



COUNTY POWERS AND DUTIES

As Modified by the 80th Texas Legislature

2007



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT



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Dear County Judges:

Thank you for your service to your county and your state. We appreciate the opportunity to work with you. For your information and assistance, enclosed is a list of the counties' powers and duties in the following areas:

- Regulating land use;
- Regulating structures;
- Platting and subdividing land; and
- Providing and regulating water, sewer and other utility services to residential property.

Pursuant to the Local Government Code, Section 240.903, this list is compiled by the Office of the Attorney General after every Regular Legislative Session. The handbook has been reformatted to make it easier for you to find those citations that relate to the above referenced areas. As with last session's handbook, additions and amendments from the 80th Legislative Session are indicated by legislative bill number and effective date in bold text below the left-hand column citation. Amended provisions of the statutes appear in italics.

The next handbook will be distributed after the 81st Legislative Session. Until that time, if you need further information or if we can be of assistance on any other matter, please contact the County Affairs Section at (800) 252-5476.

Sincerely,

Greg Abbott
Attorney General of Texas

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Land Use Regulations

Beaches/Coastal Counties

Local Government Code	
§ 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.
§ 240.902	Gulf Coast counties may close part of a public beach for events sponsored by nonprofit organizations in which the public is invited and only a nominal admissions fee is charged.
Natural Resources Code	
Chapter 33, Subchapter I (§§ 33.651 - 33.663) AMENDED BY HB 2819 EFFECTIVE DATE: 9/1/07	Gulf Coast counties shall create a coastal protection and improvement fund that can be used for qualified projects that accomplish the purposes of mitigation of coastal erosion and improvement of public access to public beaches <i>which now includes the ability to implement a building set-back line.</i>
Chapter 61, Subchapter D (§§ 61.121 - 61.131)	The commissioners court of a county bordering on the Gulf of Mexico or its tidewater limits may regulate motor vehicle traffic on any beach, possession of animals on the beach, swimming in passes leading to and from the Gulf of Mexico, and may prohibit the use and possession of all glass containers and products on a beach within the boundaries of the county. The county may adopt criminal penalties for these violations.
Chapter 61, Subchapter G (§§ 61.251 - 61.254)	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.

Hazardous Materials

Local Government Code	
Chapter 353	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.

Transportation Code

Chapter 644,
Subchapter E
(§§ 644.201 - 644.203)

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.

Parks & Wildlife

Local Government Code

§ 240.002 A county may regulate or prohibit the keeping of a wild animal, as defined by § 240.001, at a residence.

§ 321.001 A coastal county may establish and operate island parks.

§ 331.001 A county may operate and maintain parks.

§ 331.008 A county may cooperate with cities on joint park, playground, and museum projects.

Parks & Wildlife Code

§ 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.

§ 31.092 A county may designate certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety of the public water that is within the county but outside the city's authority.

§ 83.013 Counties may participate in the study and preparation for, and creation of a habitat conservation plan and/or a regional habitat conservation plan.

Public Nuisances

Health & Safety Code

§ 341.011(7) The definition of a "public health nuisance" includes a collection of water that is a breeding area for mosquitoes carrying West Nile virus.

§ 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 abatement proceedings or may ask the Attorney General to institute the proceedings or to assist him or her in the proceedings.

Health & Safety Code

§ 341.092 A county may bring civil suit for civil penalties and/or injunctive relief for a violation of Chapter 341 or a rule adopted under Chapter 341.

§ 343.013 In the unincorporated area of a county, a county or person affected or to be affected by a violation under Chapter 343 may bring a suit in county or district court for injunctive relief to prevent, restrain, *abate* or *otherwise remedy* a violation of Chapter 343.

AMENDED BY
HB 3581 & SB 680
EFFECTIVE DATE:
6/15/07

Also, 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 § 343.011(c)(1), (6), (9), or (10).

§ 343.021 If a county adopts abatement procedures that are consistent with the general purpose of and conform to Chapter 343, a county can abate a nuisance under Chapter 343 in *various ways* depending on the type of nuisances that are defined in § 343.011(c).

AMENDED BY
HB 3581 & SB 680
EFFECTIVE DATE:
6/15/07

§ 343.022 A county's nuisance abatement procedures must include in its written notice the specific condition that constitutes a nuisance; how long the person has to abate the nuisance; 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; and the county prohibiting or controlling access to the premises to prevent a continued or future nuisance described by § 343.011 (c)(1), (6), (9), or (10).

