



# COUNTY POWERS AND DUTIES

As Modified by the 79<sup>th</sup> Texas Legislature

2005



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT



**ATTORNEY GENERAL OF TEXAS**  
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Dear County Judges:

Enclosed is a list of the counties' powers and duties as they relate to the following subjects:

- regulating land use;
- regulating structures;
- platting and subdividing land; and
- providing and regulating water, sewer and other utility services to residential property.

This list is compiled after every Legislative Regular Session pursuant to Local Government Code Section 240.903. Additions and amendments from the 79th Legislative Session are indicated by legislative bill and effective date in bold below the citation in the left-hand column. Italics indicate amended provisions of the statutes.

The next handbook will be distributed after the 80th Legislative Session. Until that time, if you need further information or if my office can be of assistance on any other matter, please contact the County Affairs Section.

Sincerely,

Greg Abbott  
Attorney General of Texas

## 2005 County Powers & Duties

### County Powers and Duties

Regulation of land use and structures; platting and subdividing of land; regulation of water, sewer and other utility services to residential property.

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### Buildings and other Structures

#### *Family Code* Section 153.014

A county may establish a visitation center or a visitation exchange facility for the purpose of carrying out the terms of a court order providing for the possession of or access to a child.

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#### *Government Code* (Gov C) Sections 442.0081 - .0083 AMENDED IN 2005: HB 2902 EFFECTIVE DATE: 9/1/05

Applies only to a county with a historic courthouse. Under these sections, counties may apply for and receive funds from the Texas Historical Commission to restore, preserve *or maintain* historical courthouses.

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#### Gov C § 1434.051

An eligible county may issue negotiable bonds and certificates of obligation to build or improve permanent facilities for use by an institution of higher learning in the county.

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#### *Local Government Code* (LGC) Sec. 233.002

A county may establish building or setback lines on public roads in a county.

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#### LGC Chapter 233, Subchapter C AMENDED IN 2005: SB 736 EFFECTIVE DATE: 6/17/05

A county that has a population of more than 250,000 or is adjacent to a county with a population of more than 250,000 may adopt a fire code and rules necessary to administer and enforce the fire code in the unincorporated area.

These fire codes apply to only certain buildings and *the fire code must conform to the International Fire Code or the Uniform Fire Code as the codes existed on May 1, 2005*. A person may not construct or *substantially improve* certain buildings unless a building permit is obtained. Building inspectors may enter and perform inspections at a reasonable time at any stage of the construction or *substantial improvements* and after the completion of the building. *If after the inspection of the completed building, the inspector finds the building does not comply with fire code, the county shall deny certificate of compliance and the building may not be occupied.*

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#### LGC § 263.051

A county may lease land that was acquired for an airport.

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#### LGC § 263.052

A county may lease land, housing, or facilities acquired from the federal government.

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## 2005 County Powers & Duties

LGC § 263.203	A county judge may convey to the federal government an easement or other interest in land necessary for the construction, operation, and maintenance of a flood control, river or harbor improvement, water conservation, or other civil project to be constructed by the federal government.
LGC § 292.0025	In a county with a population of less than 18,000, the commissioners court may provide an auxiliary court, office building, or jail facility at a location in the county and within five miles of the boundaries of the county seat in the same manner that is applicable to similar facilities at the county seat.
LGC § 292.030 ADDED IN 2005: HB 571 & HB 2120 EFFECTIVE DATE: 6/17/05	A commissioners court may buy, build, improve, lease, or lease/purchase branch county offices in the unincorporated areas of the county.
LGC §§ 301.001 and 301.002	The commissioners court of a county and the governing body of a municipality in that county may jointly erect, acquire, equip, maintain, and operate a recreational or cultural facility.
LGC § 302.002	A county may enter into energy savings performance contracts for energy or water conservation measures to reduce energy or water consumption or operating costs of county facilities.
LGC § 316.022	A commissioners court of a county with a population of 1.2 million or more may enter into a contract with a nonprofit organization authorizing the nonprofit to manage and operate a museum, historical site, historical building, or similar building or site and charge and collect a fee from the general public for admission. The commissioners must set the fee for admission.
LGC § 381.002	A commissioners court may appoint a historical commission to initiate and conduct programs suggested by the court and the Texas Historical Commission for preservation of the county's historical cultural resources.
LGC § 319.002 - .004	A county may establish and maintain a museum, building, or other improvement to house exhibitions.  A county may contract for the complete management of such facilities. A county may lease such buildings, improvements, or exhibits; a county may permit the use of such facilities for any public purpose determined to be of benefit to the county or its residents.
LGC § 321.001	A coastal county may establish and operate island parks.

## 2005 County Powers & Duties

LGC § 323.023	Funds collected in the county law library fund may be used to purchase, lease or maintain library materials, equipment, furniture, shelving, computers, and software. The funds may also be used to contract for access to electronic research networks for judges in the county.
LGC § 331.001	A county may operate and maintain parks.
LGC § 331.008	A county may cooperate with cities on joint park, playground, and museum projects.
LGC Chapter 334	This chapter applies to a municipality with a population of more than 1.9 million and to a county with a population of more than 3.3 million only if the municipality and county create a sports and community venue district under Local Government Code Chapter 335 and only to the extent that the use of this chapter by the district is necessary or convenient for the creation or operation of the district to the fullest extent authorized by Chapter 335.
LGC § 334.021	A county may by resolution, provide for the planning, acquisition, establishment, development, construction, or renovation of a venue project.
LGC § 334.022	A copy of the resolution must be sent to the comptroller.
LGC § 334.0235	If the resolution contains a proposed sales and use tax that would result in the reduction of the tax rate of a rapid transit authority, a copy of the resolution must be sent to the authority.
LGC § 334.024	After the comptroller and the rapid transit authority determine that the implementation of the resolution will not have a significant negative fiscal impact, the county may order an election to approve and implement the resolution.
LGC § 334.0241 ADDED IN 2005: SB 1730 EFFECTIVE DATE: 6/17/05	A county that imposes a hotel occupancy tax under Subchapter H may order an election on the question of approving the use of revenue derived from ad valorem taxes to finance a venue project.
LGC § 334.041 AMENDED IN 2005: SB 1730 EFFECTIVE DATE: 6/17/05	<p>A county may acquire, lease, convey, or otherwise dispose of property or an interest in property; contract with a public or private person; or contract with or enter into an interlocal agreement with a school district, junior or community college district, or an institution of higher education.</p> <p>A county may not use revenue derived from ad valorem taxes to construct, operate, maintain, or renovate a venue that is part of an approved venue project. <i>This provision does not apply if the use of ad valorem taxes to finance a venue project is approved at an election held under Section 334.0241.</i></p>

