

LOCAL GOVERNMENT CODE

TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES, AND
RELATED ACTIVITIES

SUBTITLE B. COUNTY REGULATORY AUTHORITY

CHAPTER 231. COUNTY ZONING AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 231.001. ADOPTION OF REGULATION OR BOUNDARY INCLUDES AMENDMENT OR OTHER CHANGE. A reference in this chapter to the adoption of a zoning or other regulation or a zoning district boundary includes the amendment, repeal, or other change of a regulation or boundary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. ZONING ON PADRE ISLAND

Sec. 231.011. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the part of Padre Island located in Cameron and Willacy counties is frequented for recreational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings on islands frequented as resort areas tend to become congested and to be used in ways that interfere, to the detriment of the public health, safety, morals, and general welfare, with the proper use of the areas as places of recreation.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county parks in Cameron and Willacy counties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.012. AREAS SUBJECT TO REGULATION. This subchapter applies to the areas of Padre Island located in Cameron or Willacy County and located:

(1) outside a municipality but within two miles of a publicly owned park or recreational development; or

(2) within two miles of a beach, wharf, or bathhouse used by at least 500 persons annually.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.013. ZONING REGULATIONS GENERALLY. The commissioners court of Cameron County or of Willacy County may, for the areas subject to this subchapter in its respective county, regulate:

(1) the height, number of stories, and size of buildings and other structures;

(2) the percentage of a lot that may be occupied;

(3) the size of yards, courts, and other open spaces;

(4) population density;

(5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

(6) the placement of water and sewage facilities, parks, and other public requirements.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.014. COMPLIANCE WITH COMPREHENSIVE PLAN. Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

(1) lessen congestion in the streets and roads;

(2) secure safety from fire, panic, and other dangers;

(3) promote health and the general welfare;

(4) provide adequate light and air;

(5) prevent the overcrowding of land;

(6) avoid undue concentration of population;

(7) facilitate the adequate provision of transportation, water, sewers, parks, and other public requirements; and

(8) assist in developing the island into parks, playgrounds, and recreational areas for the residents of this state and other states and nations.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.015. DISTRICTS. (a) The commissioners court may divide the area in its county that is subject to this subchapter into districts of a number, shape, and size the court considers best for carrying out this subchapter. Within each district, the commissioners court may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) The zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the island.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.016. PROCEDURES GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES. (a) The commissioners courts shall establish procedures for adopting and enforcing zoning regulations and zoning district boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in a newspaper of general circulation in the county.

(b) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the commissioners court. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the area of the lots covered by the proposed change; or

(2) the lots immediately adjacent to the rear of the lots covered by the proposed change and extending 200 feet from

those lots, or from the street frontage of the opposite lots.
Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.017. ZONING COMMISSION. (a) To exercise the powers authorized by this subchapter, the commissioners court shall appoint a zoning commission. The commission shall recommend boundaries for the original zoning districts and appropriate zoning regulations for each district. The commission must consist of seven members, each of whom must be a resident of the county. If the county has a board of park commissioners, the commissioners court may appoint the board to serve as the zoning commission.

(b) The commission shall choose a chairman who must be a commission member. The chairman serves in that capacity for a term set by the commission. The commission may at any time choose for a particular meeting or occasion an acting chairman as necessary from among its members. The commission may employ a secretary and acting secretary and other technical or clerical personnel.

(c) A member of the commission is not entitled to compensation for service on the commission but may be entitled to expenses actually incurred while serving on the commission as provided by order of the commissioners court.

(d) The zoning commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the commissioners court. The commissioners court may not hold a public hearing or take action until it receives the final report of the zoning commission.

(e) Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to:

(1) each owner of affected property or to the person who renders the property for county taxes; and

(2) each owner of property that is located within 200 feet of property affected by the change or to the person who renders the property for county taxes.

(f) The notice may be served by depositing it, postage paid and properly addressed, in the United States mail.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.018. BOARD OF ADJUSTMENT. (a) The commissioners court may provide for the appointment of a board of adjustment. In the zoning regulations adopted under this subchapter, the commissioners court may authorize the board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of the zoning regulations that are consistent with the general purpose and intent of the regulations and in accordance with any applicable rules contained in the regulations.