AMENDED BY
HB 3581 & SB 680
EFFECTIVE DATE:
6/15/07

A county may abate a nuisance under § 343.011(c)(6) before conducting a hearing.

§ 343.023(a), (c), & (d) A county may assess the cost of abating the nuisance, *including management, remediation, storage, transportation, and disposal costs, and damages and other expenses incurred by the county*; the cost of legal notification by publication; and an administrative fee of not more than \$100 on the person receiving notice under § 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.

AMENDED BY
HB 3581
EFFECTIVE DATE:
6/15/07

Transportation Code

Chapter 683, SubChapter E (§§683.071 - 683.078) Counties may adopt *procedures* that provide for the abatement and removal from private or public property or a public right-of-way of a junked vehicle or part of a junked vehicle as a public nuisance.

AMENDED BY
SB 350 & SB 351
EFFECTIVE DATE:
9/1/07 & 6/15/07,
RESPECTIVELY

Real Property Transactions

Education Code

§ 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.

Government Code

§ 2252.092 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.

Local Government Code

§ 263.001 The commissioners court may appoint a commissioner to sell or lease real property owned by the county by public auction in accordance with this section unless Chapter 263 provides otherwise.

§ 263.006 The commissioners court may authorize the exchange of county-owned real property interest for an interest in real property owned by an individual, private partnership or corporation, or other private entity, to be used for one or more public purposes for which a county otherwise may acquire land.

§ 263.007(a) - (d) The commissioners court may adopt a procedure to sell or lease county-owned property by a sealed-bid or sealed-proposal procedure.

§ 263.007(e)(1) The commissioners court may, without using the sealed-bid, sealed-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.

§ 263.051 The commissioners court may lease land and/or the facilities on that land that was acquired for an airport.

§ 263.052 The commissioners court may lease land, housing, or facilities acquired from the federal government under § 270.004.

Chapter 263,
Subchapter E
(§§ 263.201 - 263.206) The commissioners court may convey land to the United States Government for certain purposes such as conveyance for certain water projects, public buildings, civil works projects and/or military installations or facilities.

Local Government Code

§ 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.

§ 272.005 *A county may lease county-owned property or provide office space to another political subdivision, state agency or federal government.*

ADDED BY HB 2618
EFFECTIVE DATE:
5/25/07

§ 280.001 A county, separately or jointly with a city, may acquire land for use by the United States Government.

§ 280.002 A county may accept ownership of property located in the county's jurisdiction conveyed by gift if certain conditions are met. The notice of intent to convey the property must be considered at a meeting of the commissioners court.

Property Code

§ 21.0111 A county that wants to acquire real property for public use, through eminent domain, 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.

§ 21.0112 *Before a county begins negotiating with a property owner to acquire real property by eminent domain, the county must send by first-class mail or otherwise provide a landowner's bill of rights statement provided by Government Code § 402.031, to the last known address of the person in whose name the property is listed on the most recent tax roll of any appropriate taxing unit authorized by law to levy property taxes against the property.*

Tax Code

§ 34.06(f) A county is entitled to recover from the proceeds of a resale of property any cost incurred by the county for 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.

Miscellaneous Provisions

Health & Safety Code

Chapter 361,
Subchapter X
(§§ 361.901 - 361.912)

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" (the expansion, redevelopment, or reuse of real property which may be complicated by environmental contamination).

§ 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.

§ 713.028

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 and open and close graves in a cemetery that has a grave marker more than 50 years old.

Local Government Code

§ 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.

Chapter 240,
Subchapter B
(§§ 240.031 - 240.035)

AMENDED BY
HB 1852
EFFECTIVE DATE:
5/25/07

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

§ 291.007

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

§ 352.051

AMENDED BY
HB 539
EFFECTIVE DATE:
6/15/07

A commissioners court may prohibit or restrict the sale or use of aerial fireworks in an unincorporated portion of the county where "drought conditions" exist *on average*, as determined by the Texas Forest Service.

Local Government Code

§ 352.081 The commissioners court may prohibit or restrict outdoor burning if drought conditions have been determined to exist by the Texas 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 Natural Resources Code §153.048, and meet the standards of Natural Resources Code §153.047.