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LGC § 334.0415	A county is prohibited from certain methods of financing if the county is contracting with a professional sports team to relocate and the team is under another contract with a different municipality or county of the state, unless that municipality or county consents to the contract.
LGC § 334.042	A county with an approved venue project shall establish by resolution a venue project fund. All money deposited in the fund is county property.
LGC § 334.043	A county with an approved venue project may issue bonds or other obligations to pay the costs of the approved venue project.
Subchapter D Sec. 334-081 - .089	A county may impose a sales and use tax if the venue project is planned to be located in the county and the tax is approved at an election.
Subchapter E Sec. 334.101 - .115	A county may impose a tax on the rental in the county of a motor vehicle if the venue project is planned to be located in the county and the tax is approved at an election.
Subchapter F Sec. 334.151 - .157	A county may impose a tax on each ticket sold as admission to an event held at an approved venue project if the project is planned to be located in the county and the tax is approved at an election.
Subchapter G Sec. 334.201 - .207	A county may impose a tax on each motor vehicle parking in a parking facility of an approved venue project, if the tax is approved at an election.
Subchapter H Sec. 334.251 - .258	A county may impose a tax on a person who pays to use or possess a hotel room, if the project is planned to be located in the county and the tax is approved at an election.
Subchapter I Sec. 334.301 - .308	A county may impose a facility use tax on each member of a major league team that plays a professional sports game in an approved venue project if the project is planned to be located in the county and the tax is approved at an election.
<b>Health and Safety Code</b> (H&S) Sec. 281.050	The commissioners court must approve the sale or lease of a hospital facility.
H&S § 281.051	The commissioners court must approve a contract entered into by a hospital district board with other governmental entities.
<b>Drinking Water</b>	
<b>Health and Safety Code</b> Sec. 341.011	The definition of a “public health nuisance” includes a collection of water that is a breeding area for mosquitoes carrying West Nile virus.

## 2005 County Powers & Duties

H&S § 341.048

A county may seek injunctive relief and damages for violations of public drinking water standards.

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**Local Government Code**  
Chapter 240, Subchapter C  
ADDED IN 2005: SB 343  
EFFECTIVE DATE: 9/1/05

The commissioners court of a county with a population of more than 1.4 million may regulate the placement of water wells in unincorporated areas of the county.

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LGC § 302.002

A county may enter into energy savings performance contracts to reduce energy or water consumption or operating costs of county facilities.

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## Hazardous Materials

**Local Government Code**  
Chapter 353  
ADDED IN 2005:  
HB 580 & HB 2120  
EFFECTIVE DATE: 9/1/05

A county may provide hazardous materials services, including control and containment measures necessary to protect human health and the environment, in the event of an incident involving hazardous material that has been leaked, spilled, released, or abandoned on any property.

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## Nuisances

**Health & Safety Code**  
Sec. 341.012

A county health authority may order a person to abate a public nuisance. If the public nuisance is not abated within the time specified in the order, the local prosecutor shall bring court proceedings or may ask the Attorney General to institute the proceedings or to assist him or her in the proceedings.

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H&S § 341.092

A county may bring civil suit (for injunctive relief and civil penalty) for a violation of Chapter 341 or a rule adopted under Chapter 341.

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H&S § 343.013  
AMENDED IN 2005: HB 1287  
EFFECTIVE DATE: 9/1/05

A county may bring suit to prohibit or control access to property in order to prevent continued violations of its public nuisance abatement orders for H&S § 343.011(c)(1), (8), or (9).

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H&S § 343.022(b) & (c)  
AMENDED IN 2005: HB 1287  
EFFECTIVE DATE: 9/1/05

A county's nuisance abatement procedures, under Chapter 343, must include a provision stating that, under certain conditions, failure to abate a public nuisance may result in abatement by the county, assessment of costs, and the imposition of a lien against the property on which the nuisance exists. *If the public nuisance is under H&S 343.011 (c),(1), (8), or (9), then the county may also prohibit or control access to the premises to prevent a continued or future nuisance.*

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H&S § 343.023(a), (c), & (d)

A county may assess the cost of abating the nuisance, the cost of legal notification by publication, and an administrative fee of not more than \$100 on the person receiving notice under Sec. 343.022. To obtain a lien against the property, the commissioners court must file a notice containing a statement of costs, a legal description of the property, and the name of the property owner, if known.

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### On-Site Sewage (Septic Tanks)

*Health and Safety Code*  
Sec. 366.005

Electric utilities are required to compile a weekly list of new electric service connections and forward the list to the county judge, a county officer or designated county employee. That person must then forward the list to each authorized agent (which, under Sec. 366.031, may be a county or other local governmental entity) with jurisdiction over an address contained in the list. The authorized agent may use the list to implement and enforce rules relating to on-site sewage disposal systems. Finally, the county judge must forward the list to each appraisal district and each emergency communication district in the county.

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H&S § 366.011

Authorized agents have general authority over the location, design, construction, installation, and proper functioning of on-site sewage disposal systems and must administer Chapter 366 and the rules adopted under Chapter 366.

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H&S § 366.013

This section allows, under specified conditions, installation of water softeners that discharge effluents into on-site sewage disposal systems.