(b) A board of adjustment must consist of five members to be appointed for terms of two years. The appointing authority may remove a board member for cause on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(c) The board shall adopt rules in accordance with any order adopted under this subchapter. Meetings of the board are held at the call of the chairman and at other times as determined by the board. The chairman or acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

(d) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.019. AUTHORITY OF BOARD. (a) The board of adjustment may:

(1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or a zoning regulation;

(2) hear and decide special exceptions to the terms of a zoning regulation when the regulation requires the board to do so;

and

(3) authorize in specific cases a variance from the terms of a zoning regulation if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the regulation would result in unnecessary hardship, and so that the spirit of the regulation is observed and substantial justice is done.

(b) In exercising its authority under Subsection (a)(1), the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.

(c) The concurring vote of four members of the board is necessary to:

(1) reverse an order, requirement, decision, or determination of an administrative official;

(2) decide in favor of an applicant on a matter on which the board is required to pass under a zoning regulation; or

(3) authorize a variation in a zoning regulation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.020. APPEAL TO BOARD. (a) Any of the following persons may appeal to the board of adjustment a decision made by an administrative official:

(1) a person aggrieved by the decision; or

(2) any officer, department, board, or bureau of the county or of a municipality affected by the decision.

(b) The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by the rules of the board. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(c) An appeal stays all proceedings in furtherance of the

action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may only be stayed by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.

(d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.021. JUDICIAL REVIEW OF BOARD DECISION. (a) Any of the following persons may present to a court of record a verified petition stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality:

- (1) a person aggrieved by a decision of the board;
- (2) a taxpayer; or
- (3) an officer, department, board, or bureau of the county or of the municipality.

(b) The petition must be presented within 10 days after the date the decision is filed in the board's office.

(c) On the presentation of the petition, the court may grant a writ of certiorari directed to the board to review the board's decision. The writ must indicate the time within which the board's return must be made and served on the petitioner's attorney, which must be after 10 days and may be extended by the court. Granting of the writ does not stay the proceedings on the decision under appeal, but on application and after notice to the board the court may grant a restraining order if due cause is shown.

(d) The board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision under appeal. The board is not required to return the original documents on which the board acted but may return certified or sworn copies of the documents or parts of the documents

as required by the writ.

(e) If at the hearing the court determines that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as directed. The referee shall report the evidence to the court with the referee's findings of fact and conclusions of law. The referee's report constitutes a part of the proceedings on which the court shall make its decision.

(f) The court may reverse or affirm, in whole or in part, or modify the decision that is appealed. Costs may not be assessed against the board unless the court determines that the board acted with gross negligence, in bad faith, or with malice in making its decision.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.022. ENFORCEMENT; PENALTY; REMEDIES. (a) The commissioners court may adopt orders to enforce this subchapter, any order adopted under this subchapter, or a zoning regulation.

(b) A person commits an offense if the person violates this subchapter, an order adopted under this subchapter, or a zoning regulation. An offense under this subsection is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the commissioners court. The commissioners court may also provide civil penalties for a violation.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this subchapter, an order adopted under this subchapter, or a zoning regulation, the appropriate county authority, in addition to other remedies, may institute appropriate action to:

(1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

(2) restrain, correct, or abate the violation;

(3) prevent the occupancy of the building, structure, or land; or

(4) prevent any illegal act, conduct, business, or use on or about the premises.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.023. CONFLICT WITH OTHER LAWS; EXCEPTIONS. (a) If a zoning regulation adopted under this subchapter requires a greater width or size of a yard, court, or other open space, requires a lower building height or fewer number of stories for a building, requires a greater percentage of lot to be left unoccupied, or otherwise imposes higher standards than those required under another statute or local order or regulation, the regulation adopted under this subchapter controls. If the other statute or local order or regulation imposes higher standards, that statute, order, or regulation controls.

(b) This subchapter does not authorize the commissioners court to require the removal or destruction of property that exists at the time the court implements this subchapter.

(c) This subchapter, an order adopted under this subchapter, or a zoning regulation does not apply to the location, construction, maintenance, or use of central office buildings used by a person engaging in providing telephone service to the public or equipment used in connection with those buildings or as part of the telephone system, as necessary to furnish telephone service to the public.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. ZONING NEAR AMISTAD RECREATION AREA

Sec. 231.031. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the part of Val Verde County that surrounds Amistad Recreation Area is frequented for recreational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings in the area that are frequented for resort or recreational purposes tend to become congested and to be

used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county land.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.032. AREAS SUBJECT TO REGULATION. This subchapter applies to that part of Val Verde County on the lakeward side of the boundaries described by Section 2, Chapter 250, Acts of the 62nd Legislature, Regular Session, 1971. That description is continued in effect for the purpose of the reference made by this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.033. ZONING REGULATIONS GENERALLY. The commissioners court of Val Verde County may regulate in areas subject to this subchapter:

