North Central Texas Council of Governments

Integrating Transportation and Stormwater Infrastructure

Statutes Supporting Local and State Flood Mitigation Policies

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Statutes Supporting Local and State Flood Mitigation Policies Memo

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1 Methodology

This analysis evaluates local flood mitigation policies in relation to Texas state statutes and the functional effectiveness of those policies. This provides both a legal alignment perspective and a performance-based evaluation of local policies. The goal is to improve understanding of how local policies operate, how they are supported by state statutes, and how they can be strengthened.

The first part of the analysis examines the compatibility between local policies and state statutes. The purpose is to identify local policy approaches that are strongly supported by existing state authority, and determine which state statutes are most broadly useful for enabling flood policies at the local level. This helps guide local governments toward policies that are both scalable and legally sound, while also highlighting opportunities where state law can reinforce and expand local efforts.

The categories used for this analysis were developed by organizing-nationally recognized flood mitigation best practices into a consistent framework and then aligning those policies with corresponding flood mitigation policies within local development codes across the Dallas-Fort Worth region. These policies were grouped into the following categories:

- Stormwater management/low impact design (LID)
- Impervious cover and parking reform
- Conservation development
- Open space and growth management
- Sensitive resource protection

These categories reflect planning and regulatory approaches, rather than individual ordinances. They serve as a common basis for comparison across jurisdictions, allowing the analysis to identify patterns and draw conclusions at a systems level while still recognizing variation in local implementation.

The analysis identifies state statutes that provide varying levels of support for the flood mitigation polices reviewed. Each local policy is assessed based on the number of applicable state statutes and the degree of alignment with each statute:

1. Good alignment = 2 (explicit or strong enabling support)
2. Neutral alignment = 1 (general or indirect support)
3. Poor or no alignment = 0 (limited, unclear, or no support)

This scoring approach produced two complimentary summary tables:

- Table 2-1 shows how broadly each state statute applies across local policies
- Table 2-2 shows how strongly each local policy aligns with state statute

Table 2-1 demonstrates policies applicability, defined as the number and percentage of identified local flood mitigation policies that can be implemented by each state statute. The 21 policies referenced in Table 2-1 represent the total number of local flood mitigation policies identified during the review of regional development codes. Applicability percentages reflect the proportion of these 21 policies that could be reasonably supported by each state statute. Higher percentages indicate state laws that provide broader flexibility across multiple mitigation approaches while lower percentages reflect more targeted policies. This policy highlights the relative scope of each state statute in enabling local flood mitigation.

The “rated state support” values in Table 2-2 represent the total alignment score of each policy based on its consistency with the 11 relevant state statutes identified through the review. Each local policy is scored on a 0-2 scale, for a maximum score of 22 per policy. The corresponding percent state support reflects the share of this maximum score achieved by each policy.

Together, these tables provide a comparative view of state-local policy alignment related to flood mitigation. By analyzing results from both perspectives, this analysis highlights how local policies can be well-supported by state law and how broad state statutes enable multiple flood mitigation policies to find gaps where alignment or authority is limited. The results of this analysis are intended to support municipalities and other stakeholders in identifying policies that are legally supported, scalable, and context-appropriate.

2 Results

Summary of State Policy and Applicability Percentage to Local Flood Mitigation

Table 2-1. Applicability percentages reflect how many of the identified flood mitigation policies can be implemented using each state statute.

Policy	Description	# Flood mitigation Policies Applicability	% Flood Mitigation Policies Applicability
Local Government Code 580.003 - Irrigation Restrictions	Promotes xeriscaping and native vegetation.	35/42	83.3%
Water Code 26.177 - Municipal Stormwater Programs	Gives localities authority of stormwater management programs, requiring innovative technologies and stormwater best management practices in site plans	35/42	83.3%
Natural Resources Code Chapter 183 - Conservation Easements	Allows conservation easements for natural, scenic, open-space, floodplain, forested, or riparian lands	32/42	76.2%
Local Government Code 212.0155 - Parkland Dedication	Supports local preservation of greenbelts and watershed buffers by dedicating land or fee in lieu of dedication	32/42	76.2%
Local Government Code 212 - Subdivision Development	Gives localities authority for requiring permeable pavement, drainage easements, innovative technology in development	32/42	76.2%
Local Government Code 214.001 - Building Codes	Gives localities authority to require building codes to include standards drainage, grading, elevation and flood-resistant construction	31/42	73.8%
Water 16, Subchapter I - Floodplain Management	Gives localities authority to enforce drainage and sanitation standards, (erosion control, stormwater drainage, LID)	27/42	64.3%
Texas Tax Code 151.355 - Water Related Sales Tax Exemption	Provides a sales tax incentive for rainwater harvesting, brush control equipment, regional/private-public water systems	16/42	38.1%
Local Government Code 552.014 - Municipal Drainage Utilities	Supports funding and implementation of innovative stormwater infrastructure (detention ponds, bioswales, green streets)	15/42	35.7%

Water Code 26.121 - Unauthorized Discharges	Prohibits unauthorized discharge of pollutants or stormwater into water bodies	15/42	35.7%
Texas Property Code 202.007 – HOA Restrictions Prohibited	HOAs cannot restrict an individual from having a rain harvesting system, efficient irrigation systems, drought resistant landscaping.	9/42	21.4%

Summary of Flood Mitigation Policies with Percentage of Support State Policy

Table 2-2. The "*rated state support*" values shown in Table 2-2 represent the total alignment score of each policy based on its consistency with the 11 relevant state statutes identified through the review.