Natural Resources Code

Chapter 71, A county may lease its land for mineral development.
Subchapter A
(§§ 71.001 - 71.010)

Transportation Code

Chapter 396, A county may require a junkyard or automotive wrecking and salvage
Subchapter C yard to be licensed by the county. The commissioners court must hold
(§§ 396.041 - 396.045) a public hearing before adopting a resolution requiring licensing of
 junkyards or automotive wrecking and salvage yards.

Structure Regulations

Family Code

§ 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.

Government Code

§ 442.008 A county may not demolish, sell, lease, or damage the historical or architectural integrity of any building that serves or has served as a county courthouse without notifying the Texas Historical Commission of the intended action at least six months before the date on which it acts. A county may carry out ordinary maintenance of and repairs to a courthouse without notifying the commission.

§§ 442.0081 - Applies only to a county with a historic courthouse. Under these
442.0083 sections, counties may apply for and receive funds from the Texas Historical Commission to restore, preserve or maintain historical courthouses.

Government Code

§ 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.

Local Government Code

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

Chapter 233,
Subchapter C
(§§ 233.061 - 233.067) 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.

§ 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.

§ 292.030 A commissioners court may buy, build, improve, lease, or lease/purchase branch county offices in the unincorporated areas of the county.

§ 301.001 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.

§ 302.002 A county may enter into energy savings performance contracts *with a provider* for energy or water conservation *or usage* measures *in which the estimated energy savings, increase in billable revenues, or increase in meter accuracy resulting from the measures offset the cost of the measures over a specified period.*

AMENDED BY
SB 831
EFFECTIVE DATE:
6/16/07

§ 302.003 A county shall require the provider of the energy or water conservation *or usage* measures to file a payment and performance bond. A county may also require a separate bond to cover the value of the *guarantee as defined by § 302.001(5).*

AMENDED BY
SB 831
EFFECTIVE DATE:
6/16/07

Local Government Code

<p>§ 302.004</p> <p>AMENDED BY SB 831 EFFECTIVE DATE: 6/16/07</p>	<p>A county may finance an energy savings performance contract either under a lease-purchase contract not to exceed 20 years from a particular date or under a contract with the provider of the measures that has a term not to exceed <i>the lesser of 20 years from a particular date or the average useful life of the measures</i>. The contract shall contain provisions requiring the provider of the measures <i>to provide a guarantee</i>.</p>
<p>§ 302.005</p> <p>AMENDED BY SB 831 EFFECTIVE DATE: 6/16/07</p>	<p>A county can use the procedure for procuring professional service under Government Code § 2254.004 to award an energy saving performance contract, but shall use the notice requirement for competitive bidding to receive request for qualifications from interested providers. Before entering a contract with a provider, the county must hire <i>a certain licensed professional engineer to review the projected energy savings, increase in billable revenue, or increase in meter accuracy</i>.</p>
<p>§ 302.006</p> <p>ADDED BY SB 831 EFFECTIVE DATE: 6/16/07</p>	<p><i>A county that has an energy saving performance contract that provides for any metering and includes a meter guarantee by the provider shall receive an engineer report concerning the average accuracy of the tested meters no later than the fifth anniversary of the effective date of the contract. If the report shows that the average accuracy of the tested meters is less than the baseline average accuracy, then the meter guarantee applies.</i></p>
<p>§ 316.022</p>	<p>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.</p>
<p>Chapter 319</p>	<p>A county may establish and maintain a museum, building or other improvement to house an annual exhibition of horticultural, agricultural, livestock, mineral, and other products that are of interest to the community. A county can cooperate with and another county or with local interests to construct a museum, building or improvements.</p> <p>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.</p>
<p>§ 323.021</p>	<p>The commissioners court of a county by order may establish and maintain a county law library at the county seat.</p>

Local Government Code

Chapter 352,
Subchapter E
(§§ 352.111 - 352.120) A county may regulate vehicular or pedestrian gates to gated communities and 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.

§ 381.002 A commissioners court may appoint a historical commission to initiate and conduct programs suggested by the commissioners court and the Texas Historical Commission for preservation of the county's historical cultural resources.

Health and Safety Code

§ 281.050 The commissioners court must approve the sale or lease of a hospital facility.