(1) the height, number of stories, and size of buildings and other structures;

(2) the percentage of a lot that may be occupied;

(3) the size of yards, courts, and other open spaces;

(4) population density;

(5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

(6) the placement of water and sewage facilities, parks, and other public requirements.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.034. COMPLIANCE WITH COMPREHENSIVE PLAN. Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

(1) lessen congestion in the streets and roads;

(2) secure safety from fire, panic, and other dangers;

(3) promote health and the general welfare;

(4) provide adequate light and air;
(5) prevent the overcrowding of land;
(6) avoid undue concentration of population;
(7) facilitate the adequate provision of transportation, water, sewers, parks, and other public requirements; and

(8) assist in developing the area into parks, playgrounds, and recreational areas for the residents of this state and other states and nations.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.035. DISTRICTS. (a) The commissioners court may divide the area in the county that is subject to this subchapter into districts of a number, shape, and size the court considers best for carrying out this subchapter. Within each district, the commissioners court may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) The zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the area.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.036. ZONING COMMISSION. (a) The commissioners court shall appoint a zoning commission. The commission shall recommend boundaries for the original zoning districts and appropriate zoning regulations for each district. The commission must consist of an ex officio chairman and four additional members.

(b) The commissioners court shall appoint a chairman who must be a public official in Val Verde County. The chairman serves a two-year term of office. The other members serve four-year terms. In making the initial appointments of the other members, the commissioners court shall designate the members for staggered terms

of one, two, three, and four years. In the event of resignation, end of term, or a vacancy, the court shall appoint new members. The court shall fill a vacancy in the office of chairman by appointment. A person is not eligible for appointment to, or service on, the commission after the person's 70th birthday. The zoning commission may employ a secretary, an acting secretary, and other technical or clerical personnel.

(c) A member of the commission is entitled to compensation in the amount of \$10 a month except that the chairman of the zoning commission is not entitled to compensation under this section if the chairman receives compensation in the chairman's capacity as a public official in the county. A member of the commission may also be entitled to expenses actually incurred while serving on the commission as provided by order of the commissioners court.

(d) The zoning commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the commissioners court. The commissioners court may not take action or hold a public hearing until it has received the final report of the commission.

(e) Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to:

(1) each owner of affected property or to the person who renders the property for county taxes; and

(2) each owner of property that is located within 200 feet of property affected by the change or to the person who renders the property for county taxes.

(f) The notice may be served by depositing it, postage paid and properly addressed, in the United States mail.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.037. PROCEDURE GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES. (a) A zoning regulation or zoning district boundary proposed by the zoning commission is not effective until it is adopted by the commissioners court after a public hearing. Before the 15th day before the date of the hearing, the commissioners court must publish notice of the hearing in a

newspaper of general circulation in the county.

(b) The commissioners court by a majority vote may amend or reject a regulation or boundary proposed by the zoning commission.

(c) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the commissioners court. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the lots covered by the proposed change; or

(2) the lots immediately adjacent to the rear of the lots covered by the proposed change and extending 200 feet from those lots, or from the street frontage of the opposite lots.

(d) After the commissioners court receives the protest, the court shall hold a public hearing. The court shall publish notice in the manner provided by Subsection (a).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.038. SPECIAL EXCEPTION. (a) Any of the following persons may petition the commissioners court for a special exception to a zoning regulation adopted by the commissioners court:

(1) a person aggrieved by the regulation; or

(2) any officer, department, board, or bureau of the county or of a municipality in the county.

(b) The commissioners court shall hold a public hearing on the petition and shall publish notice of the hearing before the 15th day before the date of the hearing in a newspaper of general circulation in the county.

(c) Except as provided by Subsection (d), the commissioners court may grant a petition for a special exception by majority vote.

(d) If a proposed special exception to a zoning regulation is protested in accordance with this subsection, the proposed special exception must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the commissioners court. The protest must be presented at the hearing and signed by the owners of at least 20 percent of:

(1) the lots covered by the proposed exception; or

(2) the lots immediately adjacent to the rear of the lots covered by the proposed exception extending 200 feet from those lots, or from the street frontage of the opposite lots.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.039. ENFORCEMENT; PENALTY; REMEDIES. (a) The commissioners court may adopt orders to enforce this subchapter, any order adopted under this subchapter, or a zoning regulation.

