;
- Verify that the design and installation meet the requirements of the TCEQ's landscape irrigation rules (or local requirements if more stringent); and
- Maintain a log of irrigation systems inspected for a period of three years.

Some municipalities may review the plan prior to the initiation of construction and some may conduct on-site reviews to determine compliance with the applicable requirements.



**When can a final irrigation plan deviate from the actual installation of the irrigation system?**

The final irrigation plan must show the actual installation of the irrigation system. The original plan must be marked in red to show the changes that were made. An irrigator may also provide a "new irrigation plan" that is marked "final irrigation plan" to indicate that all changes have been incorporated.

### **Homeowner Installed Irrigation Systems**

## **What are the requirements for homeowners that install an irrigation system?**

A homeowner is not required to be licensed in order to install a landscape irrigation system if the person is performing irrigation work at that person's home. A homeowner must meet all of the local requirements such as backflow devices or freeze sensors as part of the installation of their irrigation system. The TCEQ Landscaping Irrigation rules require a homeowner to install an irrigation system that meets the standards for spacing, water pressure, must not spray water over impervious materials, install a rain or moisture shut-off device (or other technology) and install an isolation valve. The Public Drinking Water rules also require an appropriate backflow prevention device. A homeowner is not required to prepare a plan for the irrigation system.

### ***Installation Requirements***

## **Why does TCEQ require irrigation system trenches to be left open for inspections?**

The TCEQ rules do not require irrigation system trenches to be left open for inspections.

## **What are the insurance requirements to be a licensed irrigator, irrigation technician, or irrigation inspector?**

TCEQ does not have any insurance or bonding requirements to be licensed to perform irrigation work in Texas.

## **Are all irrigation systems required to comply with these rules?**

No, 30 TAC 344 exempts some irrigation systems from the requirements. The exemptions are:

- An on-site sewage disposal system;
- An irrigation system used on or by an agricultural operation; or
- An irrigation system connected to a groundwater well used by the property owner for domestic use.

### ***Irrigation Systems Owned by Governmental Entities***

## **My city has several parks that have irrigation systems. Will I need to employ a licensed irrigator and licensed irrigation technician to oversee any irrigation work?**

No, The Texas Occupations Code, Chapter 1903.002(c)(4) exempts irrigation work performed on public property by a person who is regularly employed by a political subdivision of the state. Although you are not required to employ a licensed irrigator or a licensed irrigation technician, the irrigation systems must comply with the rule requirements.

**My city passed a large bond issue and new irrigation systems will be installed next year. The cost estimates were based on a design for an irrigation system that does not comply with the rule requirements because there will be water sprayed across walkways in a park. Can this system be grandfathered in because it was designed before the rule was adopted?**

There are no provisions to grandfather irrigation systems designed prior to the rule adoption. However, there is a provision that allows narrow paved walkways, jogging paths, golf cart paths or other small areas located in parks, cemeteries, golf courses or other public areas to be exempted from the requirement to not spray water over paved areas *if* the runoff drains into a landscape area. (See §344.62(b)(3) for addition information.)

### **Backflow Prevention Devices**

**TCEQ's Landscape Irrigation rules are incorrect. The International Plumbing Code requires all Backflow Prevention Assembly Devices to be tested annually. Which requirements should be followed?**

The 2006 version of both the International Plumbing Code and the Uniform Plumbing Code require annual testing of **all** backflow prevention devices. This is more stringent than the Chapter 290 Public Drinking Water requirements. The Landscape Irrigation rules are consistent with the Chapter 290 rules for Public Drinking Water.

If a local government has adopted the 2006 version of the International Plumbing Code or the Uniform Plumbing code, the requirement to test all Backflow Prevention Assembly Devices annually would apply.

The Chapter 290 rules identify irrigation systems with a chemical additive as a health hazard. Irrigation systems without chemical additives are not required to be tested annually by TCEQ rules. Please see <http://info.sos.state.tx.us/fids/200805209-1.html> for additional information.

**The use of fertilizer on turf with an irrigation system constitutes a health hazard and should trigger the annual testing of the backflow prevention device, correct?**

TCEQ's Chapter 290 regulations only classify irrigation systems *with chemical additives* as a health hazard. No mention is made of the fertilizers applied to the area that is irrigated. The rule has been interpreted to mean that as long as chemicals are not added to the irrigation system, no health hazard is present, and that the only test required is when the backflow prevention device is installed.

**I am installing an irrigation system using drip tubing that has been treated with a chemical to inhibit root growth. The manufacturer states that the chemical is being released in a small amount that is safe. What type of backflow prevention device is needed?**

The drip tubing has a chemical additive and is considered a health hazard. Either a reduced pressure principle backflow prevention device or air gap should be used.