§ 281.051 The commissioners court must approve a contract entered into by a hospital district board with other governmental entities.

Property Code

§ 81.003 A county planning or zoning commission may adopt rules and regulations governing condominiums which supplement the Uniform Condominium Act.

Vernon's Revised Civil Statutes

Article 1524c A county has authority to certify applications for creation of housing corporations.

Plat and Subdivision Regulations

Local Government Code

§ 212.046 A county may not issue a building permit or any other type of permit for the development of lots or tracts subject to Local Government Code, Chapter 212, Subchapter B, until a development plat is filed and approved in accordance with § 212.047.

Chapter 232, Subchapter A
(§§ 232.001 - 232.011)

Applies statewide to subdivisions, except subdivisions falling under Chapter 232, Subchapter B (see below).

§ 232.001 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.

Local Government Code

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

§ 232.0015 A county may classify divisions of land and determine whether specific divisions must be platted. Except as provided by § 232.0013, this section does not apply to land to which Subchapter B applies.

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

§ 232.0021 A county may charge a plat application fee.

§ 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 notify applicants when an application is missing required documentation within 10 business days of the date the application was received. Once a plat application is complete, a county must usually take final action on it within 60 days. If the commissioners court disapproves the plat application, the applicant shall be given a complete list of the reasons for the disapproval.

§ 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.

§ 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.

§ 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.

**AMENDED BY
SB 662
EFFECTIVE DATE:
9/1/07**

The person also has to transmit to the Texas Water Development Board and any groundwater conservation district any part of the plat that would be useful in: (1) performing groundwater conservation district activities; (2) conducting regional water planning; (3) maintaining the state's groundwater database; or (4) conducting studies for the state related to groundwater.

Local Government Code

§232.0033 *If all or part of a subdivision for which a plat is required is located within a future transportation corridor identified in an agreement under § 201.619 of the Transportation Code, the commissioners court may refuse to approve the plat unless the plat states that the subdivision is located within the area of the alignment of a transportation project as shown in the final environmental decision document, and if all or parts of the subdivision is located within that area.*

ADDED BY HB 1857
EFFECTIVE DATE:
9/1/07

§ 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.

§ 232.0045 In lieu of the bond required in § 232.004, the owner may deposit cash, a letter of credit issued by a federally insured financial institution, or other acceptable financial guarantee.

§ 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.

§ 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.

§ 232.007 A commissioners court may adopt minimum infrastructure requirements for a manufactured-home rental community located in the unincorporated areas of the county. Also, the commissioners court may only adopt minimum infrastructure standards for ingress and egress access by fire and emergency vehicles that are reasonably necessary.

§ 232.008 A commissioners court 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 commissioners court 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.

§ 232.010 The county may allow conveyance of portions of lots previously platted by metes and bounds description without revising the plat.

§ 232.011 *The commissioners court may approve and issue an amending plat, if the amending plat is signed by the applicants and filed to correct certain errors or omissions.*

ADDED BY SB 1867
EFFECTIVE DATE:
9/1/07

Local Government Code

Chapter 232, Subchapter B

(§§ 232.021 - 232.044)

Applies only to counties where

- (1) any part of which is within 50 miles of an international border, OR**
(2) any part of which is within 100 miles of an international border that contains the majority of the area of a municipality with a population of more than 250,000 and (1) does not apply.

Also, the subchapter only applies to subdivisions of two or more lots intended primarily for residential use in the jurisdiction of the county.

§ 232.022(c-1) Land in a municipality's extraterritorial jurisdiction (ETJ) is not considered to be within the county's jurisdiction if the municipality and county agree in writing under § 242.001 that the municipality will regulate subdivision plats and approve related permits in the ETJ.

§ 232.024 The commissioners court in a county subject to Subchapter B 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.

§ 232.025 A county subject to Subchapter B shall establish regulations for roads and drainage in subdivisions and require statements in purchase contracts describing how and when services will be made available as well as a bond be executed.

§ 232.026 A county subject to Subchapter B 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.

§ 232.027 A county subject to Subchapter B 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.