(b) A person commits an offense if the person violates this subchapter or a zoning regulation. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day that a violation occurs constitutes a separate offense. Trial shall be in the district court.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this subchapter, an order adopted under this subchapter, or a zoning regulation, the appropriate county authority, in addition to other remedies, may institute appropriate action to:

(1) prevent the unlawful action or use;

(2) restrain, correct, or abate the violation;

(3) prevent the occupancy of the building, other structure, or land; or

(4) prevent any illegal act, conduct, business, or use on or about the premises.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.040. CONFLICT WITH OTHER LAWS; EXCEPTIONS. (a) If a zoning regulation adopted under this subchapter requires a greater width or size of a yard, court, or other open space, requires a lower building height or fewer number of stories for a building, requires a greater percentage of a lot to be left unoccupied, or otherwise imposes higher standards than those required under another statute or local order or regulation, the

regulation adopted under this subchapter controls. If the other statute or local order or regulation imposes higher standards, that statute, order, or regulation controls.

(b) This subchapter does not authorize the commissioners court to require the removal or destruction of property that exists at the time the court implements this subchapter or to restrict the right of a landowner, acting in the owner's behalf, to construct improvements for agricultural purposes or to otherwise use the land for agricultural purposes except the commissioners court may take those actions to restrict or prohibit any commercial agricultural enterprise such as a feed lot.

(c) This subchapter, an order adopted under this subchapter, or a zoning regulation does not apply to the location, construction, maintenance, or use of central office buildings or equipment used by a person engaged in providing telephone service to the public.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. MILITARY ZONES

Sec. 231.051. DEFINITION. In this subchapter, "military establishment" means a base, camp, station, yard, or section base of the United States Navy or the United States Coast Guard.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.052. ESTABLISHMENT OF MILITARY ZONE. (a) The commissioners court of a county in which a military establishment is located may create a restricted military zone adjacent to the military establishment. The court shall set forth the boundaries of the zone in its minutes. A military zone may not extend more than one mile from the boundary line of the military establishment.

(b) Appropriate signs must be posted along each road or way leading into the zone to indicate that the zone is a restricted area.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.053. REGULATIONS. (a) The commissioners court

may adopt regulations relating to the speed and parking of motor vehicles and the taking of photographs in the zone.

(b) The court may authorize the civilian or military guards at a military establishment to enforce the regulations for the zone for that military establishment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.054. PENALTY. A person commits an offense if the person violates a regulation adopted under this subchapter. An offense under this section is a misdemeanor punishable by a fine of not less than \$100 or by confinement in county jail for a term of not less than 10 days or more than two years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER E. ZONING AROUND CERTAIN LAKES

Sec. 231.071. PURPOSE. The powers granted under this subchapter are for the purpose of protecting the public health, safety, welfare, and morals.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.072. DEFINITIONS. In this subchapter:

(1) "Lake" means an inland body of standing water, including a reservoir formed by impounding the water of a river or creek but not including an impoundment of salt water or brackish water, that:

(A) has a storage capacity of more than one million acre-feet; and

(B) is owned in whole or part by a political subdivision of this state, including a special-purpose district or authority.

(2) "Lake area" means the area within 5,000 feet of where the shoreline of a lake would be if the lake were filled to its storage capacity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.073. LAKE COVERED BY SUBCHAPTER. This subchapter

applies only to a lake that has a construction completion date after June 12, 1985.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.074. ZONING AND BUILDING CONSTRUCTION ORDINANCES.

(a) The commissioners court of a county may adopt ordinances, not inconsistent with state law, that apply only to the lake area in the county and that regulate:

- (1) the height, number of stories, or size of buildings;
- (2) the percentage of a lot that may be occupied;
- (3) the size of yards and other spaces;
- (4) population density;
- (5) the location and use of buildings and land for commercial, industrial, residential, or other purposes; and
- (6) building construction standards.

(b) The commissioners court may not regulate the use, design, or placement of public utility buildings, land, or facilities.

(c) The commissioners court may not regulate for siting or zoning purposes new manufactured or industrialized housing that is constructed to preemptive state or federal building standards in any manner that is different from regulation of site-built housing.

(d) The commissioners court shall adopt rules as necessary to carry out this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.075. LOCAL OPTION ELECTION. (a) This subchapter applies only to a county in which a majority of the voters voting on the question approve this subchapter's grant of authority to the county. The commissioners court shall order and hold an election if the court is petitioned to do so under Section [231.076](#). The commissioners court may not order and hold the election on its own motion.

