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**Effective:[See Text Amendments]**Vernon's Texas Statutes and Codes Annotated [Currentness](#)Health and Safety Code ([Refs & Annos](#))Title 5. Sanitation and Environmental Quality ([Refs & Annos](#))Subtitle B. Solid Waste, Toxic Chemicals, Sewage, Litter, and Water ([Refs & Annos](#))↗ [Chapter 364](#). County Solid Waste ([Refs & Annos](#))↗ [Subchapter B](#). County Solid Waste Management**→→ § 364.012. Prohibiting Solid Waste Disposal in County**

(a) The county may prohibit the disposal of municipal or industrial solid waste in the county if the disposal of the municipal or industrial solid waste is a threat to the public health, safety, and welfare.

(b) To prohibit the disposal of municipal or industrial solid waste in a county, the commissioners court must adopt an ordinance in the general form prescribed for municipal ordinances specifically designating the area of the county in which municipal or industrial solid waste disposal is not prohibited.

(c) An ordinance required by Subsection (b) may be passed on first reading, but the proposed ordinance must be published in a newspaper of general circulation in the county for two consecutive weeks before the commissioners court considers the proposed ordinance. The publication must contain:

(1) a statement of the time, place, and date that the commissioners court will consider the proposed ordinance; and

(2) notice that an interested citizen of the county may testify at the hearing.

(d) A public hearing must be held on a proposed ordinance before it is considered by the commissioners court, and any interested citizen of the county shall be allowed to testify.

(e) The commissioners court of a county may not prohibit the processing or disposal of municipal or industrial solid waste in an area of that county for which:

(1) an application for a permit or other authorization under Chapter 361 has been filed with and is pending before the commission; or

(2) a permit or other authorization under Chapter 361 has been issued by the commission.

(f) The commission may not grant an application for a permit to process or dispose of municipal or industrial solid waste in an area in which the processing or disposal of municipal or industrial solid waste is prohibited by an ordinance, unless the county violated Subsection (e) in passing the ordinance. The commission by rule may specify the procedures for determining whether an application is for the processing or disposal of municipal or industrial solid waste in an area for which that processing or disposal is prohibited by an ordinance.

(g) The powers specified by this section may not be exercised by a county with respect to areas to which [Section 361.090](#) applies.

#### CREDIT(S)

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, § 1.035, eff. Aug. 12, 1991; Acts 1999, 76th Leg., ch. 570, § 5, eff. Sept. 1, 1999.

#### REVISOR'S NOTE

2010 Main Volume

The revised law substitutes “Texas Department of Health” for “State Department of Health” for the reason stated in Revisor's Note (4) under [Section 364.011](#).

#### HISTORICAL AND STATUTORY NOTES

2010 Main Volume

Section 6 of Acts 1999, 76th Leg., ch. 570 provides:

“(a) This Act takes effect September 1, 1999.

“(b) The changes in law made by this Act to [Sections 361.152](#), [363.112](#), and 364.012, Health and Safety Code, do not apply to an application filed:

“(1) before September 1, 1998, if the county commissioners court has, on or before September 1, 1999, enacted an ordinance or adopted an order under [Section 363.112](#) or 364.012, Health and Safety Code; or

“(2) on or after September 1, 1998, but before September 1, 1999, if the county commissioners court has, on or before September 1, 1999, provided notice in accordance with Chapter 551, Government Code, of its intent to enact an ordinance or adopt an order under [Section 363.112](#) or 364.012, Health and Safety Code, and the ordinance or order is effective on or before January 1, 2000.”

Prior Laws:

Acts 1971, 62nd Leg., p. 1757, ch. 516.

[Vernon's Ann.Civ.St. art. 4477-8, § 18\(a\) to \(d\).](#)

RESEARCH REFERENCES

2014 Electronic Pocket Part Update

Encyclopedias

[TX Jur. 3d Conservation and Pollution Laws § 141](#), Regulations.

Treatises and Practice Aids

[Civins, Hall & Sabs, 45 Tex. Prac. Series § 1:6](#), State, Local, and Municipal Laws.

[Civins, Hall & Sabs, 45 Tex. Prac. Series § 10:5](#), Municipal Solid Waste.

V. T. C. A., Health & Safety Code § 364.012, TX HEALTH & S § 364.012

Current through the end of the 2013 Third Called Session of the 83rd Legislature

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