Local Government Code

§ 232.028	After approving a plat, a county subject to Subchapter B 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 extraterritorial jurisdiction. The fee may be <i>the greater of \$30</i> or the amount of the fee imposed by the municipality for a subdivision located entirely in the extraterritorial jurisdiction of the municipality for a certificate issued under § 212.0115 of the Local Government Code.
AMENDED BY HB 3834 EFFECTIVE DATE: 6/15/07	
§ 232.029	In counties of which any part is located within 50 miles of an international border, 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>A utility that does not hold a certificate or has not received a determination about a certificate, can still provide electricity or gas to a single-family residential dwelling if certain conditions are met.</i>
AMENDED BY HB 2096 EFFECTIVE DATE: 9/1/07	
§ 232.0291	In counties of which any part is located within 100 miles of an international border that contains the majority of the area of a municipality with a population of more than 250,000, the commissioners court must certify that subdivided land has been platted before utilities can be installed.
§ 232.030	The commissioners court shall adopt and enforce the model rules developed under § 16.343 of the Water Code and other regulations.
§ 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.
§ 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.
§ 232.037	A county may pursue civil and criminal enforcement for violations of Subchapter B or the model rules adopted under §§ 16.352, 16.353, 16.354, and 16.355, Water Code.
§ 232.039	A county subject to Subchapter B may cancel a subdivision only after interested persons are allowed to be heard at a public hearing.

Local Government Code

§ 232.041	A county subject to Subchapter B 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.
§ 232.042	A county subject to Subchapter B may grant a delay or variance from compliance with the replatting provision in § 232.040 and must notify the Attorney General within 30 days of granting the variance or delay.
§ 232.043	A county subject to Subchapter B 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.
§ 232.044	<i>The commissioners court may approve and issue an amending plat, if the amending plat is signed by the applicants and filed to correct certain errors or omissions that are provided by § 232.011.</i>

ADDED BY SB 1867
EFFECTIVE DATE:
9/1/07

Chapter 232, Subchapter C
(§§ 232.071 - 232.081)

Applies only to subdivided land
(1) outside the city limits,
(2) in counties in which is located a political subdivision that is eligible for and has applied for financial assistance under certain provisions of the Water Code, and
(3) not subject to Subchapter B.

Also, the subchapter only applies to subdivisions with lots of five acres or less intended for residential purposes and located outside a municipality.

§§ 232.072 - 232.073	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.
§ 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. A letter of credit will only satisfy this section if the letter of credit is irrevocable and issued by an institution guaranteed by the Federal Deposit Insurance Corporation.
§ 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.

Local Government Code

§ 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. If certain people make a written request for a determination of whether a plat is required under this subchapter for an identified tract of land, the commissioners court shall make a determination and issue a certificate of its determination to the requestor.

§ 232.077 A county providing water, sewer, gas, electric, or other utility service may not serve or connect land with those services unless it has been presented with a certificate under Local Government Code § 232.076.

§ 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.

§ 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.

§ 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 §§ 16.352, 16.353, 16.354, and 16.3545 of the Water Code.

§ 232.081 *The commissioners court may approve and issue an amending plat, if the amending plat is signed by the applicants and filed to correct certain errors or omissions that are provided by § 232.011.*

ADDED BY SB 1867
EFFECTIVE DATE:
9/1/07

Chapter 232,
Subchapter D
(§§ 232.091 - 232.097) Counties subject to Subchapters B and C of this chapter can create and administer a planning commission. The commissioners court of these certain counties by order must elect to operate under this subsection.

Chapter 232,
Subchapter E
(§§ 232.101 - 232.109) 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. The counties may require wide rights-of-way, minimum lot frontages, and permanent setbacks. They 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 §§ 232.029 or 232.0291. *Also, the counties may impose plat requirements prescribed by Local Government Code § 232.023. And in certain subdivisions, the county may require a limited fire suppression system.*

AMENDED & ADDED
BY SB 1867
EFFECTIVE DATE:
9/1/07

Local Government Code

§ 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.

§ 242.001 Certain counties that are subject to Subchapters A, B, C, or E of Chapter 232 are required to enter into a written agreement with a city determining which governmental entity will regulate plats and subdivision in the extraterritorial jurisdiction (ETJ) of the city. The city cannot regulate plats or subdivisions in the unincorporated area of the county that are outside the city's ETJ, unless there is an Interlocal Cooperation agreement with the county.

§ 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.