(b) If an election is held, the ballot shall be printed to provide for voting for or against the proposition: "Granting authority to the county to adopt zoning and building construction

ordinances for the areas around lakes."

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.076. PETITION; VERIFICATION. (a) A petition for the local option election must include a statement worded substantially as provided by this subsection and located on each page of the petition preceding the space reserved for signatures: "This petition is to request that an election be held in (name of county) to authorize the county to adopt zoning and building construction ordinances for the areas around lakes."

(b) To be valid, a petition must be signed by registered voters of the county in a number equal to at least 10 percent of the number of votes received by all candidates for governor in the county in the most recent gubernatorial general election. The petition must also include each signer's current voter registration number, printed name, and residence address, including zip code.

(c) Each signer must enter beside the signature the date on which the petition is signed. A signature may not be counted if the signer fails to include the date or if the date of signing is before the 90th day before the date the petition is submitted to the commissioners court.

(d) Within five days after the date a petition is received in the office of the commissioners court, the commissioners court shall submit the petition for verification to the county clerk, who shall determine whether the petition meets the requirements imposed by this section. Within 30 days after the date the petition is submitted to the county clerk for verification, the county clerk shall certify in writing to the commissioners court whether the petition is valid. If the county clerk determines that the petition is invalid, the clerk shall state the reasons for that determination.

(e) If the county clerk certifies that a petition is valid, the commissioners court shall order the election to be held on the first uniform election date authorized by Section 41.001, Election Code, that occurs after the 35th day after the date the court receives the county clerk's certification.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.077. LAKE PLANNING COMMISSION. (a) A lake planning commission is established for each lake area in a county subject to this subchapter and is composed of:

(1) three residents of the county who own land in the county, appointed by the county judge;

(2) one resident of each commissioners precinct in the county, appointed by the county commissioner for that precinct; and

(3) the mayor of each municipality that includes any part of that lake area in the county.

(b) Except for the initial appointed members, the appointed members of a commission are appointed for terms of two years expiring on February 1 of each odd-numbered year. The initial appointed members are appointed for terms expiring on the first February 1 of an odd-numbered year occurring after the date of their appointment.

(c) A commission annually shall elect a chairman and vice-chairman from its members. The commissioners court shall employ staff for the use of the commission in performing its functions.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.078. COMMISSION DUTIES; RULES. (a) The commissioners court may assign a lake planning commission any duties that the court considers appropriate and that are not inconsistent with this subchapter.

(b) The commissioners court shall adopt rules governing the operations of the commission.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.079. COMMISSION STUDIES; REPORTS; HEARINGS. (a) At the request of the commissioners court, a lake planning commission shall, or on its own initiative a commission may, conduct studies of the lake area over which it has jurisdiction and prepare reports to advise the commissioners court about the boundaries of the original zoned districts, other regulations for

the lake area, and changes to those districts or regulations.

(b) Before the commission may prepare a report, it must hold a public hearing at which members of the public may present testimony about any subject to be included in the commission's report. The commission shall give notice of the hearing as required by the commissioners court.

(c) If a report will advise the commissioners court about proposed action regarding the zoning classification of a parcel of land, the commission shall send written notice to each landowner, as listed on the county tax rolls, whose land is directly affected by the proposed action or whose land is located within 200 feet of land directly affected. The notice must inform the landowner of the time and place of the public hearing at which the landowner may present testimony to the commission about the proposed action and must be deposited in the United States mail before the 10th day before the date of the hearing.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.080. ADOPTION OF ORDINANCE AFTER RECEIPT OF REPORT. The commissioners court may adopt a proposed ordinance only after the court receives a lake planning commission's report prepared under Section [231.079](#) relating to the proposed ordinance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.081. SPECIAL EXCEPTIONS. (a) The commissioners court may grant a special exception to an ordinance adopted under this subchapter if the court finds that the grant of the special exception will not be contrary to the public interest and that a literal enforcement of the ordinance would result in an unnecessary hardship.

(b) The commissioners court shall adopt procedures governing applications, notice, hearings, and other matters relating to the grant of a special exception.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.082. CONFLICT WITH OTHER ACTION. If an ordinance adopted under this subchapter conflicts with an action of a

special-purpose district or authority that owns the lake or reservoir or an action of a municipality that applies to a lake area in the county, the municipal or special-purpose district action controls to the extent of the conflict.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.083. ENFORCEMENT. (a) The county attorney or other prosecuting attorney representing the county in the district court may file an action to enjoin the violation or threatened violation of an ordinance adopted under this subchapter. The court may grant appropriate relief.