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H&S § 366.014

An authorized agent may designate a person holding a license from the Texas Commission on Environmental Quality [TCEQ] (formerly Texas Natural Resource Conservation Commission) to review permit applications, site evaluations, or planning materials or to adjust on-site sewage disposal systems.

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H&S § 366.016

A state-designated agent may issue an emergency order concerning an on-site sewage disposal system.

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H&S § 366.017

An authorized agent may require a property owner to repair a malfunctioning on-site sewage disposal system and may assess an administrative or civil penalty if the system is not repaired.

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H&S § 366.031

To be designated an authorized agent, a local governmental entity must first notify the TCEQ that the entity wants to regulate the on-site sewage disposal systems in its jurisdiction. It must then hold a public hearing, adopt an order or resolution, and submit the order or resolution to the commission.

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## 2005 County Powers & Duties

H&S § 366.035	A local governmental entity that applies to the Texas Water Development Board for financial assistance under a program for economically distressed areas must take all actions necessary to receive and maintain a designation as an authorized agent.
H&S § 366.036	If a local governmental entity that has been designated as an authorized agent intends to apply to the Texas Water Development Board for financial assistance under a program for economically distressed areas, the commissioners court must prepare a map of the county area outside the limits of municipalities, showing where different types of on-site sewage facilities may and may not be appropriately located.
H&S § 366.051	Authorized agents issue the permits required to construct, alter, repair, extend, or operate on-site sewage disposal systems.
H&S § 366.0515 ADDED IN 2005: HB 2510 EFFECTIVE DATE: 9/1/05	<p>An authorized agent by order or resolution may condition the approval of a permit on the system's owner's contracting for maintenance of the system.</p> <p>An authorized agent may periodically inspect an on-site sewage disposal system using an aerobic treatment for a single family residence, if the system is maintained directly by the owner of the system.</p> <p>Under certain conditions, an authorized agent may condition the permit or approval of a permit on the owner's contracting with a maintenance company for the maintenance of the system and may place certain requirements that the maintenance company must perform.</p>
H&S § 366.055	An authorized agent must review the proposal and inspect the disposal system to ensure compliance.
H&S § 366.056	An authorized agent may approve or disapprove an on-site sewage disposal system based on the inspection.

## Parks and Wildlife

<i>Local Government Code</i> Sec. 240.001	A county may identify non-domestic animals that are dangerous and in need of control.
LGC § 240.002	A county may regulate or prohibit the keeping of a wild animal at a residence.
<i>Parks &amp; Wildlife Code</i> (P&W) Sec. 13.304	A county may construct and maintain public recreational facilities and may enter into agreements with local, state, and federal agencies to do so.

## 2005 County Powers & Duties

P&W § 31.092 A county may issue water safety regulations for public water that is within the county but outside city authority.

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P&W § 83.005 Counties may participate in the study of, preparation for, and creation of a habitat conservation plan.

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### Platting & Subdivision Regulations

**Local Government Code**  
Sec. 212.046 A county may not issue a permit for the development of lots subject to Chapter 212, Subchapter B, until a development plat has been filed and approved in accordance with Sec. 212.047.

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LGC Chapter 232,  
Subchapter A Chapter 232, Subchapter A, Sections 232.001 - .010, apply statewide to subdivisions, except subdivisions falling under Chapter 232, Subchapter B (see below).

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LGC § 232.001 A county may adopt and enforce subdivision regulations, including road and drainage specifications. When subdividing land located outside the limits of a municipality, the owner must generally have a plat prepared and have the plat filed and recorded with the county clerk.

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LGC § 232.0013 This section limits a county's authority to regulate plats or subdivisions in the extraterritorial jurisdiction of a municipality.

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LGC § 232.0015 A county may classify divisions of land and determine whether specific divisions must be platted. Platting is not required for certain particular types of divisions of land. Except as provided by Sec. 232.0013, this section does not apply to land to which Subchapter B applies.

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LGC § 232.002 A county must approve subdivision plats meeting state and county requirements.

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LGC § 232.0021 A county may charge a plat application fee.

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LGC § 232.0025 A county must prepare a written list of the documentation and other information that must be submitted with a plat application. A county must also notify applicants when an application is missing required documentation. Once a plat application is complete, a county must usually take final action on it within 60 days.

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## 2005 County Powers & Duties

LGC § 232.003	A county may set specifications for subdivisions regarding road construction and drainage systems. A county may require a subdivider to include in all contracts with purchasers of subdivided land a statement describing the availability of water in the subdivision. A county may also require a subdivider to execute a bond in an amount adequate to ensure proper construction of roads, streets and drainage. A county may adopt specifications that provide for efficient stormwater runoff in the subdivision and coordinate subdivision drainage with area drainage. A county may require lot and block monumentation to be set by a registered professional surveyor before recordation of the plat.
LGC § 232.0031	A county may not impose stricter standards for streets or roads in a subdivision than it imposes on itself for streets or roads with similar traffic.
LGC § 232.0032	When a person submits a plat for the subdivision of land for which the source of the water supply intended for that subdivision is groundwater under the land, the commissioners court may require the plat application to have attached a statement prepared by an engineer certifying that adequate groundwater is available for the subdivision.
LGC § 232.004	If the commissioners court requires the owner of a tract to execute a bond before subdividing the tract, the bond must be adequate to insure proper and timely construction of the roads, streets, and drainage requirements.
LGC § 232.0048	If a member of a commissioners court or a member's spouse, parent, or child has a substantial interest in a subdivided tract, the member shall, before any vote or decision on plat approval, file an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. A violation is a Class A misdemeanor.
LGC § 232.005	At the request of the commissioners court, the county attorney or other prosecuting attorney for the county may file an action to enjoin a violation of the requirements established or adopted by the commissioners court or to recover damages resulting from a violation.
LGC § 232.006	A county with a population of more than 2.2 million or a county that is contiguous to a county with a population of more than 2.2 million may elect to operate under this section. If the county makes the election, Sec. 232.005 does not apply.
LGC § 232.007	A commissioners court may adopt minimum infrastructure requirements for a manufactured-home rental community located outside a municipality.