Category	Type	Sample Code	Rated State Support	Percent State Support
Stormwater Management / LID	*Stormwater Management and Green Stormwater Infrastructure (GSI) Standards*	Cedar Hill, TX: Stormwater Management Ordinance	13/22	59%
		Frisco, TX: Multifamily Development Regulations	13/22	59%
	Parking Lot Bioretention, GSI, Native Landscaping, Streetscape GSI, and Rainwater Harvesting	Richardson, TX: Rain Harvesting Regulation	4/22	18%
		Texas Trees Foundation: Southwestern Medical District Streetscape Plan	16/22	73%
	Reduced Parking Requirement	Lewisville, TX: Flexible Parking Requirements	9/22	41%
Impervious Cover	*Parking and Impervious Cover Reductions; Permeable Alleys and Low-Traffic Accessways*	Farmers Branch, TX: Sustainable Parking Lot Design	12/22	55%
	Right-of-Way and Parking Reform	Southlake, TX: Permeable Pavement to Offset Impervious Coverage	9/22	41%
Conservation Development	*Conservation Zone*	Flower Mound, TX: SMART Growth Conservation Zone Standards	20/22	91%
		Southlake, TX: Rural Conservation Subdivision Zoning	12/22	55%
	Yield Plan Options, Density Flexibility, and Cluster Subdivision Design	Denton, TX: Cluster Subdivision Yield Plan Options	13/22	59%
		Flower Mound, TX: Cluster Subdivision and Open Space Planning Standards	17/22	77%
Open Space/ Growth Management	*Landscape Standards for Stormwater and Heat Mitigation*	Cedar Hill, TX: Landscape Standards	16/22	73%
	Green Space and Open Space Requirements	Fort Worth, TX: Green Space Requirements	13/22	59%

Category	Type	Sample Code	Rated State Support	Percent State Support
Sensitive Resource Protection	*Preservation of Natural Features*	Fort Worth, TX: Grading Permit	14/22	64%
		Ponder, TX: Preservation of Natural Features	11/22	50%
	Open Space Protection, Incentives, and Funding Mechanisms	Flower Mound, TX: Conservation Development Standards	16/22	73%
	Open Space Protection, Incentives, and Funding Mechanisms	Frisco, TX: Voluntary Buffer Area Zoning Provision	16/22	73%
	Critical Area Overlay	Dallas, TX: Neighborhood Forest Overlay	11/22	50%
	Conservation Buffers, Riparian Setbacks, and Sensitive Area Protection	Denton, TX: Environmentally Sensitive Areas Development Standards	16/22	73%
		Garland, TX: Existing Drainageways	13/22	59%
	Subdivision Natural Features	Ponder, TX: Preservation of Natural Features	15/22	68%

3 Discussion

The analysis identified 11 state statutes that provide varying levels of support for local policies. Table 2-1 demonstrates that broad enabling statutes related to municipal stormwater management, irrigation restrictions, conservation easements, subdivision regulation, and parkland dedication provide the greatest applicability across the identified flood mitigation policies. These authorities apply across a wide range of policy types because they establish flexible tools that local governments can use through development review, infrastructure planning, and land conservation programs.

A notable finding is that many of the most broadly applicable statutes are contained within the Local Government Code. Planners and development review staff routinely rely on these authorities when updating local regulations. Policies that are supported by these statutes may be easier to implement and administer than policies that depend on more specialized state programs.

3.1 Stormwater Management / Low Impact Development (LID)

These policies show moderate to strong support under state law. The strongest alignment occurs where green stormwater infrastructure (GSI) and stormwater practices are integrated into broader stormwater management programs, subdivision standards, and building requirements. Support declines for single-purpose policies such as rainwater harvesting, which rely on a smaller set of statutes. This pattern suggests state law supports broader stormwater management authority than individual technologies.

3.2 Impervious Cover and Parking Reform

These policies have the lowest levels of direct statutory support than other categories. Unlike stormwater management or subdivision regulation, there are few state statutes that specifically address parking reductions, impervious cover limits, and other parking design standards. These policies are generally implemented through local zoning authority than state enabling legislation.

3.3 Conservation Development and Open Space/ Growth Management

These policies consistently scored among the strongest overall alignment because they are supported by multiple overlapping authorities, including conservation easements, subdivision regulation, building standards, and parkland dedication. The results suggest that Texas statutes provide local governments with several tools that complement each other. Rather than relying on a single statute, these policies benefit from a reinforcing legal framework that spans multiple sections of state law.

3.4 Sensitive Resource Protection

Resource protection policies generally received a moderate to strong level of support. Unlike conservation development and open space policies, much of this authority comes from environmental, water resource, and floodplain management statutes. As a result, protections for drainageways, riparian corridors, and flood prone lands are often supported by combination of local land-use regulation and external state requirements.

4 Conclusion

This analysis evaluated the extent Texas statutes support flood mitigation policies used in local development codes across the Dallas-Fort Worth region. The review found that the strongest state support comes from broad enabling authorities that can be applied from many policy types rather than from statutes focused on individual practices.

The analysis also highlights the importance of the Local Government Code in advancing local flood mitigation efforts. Several of the highest scoring statutes are authorities that planners and development review staff routinely use when updating ordinances, subdivision regulations, and development standards. This connection can explain why many conservation, stormwater management, and opens space policies demonstrate relatively strong alignment with state law.

Overall, the findings suggest that Texas law provides strong legal foundation for many flood mitigation policies being implemented through local governments. While statutory support varies among policy types, the results identify the authorities that are most useful for local implementation and highlights areas where additional legislative direction could further support flood mitigation efforts.