(b) If an ordinance adopted under this subchapter defines an offense, an offense under that order is a Class C misdemeanor. The offense shall be prosecuted in the same manner as an offense defined by state law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER F. ZONING AROUND LAKE TAWAKONI AND LAKE RAY ROBERTS

Sec. 231.101. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) those parts of a county that surround Lake Tawakoni and Lake Ray Roberts will be frequented for recreational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings in the area that will be frequented for resort or recreational purposes will tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging recreation.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.102. DEFINITION. In this subchapter "lake area" means the area within 5,000 feet of the project boundary line for Lake Tawakoni or Lake Ray Roberts, which is defined as the 447 foot elevation take line for Lake Tawakoni and the 645 foot elevation take line for Lake Ray Roberts.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52 (a), eff. Aug. 28, 1989.

Sec. 231.103. LAKES COVERED BY SUBCHAPTER. This subchapter applies only to Lake Tawakoni and Lake Ray Roberts.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.104. ZONING AND BUILDING CONSTRUCTION ORDINANCES.

(a) The commissioners court of a county may adopt ordinances, not inconsistent with state law, that apply only to the lake area in the county and that regulate:

(1) the height, number of stories, or size of buildings in the area;

(2) the percentage of a lot that may be occupied;

(3) the size of yards and other spaces;

(4) population density;

(5) the location and use of buildings and land for commercial, industrial, residential, or other purposes; and

(6) building construction standards.

(b) The commissioners court may not adopt an ordinance in conflict with Chapter 2154, Occupations Code, or with any rule adopted under that chapter. An ordinance adopted in conflict with that chapter is void.

(c) This Act does not authorize a commissioners court to issue any order or regulation in conflict with a municipal ordinance or state agency rule pertaining to the regulation of billboards or outdoor advertising. An order or regulation issued in conflict with a municipal ordinance or state agency rule is void.

(d) The commissioners court may not regulate for siting or zoning purposes new manufactured or industrialized housing that is constructed to preemptive state or federal building standards in

any manner that is different from regulation of site-built housing.

(e) The commissioners court shall adopt rules as necessary to carry out this subchapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.823, eff. Sept. 1, 2001.

Sec. 231.105. LOCAL OPTION ELECTION. (a) This subchapter applies only to a county in which a majority of the voters voting on the question approve this subchapter's grant of authority to the county. The commissioners court shall order and hold an election if the court is petitioned to do so under Section 231.106. The commissioners court may not order and hold the election on its own motion.

(b) If an election is held, the ballot shall be printed to provide for voting for or against the proposition: "Granting authority to the county to adopt zoning and building construction ordinances for the areas in the county around (name of the appropriate lake)." Each qualified voter of each affected precinct is entitled to vote in the election.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.106. PETITION; VERIFICATION. (a) A petition for a local option election must include a statement worded substantially as follows and located on each page of the petition preceding the space reserved for signatures: "This petition is to request that an election be held in (name of county) to authorize the county to adopt zoning and building construction ordinances for the areas in the county around (name of the appropriate lake)."

(b) To be valid, a petition must be signed by registered voters of the county in a number equal to at least 10 percent of the number of votes received by all candidates for governor in each affected precinct in the most recent gubernatorial general election. The petition must also include each signer's current voter registration number, printed name, and residence address, including zip code.

(c) Each signer must enter beside the signature the date on which the petition is signed. A signature may not be counted if the signer fails to include the date or if the date of signing is before the 90th day before the date the petition is submitted to the commissioners court.

(d) Within five days after the date a petition is received in the office of the commissioners court, the commissioners court shall submit the petition for verification to the county clerk, who shall determine whether the petition meets the requirements imposed by this section. Within 30 days after the date the petition is submitted to the county clerk for verification, the county clerk shall certify in writing to the commissioners court whether the petition is valid. If the county clerk determines that the petition is invalid, the clerk shall state the reasons for that determination.

(e) If the county clerk certifies that a petition is valid, the commissioners court shall order the election to be held on the first uniform election date authorized by Section 41.001, Election Code, that occurs after the date the court receives the county clerk's certification and that allows for compliance with the time requirements prescribed by Chapter 3, Election Code.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.107. LAKE PLANNING COMMISSION. (a) A lake planning commission is established for the lake area in the county and is composed of:

(1) three residents of the affected precincts who own land in the county, appointed by the county judge of the county;

(2) one resident of each commissioners precinct that is affected, appointed by the county commissioner for that precinct, and if only one precinct is affected, the commissioner shall appoint two; and

(3) the mayor of each municipality the territory or extraterritorial jurisdiction of which includes any part of the lake area in the county.