## 2005 County Powers & Duties

LGC § 232.008	A county may permit the cancellation of all or part of a subdivision and re-establish the property as acreage tracts as it existed prior to subdivision. A county may deny the cancellation of all or part of a subdivision if the commissioners court determines that the cancellation will prevent the proposed interconnection of infrastructure to pending or existing development.
LGC § 232.009	After providing public notice, certain counties may permit revisions of a subdivision plat that has been filed for record with the county clerk if the revision will not interfere with established rights of any owner of the subdivided land or if all owners agree to the revision. The county must give notice to the owners by mail unless the plat revisions merely combine existing tracts.
LGC § 232.0095	A commissioners court by order may adopt the provisions in LGC §§ 212.013 - .016 governing plat vacations, replatting, and plat amendment within a municipality's jurisdiction. (This section applies only to counties with a municipality over 1.5 million population.)
LGC § 232.010	The county may allow conveyance of portions of lots previously platted by metes and bounds description without revising the plat.
LGC Chapter 232, Subchapter B	Chapter 232, Subchapter B, Sections 232.021 - 232.043, apply only to certain counties, any part of which is within 50 miles of an international border, and only to subdivisions of two or more lots intended primarily for residential use and located outside the corporate limits of municipalities.
LGC § 232.022 AMENDED IN 2005: SB 425 EFFECTIVE DATE: 9/1/05	In certain border counties, land in a municipality's extraterritorial jurisdiction (ETJ) is not considered to be within the county's jurisdiction if the municipality and county agree that the municipality will regulate subdivision plats and approve related permits in the ETJ.
LGC § 232.024	The commissioners court in a county near an international border shall refuse to approve a residential subdivision plat unless it complies with requirements specified in Chapter 232, Subchapter B. The commissioners court may not approve a plat if any part of the plat applies to land intended for residential housing and lies in a flood plain, unless the housing qualifies for insurance under the National Flood Insurance Act of 1968 (42 U.S.C. §§ 4001-4127). The commissioners court may establish a planning commission, with its findings and decisions subject to the same provisions applicable to the commissioners court under this chapter.
LGC § 232.025	A county near an international border shall establish regulations for roads and drainage in subdivisions and require statements in purchase contracts describing how and when services will be made available.

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LGC § 232.026	A county near an international border may extend the date by which water and sewer service facilities must be fully operable but must notify the Attorney General of the reason for any extension.
LGC § 232.027	A county near an international border shall require subdividers of land on which water and sewer facilities have not yet been installed to execute and maintain in effect a bond or cash deposit in an amount the commissioners court determines will ensure compliance with this subchapter.
LGC § 232.028	After approving a plat, a county near an international border shall issue to the subdivider a certificate of approval of the plat. Certain persons may request that the county make determinations regarding a subdivision's water, sewer, electrical and gas facilities. A county may adopt rules necessary to administer the duties of this section. It may also impose a fee for a certificate issued for a subdivision, part of which is located in the extraterritorial jurisdiction of a municipality and part of which is outside the ETJ.
LGC § 232.029 AMENDED IN 2005: SB 425 EFFECTIVE DATE: 9/1/05	A utility provider must generally obtain a certificate from a county before the provider can serve or connect any subdivided land with utility services. Different certificates may be available under different circumstances. <i>This section applies only to counties of which any part is located within 50 miles of an international border.</i>
LGC § 232.0291 ADDED IN 2005: SB 425 EFFECTIVE DATE: 9/1/05	In certain border counties (see LGC § 232.022 (a)(2)), the commissioners court must certify that subdivided land has been platted before utilities can be installed.
LGC § 232.030	The commissioners court must adopt and enforce the model rules developed under Sec. 16.343 of the Water Code and other regulations.
LGC § 232.0305	A commissioners court may impose a fee on a subdivider of property under this subchapter for an inspection of the property to insure compliance with the subdivision regulations.
LGC § 232.034	A member of a commissioners court with an interest in a subdivided tract must, before a vote or decision regarding the approval of a plat for the tract, file an affidavit with the county clerk stating the nature and extent of the interest and shall abstain from further participation in the matter. Violation of this requirement is a Class A misdemeanor, conviction upon which constitutes official misconduct and is grounds for removal.
LGC § 232.037	A county may pursue civil and criminal enforcement for violations of Subchapter B or the model rules adopted under Section 16.352, 16.353, 16.354, and 16.355, Water Code.

## 2005 County Powers & Duties

LGC § 232.039	A county near an international border may cancel a subdivision only after interested persons are allowed to be heard at a public hearing.
LGC § 232.041	A county near an international border shall publish notice of an application to revise a subdivision plat and shall adopt an order to permit the revision if certain conditions are met.
LGC § 232.042	A county near an international border may grant a delay or variance from compliance with the replatting provision in Sec. 232.040 and must notify the Attorney General within 30 days of granting the variance or delay.
LGC § 232.043 AMENDED IN 2005: SB 425 EFFECTIVE DATE: 9/1/05	A county may grant a delay or variance from compliance with the subdivision requirements on the request of a subdivider who created an unplatted subdivision or a resident lot purchaser when certain conditions apply.
LGC Chapter 232, Subchapter C AMENDED IN 2005: HB 467 EFFECTIVE DATE: 9/1/05	Chapter 232, Subchapter C, Sections 232.071 - .080, apply only to subdivided land (1) outside the city limits, (2) <i>in counties in which is located a political subdivision that is eligible for and has applied for financial assistance</i> under certain provisions of the Water Code, and (3) not subject to Subchapter B, and only to subdivisions with lots of five acres or less intended for residential purposes and located outside a municipality.
LGC §§ 232.072 - .073	The commissioners court approves subdivision plats and ensures that the plats are appropriately filed. The plats must contain certain information related to water and sewer service facilities. The commissioners court may establish a planning commission which is subject to the same provisions applicable to the commissioners court under this subchapter.
LGC § 232.074	The commissioners court must require a subdivider to execute and maintain a bond or cash deposit, unless installation of all water and sewer service facilities is complete when an application for plat is finally approved.
LGC § 232.075	The commissioners court may extend the date on which water and sewer facilities must be fully operable, if an extension would be reasonable and not contrary to the public interest.
LGC § 232.076	Upon approval of a plat, the commissioners court must issue the person applying for the approval a certificate stating that the plat was approved. To certain persons, the county must issue certificates regarding whether a plat is needed for land.
LGC § 232.077	A county providing water, sewer, gas, electric, or other utility service may not serve or connect land unless it has been presented with a certificate under LGC § 232.076.