Property Code

§ 203.003 In a county with a population of more than 200,000, the 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

Transportation Code

§ 253.003 A county may propose to improve subdivision roads and assess the costs of such improvements to the property owners of the subdivision or defined portion of a subdivision if the requirements of Chapter 253 are followed.

§ 253.012 *The county may improve the roads in a subdivision or an access road to a subdivision that is located in a city, if the city council and the commissioners court agree that the county may improve the road and whether the improved road will become a county road or a city road. The county must meet the requirements of Chapter 253 (except § 253.011) and the commissioners court must find that the improvement of the road serves a county purpose.*

ADDED BY HB 2591
EFFECTIVE DATE:
6/15/07

§ 280.003 *In counties that have any territory located within 150 miles of an international boundary, the commissioners court may provide street lights along a county road located in a subdivision in the unincorporated area of the county.*

ADDED BY HB 573
EFFECTIVE DATE:
6/15/07

Water Code

§ 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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Water, Sewer and Other Utilities Regulations for Residential Property

Electric Utilities

Utilities Code

§ 164.001	Two or more political subdivisions may jointly finance, construct, and operate electric utility facilities.
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§ 164.003	An agreement between political subdivisions to jointly own and operate electric utility facilities must be submitted to the Attorney General for approval.
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§ 164.005(c)	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.
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§ 181.044	A county may designate where electric lines should be placed in the right-of-way of a county road.
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§ 181.046	A county may require an electric utility to relocate an electric utility line, at the utility's expense, to allow the widening of a right-of-way, changing of a traffic lane, improving of road bed, or improving of drainage ditch in the right-of-way. The county must give the utility 30 days written notice.
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Gas Utilities

Government Code

Chapter 1477,
Subchapter C
(§§ 1477.101 -
1477.122)

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 for supplying natural gas to county buildings adequately and dependably. Bonds may be issued payable and secured by pledge of the net revenue of the system. The county shall pay for gas used by the county for its own facilities. Free service is prohibited. The county can sell any natural gas that is not needed for county purposes to a municipal corporation or political subdivision of this state, or an individual, corporation, or company under terms that the court determines are in the best interests of the county.

Utilities Code

§ 181.024 A county may designate where gas lines should be placed in the right-of-way of a county road.

§ 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.

On-Site Sewage (Septic Tanks)

Health and Safety Code

§ 366.005 The authorized agent, as defined by § 366.002(1), may use the weekly list of new electric connections to implement and enforce rules relating to on-site sewage disposal systems. The list is required to be compiled by the electric utilities and forwarded to the county judge, or a designated county officer or employee who then forwards the list to each authorized agent, appraisal district and emergency communication district in the county.

§ 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.

§ 366.013 Under specified conditions, the owner may install or use a water softeners that discharge effluents into on-site sewage disposal systems.

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

Health and Safety Code

§ 366.017	An authorized agent may require a property owner to repair a malfunctioning on-site sewage disposal system within a certain amount of time and may assess an administrative or civil penalty if the system is not repaired.
§ 366.031	To be designated an authorized agent, a local governmental entity must first notify the Texas Commission on Environmental Quality 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 in accordance with § 366.032, and submit the order or resolution to the commission.
§ 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.
§ 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.
§ 366.051	Authorized agents issue the permits required to construct, alter, repair, extend, or operate on-site sewage disposal systems.
§ 366.0515	An authorized agent by order or resolution may condition the approval of a permit for an on-site sewage disposal system using aerobic treatment on the system's owner's contracting for maintenance of the system and may place certain requirements that the maintenance company must perform. <i>If an authorized agent determines that an owner of a single-family residence located in a county with a population of at least 40,000 who maintains the owner's system directly has violated Chapter 366 or a rule adopted or order or permit issued under Chapter 366, the owner shall correct the violation or enter into a contract for the maintenance of the system within a certain time period and is subject to an administrative penalty.</i>
§ 366.055	An authorized agent must review the proposal and inspect the on-site sewage disposal system to ensure compliance.
§ 366.056	An authorized agent may approve or disapprove an on-site sewage disposal system based on the inspection.

AMENDED BY
HB 2482
EFFECTIVE DATE:
9/1/07

Sewage Regulations

Local Government Code

§ 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 Chapter 402 of the Local Government Code.