(b) Except for the initial appointed members, the appointed

members of the commission are appointed for terms of two years expiring on February 1 of each odd-numbered year. The initial appointed members are appointed for terms expiring on the first February 1 of an odd-numbered year occurring after the date of their appointment.

(c) The commission annually shall elect a chairman and vice-chairman from its members. The commissioners court shall employ staff for the use of the commission in performing its functions.

(d) A mayor serving on the commission may designate another person to serve in place of the mayor at one or more commission meetings.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 6, Sec. 1, eff. Sept. 1, 1997.

Sec. 231.108. COMMISSION DUTIES; RULES. (a) The commissioners court may assign the lake planning commission any duties that the court considers appropriate and that are not inconsistent with this subchapter.

(b) The commissioners court shall adopt rules governing the operations of the commission.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.109. COMMISSION STUDIES; REPORTS; HEARINGS. (a) At the request of the commissioners court, the lake planning commission shall, or on its own initiative the commission may, conduct studies of the lake area in the county and prepare reports to advise the commissioners court about the boundaries of the original zoned districts, other regulations for the lake area, and changes to those districts or regulations.

(b) Before the commission may prepare a report, it must hold a public hearing at which members of the public may present testimony about any subject to be included in the commission's report. The commission shall give notice of the hearing as required by the commissioners court.

(c) If a report will advise the commissioners court about proposed action regarding the zoning classification of a parcel of land, the commission shall send written notice to each landowner, as listed on the county tax rolls, whose land is directly affected by the proposed action or whose land is located within 200 feet of land directly affected. The notice must inform the landowner of the time and place of the public hearing at which the landowner may present testimony to the commission about the proposed action and must be deposited in the United States mail before the 10th day before the date of the hearing.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.110. ADOPTION OF ORDINANCE AFTER RECEIPT OF REPORT. The commissioners court may adopt a proposed ordinance only after the court receives the lake planning commission's report prepared under Section [231.109](#) relating to the proposed ordinance.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.111. SPECIAL EXCEPTIONS. (a) The lake planning commission may recommend, subject to approval by the commissioners court, a special exception to an ordinance adopted under this subchapter if the commission finds that the grant of the special exception will not be contrary to the public interest and that a literal enforcement of the ordinance would result in an unnecessary hardship.

(b) The commission shall adopt procedures governing applications, notice, hearings, and other matters relating to the grant of a special exception.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.112. CONFLICT BETWEEN ORDINANCES. If an ordinance adopted under this subchapter conflicts with an action of a municipality that applies to any part of the lake area located in the county and the municipality, the municipal action controls to

the extent of the conflict.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.113. ENFORCEMENT. (a) The county attorney or other prosecuting attorney representing the county in the district court is entitled to appropriate injunctive relief to prevent a violation or threatened violation of an ordinance adopted under this subchapter from continuing or occurring.

(b) If an ordinance adopted under this subchapter defines an offense, the offense is a Class C misdemeanor. The offense shall be prosecuted in the same manner as an offense defined by state law.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

SUBCHAPTER G. ZONING AROUND LAKE ALAN HENRY, LAKE COOPER, LAKE RALPH HALL, POST LAKE, AND LOWER BOIS D'ARC CREEK RESERVOIR

Sec. 231.131. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the areas that surround Lake Alan Henry, Lake Cooper, Lake Ralph Hall, Post Lake, and Lower Bois d'Arc Creek Reservoir are or will be frequented for recreational purposes by residents from every part of the state;

(2) development in the area, including the construction of on-site water treatment systems or other sources of contamination, may impact the water quality in the lakes and the reservoir;

(3) orderly development and use of the area is of concern to the entire state; and

(4) buildings in the area that will be frequented for resort or recreational purposes will tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and

general welfare and encouraging recreation.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 63, Sec. 2, eff. May 8, 1991; Acts 2003, 78th Leg., ch. 977, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 13 (S.B. 525), Sec. 2, eff. April 29, 2011.