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LGC § 232.0775	A commissioners court may impose a fee on a subdivider of property under this subchapter for an inspection of the property to insure compliance with subdivision regulations.
LGC § 232.078	If a member of a commissioners court or a member's spouse, child, or parent has an interest in a subdivided tract, the member shall, before any vote or decision on plat approval, file an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. A violation is a Class A misdemeanor, and conviction constitutes official misconduct and is grounds for removal from office.
LGC § 232.080	The county may bring a suit for injunctive relief or civil or criminal penalties against any person or entity that violates the provisions of this subchapter or rules adopted under this subchapter. This subchapter is subject to the applicable enforcement provisions prescribed by Sections 16.352, 16.353, 16.354, and 16.3545, Water Code.
Subchapter D Sec. 232.091 - .097	Counties near an international border and economically distressed can create and administer a planning commission. The commissioners court of these certain counties by order must elect to operate under this subsection.
Subchapter E Sec. 232.100 - .107	Certain urban counties may adopt subdivision rules to promote the health, safety, morals, or general welfare of the county and the safe, orderly, and healthful development of the unincorporated area of the county. Such counties may require wide rights-of-way, minimum lot frontages, and permanent setbacks. These counties may enter into developer participation contracts without competitive bidding. They may also regulate utility service to residential subdivision lots, as set out in Local Government Code Sec. 232.029.
LGC § 242.001	Joint city-county regulation (except in certain urban, border-area, or economically distressed counties) of subdivision plats and related permits in a municipality's extraterritorial jurisdiction is continued in less populous counties. A county which includes the ETJ of a city over 1.9 million population has exclusive responsibility for this regulation.
LGC § 242.0015	A county and city that are required to make an agreement establishing the regulatory responsibilities of each, but are unable to reach such an agreement, must submit their issues to arbitration.
<b>Property Code</b> (Prop C) Sec. 81.003	A county planning or zoning commission may adopt rules and regulations governing condominiums which supplement the Condominium Act.

## 2005 County Powers & Duties

Prop C § 203.003

A county attorney may bring a suit to enjoin or abate a violation of a restriction contained or incorporated by reference in a properly recorded plan, plat, replat, or other instrument affecting a real property subdivision located in the county with a population of more than 200,000.

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**Transportation Code**  
Sec. 253.003

A county may improve subdivision roads and assess the costs of such improvements to the property owners of the subdivision or defined portion of a subdivision.

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### Real Property Transactions

**Education Code**  
Sec. 11.1541

The board of trustees of an independent school district may, by resolution, authorize the donation of real property and improvements formerly used as a school campus to a county.

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**Government Code**  
Sections 2252.091 - .094

Before a county may purchase real property held in trust, the trustee must submit to the commissioners court a copy of the trust agreement identifying the true owner. A county may not sell real property to a trustee until it receives from the trustee a copy of the trust agreement identifying the person who will be the true owner of the property.

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**Local Government Code**  
Chapter 263, Subchapter A

A county may sell or lease its real property.

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LGC § 263.007(e)

A county may, without using the seal-bid, seal-proposed or any other competitive bidding process, lease real property formerly owned by the Texas Department of Mental Health and Mental Retardation to a federal, state, or local government entity for any purpose or to a nonprofit organization to conduct health and human service activities.

A commissioners court of a county with a population of one million or more that contains two or more municipalities with a population of 250,000 or more, may lease real property to a for-profit entity to conduct health and human service activities.

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LGC § 263.102

A county with a population of more than 1.3 million may lease real property owned by the county and air rights above that property for the construction and maintenance of a privately owned hotel that is operated in conjunction with an existing convention center owned by the county.

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LGC § 263.201 *et. seq.*

A county may convey land to the United States Government for certain purposes.

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## 2005 County Powers & Duties

LGC § 272.001(g)	A county may acquire or assemble land or real property interest, except by condemnation, and may sell, exchange or otherwise convey the land or interests to an entity for the development of low-income or moderate-income housing. The county shall determine the conditions of the transactions so as to effectuate and maintain the public purpose. If conveyance of the land under this section serves a public purpose, the land may be conveyed for less than its fair market value.
LGC § 280.001	A county, separately or jointly with a city, may acquire land for use by the United States Government.
LGC § 280.002	A county may accept ownership of property located in the county's jurisdiction conveyed by gift. The notice of intent to convey the property must be considered at a meeting of the commissioners court.
<i>Tax Code</i> Sec. 34.06	A county is entitled to recover from the proceeds of a resale of property any cost incurred by the county in inspecting the property for release or threatened release of solid waste from the property, or for a discharge or threatened discharge of waste or a pollutant into or adjacent to water, and in taking action to remove or remediate the release or threatened release or discharge.
<b>Sewage Regulation</b>	Also see discussion under "On-site Sewage" (Septic Tanks).
<i>Health and Safety Code</i> Chapter 366 <b>SECTIONS ADDED IN 2005:</b> <b>HB 2510</b> <b>EFFECTIVE DATE: 9/1/05</b>	If designated as an agent, a county may enforce rules governing on-site sewage disposal systems.
LGC § 411.007	A county with a population of 190,000 or more is adjacent to a county with a population of 2.4 million or more, borders the Gulf of Mexico, and operates a road department system under Chapter 252, Subchapter D, Transportation Code, may require the county road engineer to prepare and coordinate a county master drainage plan and may adopt regulations to implement the plan.
LGC § 412.015	Counties, as defined by Water Code § 16.341, may own, operate, or maintain a water or sewer utility in the same manner as a municipality under LGC Chapter 402.