§ 412.016 A county may acquire, own, *finance*, 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 Chapter 402 of the Local Government Code. 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 through any means available to the county, including eminent domain.

AMENDED BY
HB 1314 & SB 1271
EFFECTIVE DATE:
6/15/07

§ 412.017 *The commissioners court of certain border counties may acquire, construct, or operate a water supply system of a sewage system to serve unincorporated areas of the county. These counties may enter a management or lease agreement with another public or private entity for the operation of the water or sewage system. These counties may apply for and receive grants or other assistance from a state or federal governmental entity. These counties may, own, operate, or maintain a water or sewer utility in the same manner as a municipality under Chapter 402 of the Local Government Code.*

ADDED BY HB 3475
EFFECTIVE DATE:
9/1/07

Solid Waste

Health and Safety Code

§ 361.0961 A county may not prohibit or restrict the sale or use of a container for solid waste management purposes, processing of solid waste by a solid waste facility, or assess a fee or deposit for the sale or use of a container.

§ 361.153 A county may appropriate and spend money from its general revenues to manage solid waste and to administer a solid waste program and may charge reasonable fees for those services.

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

§ 364.011 A commissioners court by rule may regulate solid waste collection, handling, storage, and disposal in areas of the county outside municipalities. A county may not impose an unreasonable requirement on the disposal of the solid waste that is not warranted by the circumstances or authorize an activity, method of operation, or procedure that is prohibited by Health & Safety Chapter 361 or by rules of the Texas Commission on Environmental Quality. A county may enforce its rules through legal proceedings.

Health and Safety Code

§ 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 Health & Safety Chapter 361 has been filed and is pending before the Texas Commission on Environmental Quality.
§ 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.
§ 364.014	A county may acquire land for solid waste management programs.
§ 364.015	The commissioners court shall decide how much to pay to acquire land to locate garbage disposal grounds. In determining where to locate dumping or garbage disposal grounds, the commissioners court shall consider: (1) the convenience of the people to be served; and (2) the general health of, and the annoyance to, the community to be served by the dumping or garbage disposal grounds.
§ 364.034	A county may offer, require the use of, and charge fees for solid waste disposal service to persons in its territory. A county can also establish the service as a utility separate from other utilities in its territory. 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. A county may contract with a public or private utility to collect a fee for a service. <i>A county cannot restrict an entity's right to contract with a licensed waste hauler for the collection and removal of domestic septage or of grease trap waste, grit trap waste, lint trap waste, or sand trap waste.</i>
AMENDED BY HB 1251 EFFECTIVE DATE: 6/15/07	
§ 364.037	A county that offers solid waste disposal services may enter into and agreement with certain other political subdivisions to help it collect unpaid utility or solid waste disposal fees.
§ 365.012(m)	A county may offer a \$50 reward for reports of illegal dumping that result in prosecution.
§ 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.
§ 365.017	A county may adopt regulations to control disposal of litter and the removal of illegally dumped litter from private property in unincorporated areas of the county. A district or county attorney may file civil suit to restrain violations of this section, recover the costs of removal of illegally dumped litter and recover attorney fees and costs.

Health and Safety Code

§ 365.034 The commissioners court of a county may by order prohibit the accumulation of litter for more than 30 days on a person's property within 50 feet of a public highway in the county; provide for the removal and disposition of the accumulated litter, and provide for the assessment against the property owner from which litter is removed of the costs incurred by the county in removing and disposing of the litter. The commissioners court shall send a notice by certified mail to the record property owners before the commissioners court can take action to remove or dispose of the litter.

§ 368.012 A county with a population of less than 375,000 may regulate waste haulers.

Water Regulations & Utilities

Government Code

§ 1474.151 A county may own or build reservoirs, dams, levees, wells, canals or other improvement required for the proper and efficient irrigation of the land in the county. A county may acquire by purchase or condemnation rights-of-way and other lands necessary to construct such improvements.

§ 1474.152 A county shall control and manage the affairs and operations of an irrigation system in the same manner of a water improvement district operated under Chapter 49 of the Water Code.

Health & Safety Code

§ 341.048 A county may seek injunctive relief and damages for violations of public drinking water standards. The Texas Commission of Environmental Quality is a necessary and indispensable party in a suit brought by a county.

Local Government Code

§ 411.001 A county may acquire public or private real property for the purpose of building canals, drains, levees, and other improvements to provide for flood control and water outlets.