## 2005 County Powers & Duties

LGC § 412.016

A county may acquire, own, operate, or contract for the operation of a water or sewer utility system to serve an unincorporated area of the county in the same manner as a municipality under LGC Chapter 402. A county with a population of 2.8 million or more and any adjoining county may serve an area within a municipality. A county may issue bonds to finance the water or sewer utility system and may acquire interest in property necessary to operate a system authorized in this section.

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### ***Water Code***

Sec. 26.0405

In a county with a population of 2.8 million or more, for single-family residences on property subdivided and developed before January 1, 1979, the Texas Commission on Environmental Quality shall issue general permits for on-site disposal of wastewater under certain conditions, including that the county agrees to monitor compliance with the permit.

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### **Solid Waste**

#### ***Health and Safety Code***

Sec. 361.0961

A county may not prohibit the use of a container for solid waste management purposes, restrict the processing of solid waste, or assess a fee for the use of a container.

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H&S §§ 361.151 *et. seq.*

A county has authority to operate solid waste facilities.

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H&S § 361.154

A county may require and issue licenses governing the operation and maintenance of facilities used to store, process, and dispose of solid waste in areas outside municipalities.

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H&S § 361.163

A county may enter into cooperative agreements with other governmental entities to jointly operate solid waste management activities and to charge reasonable fees for services.

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H&S § 363.003

The Legislature encourages counties to contract with waste management firms.

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H&S § 364.011(d)

A county may enforce its rules regarding solid waste management through legal proceedings.

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H&S § 364.012

A county may prohibit disposal of municipal or industrial solid waste in the county if the disposal of solid waste is a threat to public health, safety, and welfare. A county may not prohibit the processing or disposal of solid waste in an area of the county for which a permit or application for permit or other authorization under H&S Chapter 361 has been filed and is pending before the Texas Commission on Environmental Quality.

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H&S § 364.013

A county may acquire, construct, operate, and maintain all or part of one or more solid waste disposal systems. A county may also contract out the collection, transportation, and handling of solid waste.

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## 2005 County Powers & Duties

H&S § 364.014	A county may acquire land for solid waste management programs.
H&S § 364.034	A county may charge for solid waste management programs. A fee for this service may be collected by the county, by a private or public entity that contracts with the county to provide the service, or by another private or public entity that contracts with the county to collect the fees.
H&S § 364.037	A county that offers solid waste management programs may agree with another political subdivision to help it collect unpaid utility or solid waste disposal bills.
H&S § 365.012	Disposal of litter or other solid waste at a place that is not an approved solid waste site is an offense, punishable by counties and other entities with criminal jurisdiction.
H&S § 365.012(m)	A county may offer a \$50 reward for reports of illegal dumping that result in prosecution.
H&S § 365.015	A district or county attorney may file civil suit to restrain violations of the Litter Abatement Act and recover attorney fees and costs.
H&S § 365.017	A county may adopt regulations to control disposal of litter from private property in unincorporated areas of the county.
H&S § 368.012	A county with a population of less than 375,000 may regulate waste haulers.

## Utilities

### ***Government Code*** Subchapter C Sec. 1477.101 - .122

A county in which the county seat is an unincorporated community or city with a population of more than 5,000 and the commissioners court has adopted this subchapter by order may acquire a natural gas system by means other than eminent domain, issue bonds and sell any natural gas not needed.

### ***Local Government Code*** Sec. 232.029 AMENDED IN 2005: SB 425 EFFECTIVE DATE: 9/1/05

The commissioners court of an affected county generally must issue a certificate to a utility provider before the provider can serve or connect any subdivided land with utility services. On request, the commissioners court must provide the Attorney General or other law enforcement agency a copy of any document on which the commissioners relied in approving the issuance of a certificate. *This section only applies to counties of which any part is located within 50 miles of an international border.*

### LGC § 232.0291 ADDED IN 2005: SB 425 EFFECTIVE DATE: 9/1/05

In certain border counties (see LGC § 232.022(a)(2)), the commissioners court must certify that subdivided land has been platted before utilities can be installed.

## 2005 County Powers & Duties

LGC § 232.106 AMENDED IN 2005: SB 425 EFFECTIVE DATE: 9/1/05	Certain urban counties may regulate utility service to residential subdivision lots, as set out in Local Government Code Sec. 232.029 or 232.091.
LGC Chapter 240, Subchapter E ADDED IN 2005: HB 843 EFFECTIVE DATE: 6/18/05	A county with a population of more than 1.4 million may regulate “communication facility structures,” including towers and antennas for microwaves, cellular telephones, and other communications media.
LGC § 412.015	A county, as defined by Water Code § 16.341, may own, operate, or maintain a water or sewer utility in the same manner as a municipality under LGC Chapter 402.
<b>Transportation Code</b> Sec. 251.103	A county may pay for relocating water lines owned by a water control and improvement district when needed to complete farm-to-market roads.
<b>Utilities Code</b> (Util C) Sec. 164.001	Two or more political subdivisions may jointly finance, construct, and operate electric utility facilities.
Util C § 164.003	An agreement between political subdivisions must be submitted to the Attorney General for approval.
Util C § 164.005	A political subdivision may pledge revenue from a utility system to make the contract payments to acquire an ownership interest in an electric utility facility.
Util C § 181.024	A county may designate where gas lines should be placed in the right-of-way of a county road.
Util C § 181.025	A county may require a gas utility to relocate a gas utility facility, at the utility’s expense, to allow the widening or other changing of a traffic lane. The county must give the utility 30 days written notice.
<b>Water Code</b> Sec. 13.043(k)	An affected county shall provide written notice to each ratepayer eligible to appeal a change in water, drainage, or sewer rates not later than the 30 <sup>th</sup> day after the date of a final decision on a rate change.
WC § 13.084	An affected county shall have the right to select and engage experts to conduct investigations, present evidence, advise and represent the governing body and assist with litigation on water and sewer utility ratemaking proceedings.
WC § 13.139(a)	A county that furnishes retail water or sewer utility service shall furnish the service, instrumentalities, and facilities safely, adequately, efficiently and reasonably.
WC § 13.141	A utility owned by an affected county may not bill the state or a state agency or institution before the service is rendered.

## 2005 County Powers & Duties

WC § 13.242(a) Before rendering retail water or sewer utility service to the public, a county-operated utility in an affected county must obtain from the Texas Commission on Environmental Quality a certificate that acknowledges that present or future public convenience and necessity will require the installation, operation, or extension of such retail water or sewer utility service.

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WC § 13.256 A county with a population of more than 2.8 million may not charge a water and sewer utility a fee for the privilege of installing or replacing a water or sewer line in the county's right-of-way.

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WC § 16.343(g) An affected county must enforce and adopt model rules, as promulgated by the Texas Commission on Environmental Quality and the Texas Department of Health, before it can receive funds under either Section 15.407 or Subchapter K, Chapter 17, of the Water Code.

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### Water Regulation

**Government Code**  
Sec. 1474.151 A county is authorized to own or build reservoirs, dams, levees, wells, and canals. A county may acquire by purchase or condemnation rights-of-way and other lands necessary to construct such improvements.

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Gov C § 1474.152 A county shall exercise control and management of affairs concerning the operation of an irrigation system. A county shall also operate an irrigation system under the provisions applicable to Water Improvement Districts.

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**Local Government Code**  
Sec. 240.901 Coastal counties may regulate land, structures, and other development in flood-prone areas and authorize the filing of a notice of a violation of the regulations in the real property records.

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LGC § 430.001 A county that shares a boundary with Mexico may contract for the acquisition of water rights in Mexico if approved and monitored by the Texas Commission on Environmental Quality, the International Boundary and Water Commission, United States and Mexico.

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LGC § 411.002 A county may contract with a political subdivision to jointly acquire a right-of-way and to jointly construct or maintain a canal, drain, levee or other improvement for flood control.

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LGC § 411.007 A county with a population of 190,000 or more that is adjacent to a county with a population of 2.4 million or more, borders the Gulf of Mexico, and operates a road department system under Chapter 252, Subchapter D, Transportation Code, may require the county road engineer to prepare and coordinate a county master drainage plan and may adopt regulations to implement the plan.

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## 2005 County Powers & Duties

LGC § 411.009	The commissioners court may order a referendum on the question of whether flood control taxes should be increased or decreased, or whether an existing or proposed project should receive funding.
LGC § 412.001	A county may sell and deliver surplus county water; the funds generated shall then be added to the general fund of the county.
LGC § 412.014	A county may acquire by purchase, gift, lease, or any other method except condemnation, property necessary to obtain a surface water supply.
LGC Chap. 423 Sec. 423.001 - .002	Certain counties may take any necessary or proper action to comply with the requirements of the stormwater permitting program under the national pollutant discharge elimination system. A civil penalty of \$1,000 per violation may be assessed by the county to any person who violates a rule or order adopted by the county in this section.
<b>Water Code</b> Sec. 7.351	A county may bring civil suit for violation or threat of violation of various chapters of the Water Code and the Health and Safety Code.
WC § 16.053(1)	A county may contract with a regional water planning group to assist the group in developing or revising a regional water plan.
WC § 16.055(g)	Immediately upon the declaration of a state of disaster in a county due to drought conditions, the county must comply with the conditions set forth in this chapter.
WC Chapter 16, Subchapter I Sec. 16.311 - .324	In order to minimize losses from flood damage, counties may restrict development of land and set standards regarding construction in flood plains. The county may bring a civil suit for an injunction, civil penalties, or both against anyone violating or threatening to violate Chapter 16, Subchapter I, Water Code, or a rule adopted or order issued by the county.
WC § 16.3145	The county shall adopt ordinances or orders, as appropriate or necessary, for the county to be eligible to participate in the National Flood Insurance Program.
WC § 16.315(16)	A county may collect reasonable fees to cover the cost of administering its local floodplain management program.
WC § 16.324	The commissioners court may set a reasonable fee for issuing a permit authorized by the Flood Control and Insurance Act

## 2005 County Powers & Duties

WC § 26.0135 A county may enter into a contract or cooperative agreement with the Texas Commission on Environmental Quality to conduct monitoring and assessments of watersheds where a river authority is unable to perform those duties. Counties are encouraged to manage solid waste and to facilitate and promote programs for the collection and disposal of household consumer and agriculture products containing hazardous substances that could pose a risk to the state's water resources.

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WC § 26.171 A county may inspect public waters to determine whether the water quality meets state standards and whether persons who are making discharges into the water have a permit and are in compliance with the permit.

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WC § 26.175 A county may enter into a cooperative agreement with other local governments for water quality management.

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WC § 26.179(k) A county that has a designated water quality protection zone shall approve a subdivision plat located within that zone if the plat complies with subdivision regulations and if a registered professional engineer acknowledges that the plat is in compliance with the water quality plan of the protected zone.

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### Miscellaneous

*Vernon's Revised Civil Statutes*  
Art. 1524c A county has authority to certify applications for creation of housing corporations.

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*Health & Safety*  
Chapter 361, Subchapter X  
ADDED IN 2005: SB 1413  
EFFECTIVE DATE: 9/1/05 The commissioners court of a county with a population of 250,000 or more may establish a program for the cleanup and economic redevelopment of "brownfields" (real property the expansion, redevelopment, or reuse of which may be complicated by environmental contamination).

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H&S § 437.0076 A county may require each fixed location or mobile retail establishment in which food is prepared on-site for sale to the public and which holds a permit issued by the county to employ a certified food manager.