§ 411.002 The commissioners court may contract with other political subdivisions to jointly acquire a right-of-way and to jointly construct or maintain a canal, drain, levee or other improvement for flood control.

Chapter 412,
Subchapter A
(§§ 412.001 - 412.005) A county may sell and deliver surplus county water to a public corporation of this state or other political subdivisions. The money received from the sale are credited to the county's general fund.

Local Government Code

§ 412.014 A county may acquire by purchase, gift, lease, or any other method except condemnation, property necessary to obtain a surface water supply or transport and deliver surface water.

§ 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 Chapter 402 of the Local Government Code.

§ 412.016 A county may acquire, own, *finance*, 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 Chapter 402 of the Local Government Code. 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 through any mean available to the county, including eminent domain.

AMENDED BY
HB 1314 & SB 1271
EFFECTIVE DATE:
6/15/07

§ 412.017 *The commissioners court of certain border counties may acquire, construct, or operate a water supply system of a sewage system to serve unincorporated areas of the county. These counties may enter a management or lease agreement with another public or private entity for the operation of the water or sewage system. These counties may apply for and receive grants or other assistance from a state or federal governmental entity. These counties may, own, operate, or maintain a water or sewer utility in the same manner as a municipality under Chapter 402 of the Local Government Code.*

ADDED BY HB 3475
EFFECTIVE DATE:
9/1/07

§ 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.

Transportation Code

§ 251.103 A county may pay for relocating water lines owned by a water control and improvement district if necessary to complete construction or improvements to a farm-to-market road and the district agrees to pay the county for the relocation cost within 20 years and with certain interest.

Water Code

§ 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.

§ 13.043(k) An affected county (as defined by Local Government Code, Chp. 232, SubChp. B) shall provide written notice to each ratepayer eligible to appeal a change in water, drainage, or sewer rates not later than the 30th day after the date of a final decision on a rate change.

Water Code

§ 13.084 An affected county (as defined by Local Government Code, Chp. 232, SubChp. B) 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 rate making proceedings.

§ 13.139(a) An affected county (as defined by Local Government Code, Chp. 232, SubChp. B) that furnishes retail water or sewer utility service shall furnish the service, instrumentalities, and facilities safely, adequately, efficiently and reasonably.

§ 13.141 A utility owned by an affected county (as defined by Local Government Code, Chp. 232, SubChp. B) may not bill the state or a state agency or institution before the service is rendered.

§ 13.242(a) Before rendering retail water or sewer utility service to the public, a county-operated utility in an affected county (as defined by Local Government Code, Chp. 232, SubChp. B) 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.

§ 16.053(l) A county may contract with a regional water planning group to assist the group in developing or revising a regional water plan.

§ 16.055(g) Immediately upon the declaration of a state of disaster in a county due to drought conditions, the county must (1) publish notice of the declaration in one or more newspapers having general circulation in the county; and (2) give notice of the declaration to the regional water planning group's chairman and each person or entity that is required to develop a water conservation plan under Water Code §11.1271 or a drought contingency plan under Water Code §11.1272.

Chapter 16,
SubChapter I
(§§16.311 - 16.324)

**AMENDED BY
SB 3 & SB 1436
EFFECTIVE DATE:
9/1/07***

In order to minimize losses from flood damage, counties *with the aid and coordination of the Texas Water Development Board* and the Texas Department of Insurance, are authorized to take all necessary and reasonable actions *that are not less stringent than* the requirements and criteria of the National Flood Insurance Program to restrict development of land and set standards regarding construction in flood plains. This can include adopting orders necessary for the county to be eligible to participate in the National Flood Insurance Program and collecting reasonable fees to cover the cost of administering its local floodplain management program.

*The 80th Legislature needed to appropriate a certain amount of funds to the Texas Water Development Board before September 1, 2007 in order for SB 1436 to take effect.

§ 16.343(g) Before a county can receive funds under either § 15.407, SubChapter P, Chapter 15, or SubChapter K, Chapter 17 of the Water Code, the county must adopt and enforce the model rules of this section.

Water Code

§ 26.0135(a)	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.
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§ 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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§ 26.175	A county may enter into a cooperative agreement with the Texas Commission of Environmental Quality or other local governments for water quality management.
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