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H&S § 713.027 A county with a population of 8,200 or less may own, operate, and maintain a cemetery and may sell the right of burial in the cemetery.

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## 2005 County Powers & Duties

H&S § 713.028  
AMENDED IN 2005:  
HB 129 & SB 951  
EFFECTIVE DATE:  
HB 129: 6/18/05  
SB 951: 9/1/05

For purposes of historical preservation or public health, safety, or welfare, a commissioners court may use public funds, county employees, *county inmate labor as provided by Art. 43.10 of the Code of Criminal Procedure*, and county equipment to maintain a cemetery that has a grave marker more than 50 years old.

*At the discretion of the commissioners court, a county may permit the use of public funds, county employees, county inmate labor as provided by Article 43.10, Code of Criminal Procedure, and county equipment to open and close graves in a cemetery.*

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**Local Government Code**  
Sec. 81.032

The commissioners court may accept a gift, grant, donation, bequest, or devise of money or other property on behalf of the county for the purpose of performing a function conferred by law on the county or a county officer.

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LGC § 233.001

A county that borders the Gulf of Mexico and is adjacent to a county with a population exceeding 2.5 million may regulate a bulkhead or other method of shoreline protection in an unincorporated area of the county if persons or property are endangered.

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LGC Chapter 240,  
Subchapter B  
Sec. 240.031 - .035

Upon the request of the director of the McDonald Observatory, George Observatory or Stephen F. Austin State University Observatory, a county near a major astronomical observation site may regulate outdoor lighting in any unincorporated territory of the county.

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LGC § 240.902

A Gulf Coast county may close part of a public beach for events sponsored by nonprofit organizations.

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LGC § 240.905

A Trinity River Basin county may regulate the future construction of residences and the laying out of residential lots and subdivisions in the 100-year flood plain of the Trinity River Basin.

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LGC § 250.002

A county may not enact or enforce an ordinance or order that does not comply with the ruling of the Federal Communications Commission in “Amateur Radio Preemption, 10 F.C.C. 2<sup>nd</sup> 952 (1985)” or a regulation related to amateur radio service adopted under 47 C.F.R. Part 97.

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LGC § 291.007

A county with a population of less than 40,000 may order a nonbinding referendum on any matter affecting county property.

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LGC § 302.002

A county may enter into an energy savings performance contract to reduce energy consumption or operating costs of governmental facilities.

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LGC § 302.003

A county can require the provider of the energy conservation measures to file a payment and performance bond.

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## 2005 County Powers & Duties

LGC § 302.004	A contract for existing buildings or facilities can be a lease-purchase contract and must contain guarantees of the amount of savings to be realized.
LGC § 302.005	Competitive proposal procedures may be used.
LGC § 352.051	A commissioners court may prohibit or restrict the use of aerial fireworks in an unincorporated portion of the county where “drought conditions” exist, as determined by the Texas Forest Service.
LGC § 352.081	The commissioners court of a county may request the Texas Forest Service to determine whether drought conditions exist in all or part of the county. The commissioners court may prohibit outdoor burning if drought conditions have been determined to exist by the Forest Service or if a finding is made that circumstances present in all or part of the unincorporated area create a public safety hazard that would be exacerbated by outdoor burning. A county may not prohibit outdoor burning related to public health and safety, as authorized by the Texas Commission on Environmental Quality, or burning that is conducted by a prescribed burn manager under Sec. 153.048, Natural Resources Code.
LGC Chapter 352, Subchapter E AMENDED IN 2005: SB 200 EFFECTIVE DATE: 6/17/05	A county may regulate vehicular or pedestrian gates to <i>gated communities and</i> multi-unit housing projects in unincorporated areas of the county to assure reasonable access for fire-fighting vehicles and equipment, emergency medical services vehicles, and law enforcement officers.
<b><i>Natural Resources Code</i></b> (Nat Res C) Chapter 33, Subchapter I ADDED IN 2005: SB 1044 EFFECTIVE DATE: 6/17/05	The Coastal Protection and Improvement Fund, administered by the General Land Office, will aid 12 Gulf Coast counties to restore property lost through coastal erosion.
Nat Res C Chapter 71, Subchapter A	A county may lease its land for mineral development.
Nat Res C § 61.122(a)	The commissioners court of a county bordering on the Gulf of Mexico or its tidewater limits may regulate motor vehicle traffic on any beach within the county and may prohibit motor vehicle traffic on any natural or man-made sand dune or other form of shoreline protection.
Nat Res C § 61.122(d)	The commissioners court of a county bordering on the Gulf of Mexico or its tidewater limits may prohibit the use and possession of all glass containers and products on a beach in the unincorporated area of the county. The county may not prohibit any one or several glass products to the exclusion of any others.

## 2005 County Powers & Duties

Nat Res C Chapter 61,  
Subchapter G

To protect the public health, safety, and welfare, the commissioners court of a county bordering the Gulf of Mexico or its tidewater limits, by order, may regulate mass gatherings of individuals on any beach in the unincorporated area of the county by requiring a person to obtain a permit and pay a permit fee before the person may hold a mass gathering.

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***Property Code***  
Sec. 21.0111

A county that wants to acquire real property for public use shall disclose to the property owner, at the time an offer to purchase is made, all existing appraisal reports produced or acquired by the county in determining the final valuation offer.

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***Transportation Code***  
(Tran C)  
Sec. 396.041

A county may require a junkyard or automotive wrecking and salvage yard to be licensed by the county.

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Trans C § 396.042

The commissioners court must hold a public hearing before adopting a resolution requiring licensing of junkyards or automotive wrecking and salvage yards.

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Trans C § 643.201

A county may require the registration of a tow truck that performs a non-consent tow in the county, regardless of whether the truck's owner has a place of business within the county.

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Trans C Chapter 644,  
Subchapter E

A political subdivision may designate a route for the transportation of non-radioactive hazardous materials over a public road or highway, but only if the Texas Department of Transportation approves the route. The political subdivision that maintains the route must pay for installation and maintenance of the signs.

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