Sec. 231.132. AREAS SUBJECT TO REGULATION. (a) This subchapter applies to:

(1) those parts of Garza County located within three miles of the high water marks established for Lake Alan Henry and Post Lake except land located in Garza County and owned by the White River Municipal Water District;

(2) those parts of Kent County located within three miles of the high water marks established for Lake Alan Henry;

(3) the area within 10,000 feet of where the shoreline of Lake Cooper would be if the lake were filled to its storage capacity;

(4) the area within 5,000 feet of where the shoreline of Lake Ralph Hall would be if the lake were filled to its storage capacity; and

(5) the area within 5,000 feet of where the shoreline of the Lower Bois d'Arc Creek Reservoir would be if the reservoir were filled to its storage capacity.

(b) The areas described by Subsection (a) are subject to regulation under this subchapter regardless of whether the construction of an affected lake or reservoir is complete.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 13, Sec. 4, eff. April 29, 2011.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 63, Sec. 3, eff. May 8, 1991; Acts 2001, 77th Leg., ch. 1125, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 997, Sec. 3, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1309, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 13 (S.B. 525), Sec. 3, eff.

April 29, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 13 (S.B. 525), Sec. 4, eff.
April 29, 2011.

Sec. 231.133. ZONING REGULATIONS GENERALLY. (a) The commissioners court of a county in which an area subject to this subchapter is located may regulate in that area:

(1) the height, number of stories, and size of buildings and other structures;

(2) the percentage of a lot that may be occupied;

(3) the size of yards, courts, and other open spaces;

(4) population density;

(5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

(6) the placement of water and sewage facilities, parks, and other public requirements.

(b) The commissioners court may not regulate for siting or zoning purposes new manufactured or industrialized housing, constructed to preemptive state or federal building standards, in any manner that is different from regulation of site-built housing. Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 63, Sec. 4, eff. May 8, 1991.

Sec. 231.134. COMPLIANCE WITH COMPREHENSIVE PLAN. Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

(1) lessen congestion in the streets and roads;

(2) secure safety from fire, panic, and other dangers;

(3) promote health and the general welfare;

(4) provide adequate light and air;

(5) prevent the overcrowding of land;

(6) avoid undue concentration of population;

(7) facilitate the adequate provision of transportation, water, sewers, parks, and other public requirements; or

(8) assist in developing the area into parks, playgrounds, and recreational areas for the residents of this state and other states and nations.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989.

Sec. 231.135. DISTRICTS. (a) The commissioners court may divide the area in the county that is subject to this subchapter into districts of a number, shape, and size the court considers best for carrying out this subchapter. Within each district, the commissioners court may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) The zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the area.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989.

Sec. 231.136. ZONING COMMISSION. (a) The commissioners court shall appoint a zoning commission. The commission shall recommend boundaries for the original zoning districts and appropriate zoning regulations for each district. The commission must consist of an ex officio chairman and four additional members.

(b) The commissioners court shall appoint a chairman who must be a public official in the county. The chairman serves a two-year term of office. The other members serve four-year terms. In making the initial appointments of the other members, the commissioners court shall designate the members for staggered terms of one, two, three, and four years. In the event of resignation, end of term, or a vacancy, the court shall appoint new members. The court shall fill a vacancy in the office of chairman by appointment. The zoning commission may employ a secretary, an acting secretary,

and other technical or clerical personnel.

(c) A member of the commission is entitled to compensation in the amount of \$10 a month except that the chairman of the zoning commission is not entitled to compensation under this section if the chairman receives compensation in the chairman's capacity as a public official in the county. A member of the commission may also be entitled to expenses actually incurred while serving on the commission as provided by order of the commissioners court.

(d) The zoning commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the commissioners court. The commissioners court may not take action or hold a public hearing until it has received the final report of the commission.

(e) Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to:

(1) each owner of affected property or to the person who renders the property for county taxes; and

(2) each owner of property that is located within 200 feet of property affected by the change or to the person who renders the property for county taxes.

(f) The notice may be served by depositing it, postage paid and properly addressed, in the United States mail.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 63, Sec. 5, eff. May 8, 1991.

Sec. 231.137. PROCEDURE GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES. (a) A zoning regulation or zoning district boundary proposed by the zoning commission is not effective until it is adopted by the commissioners court after a public hearing. Before the 15th day before the date of the hearing, the commissioners court must publish notice of the hearing in a newspaper of general circulation in the county.

(b) The commissioners court by a majority vote may amend or reject a regulation or boundary proposed by the zoning commission.

(c) If a proposed change to a regulation or boundary is

protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the commissioners court. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the lots covered by the proposed change; or

(2) the lots immediately adjacent to the rear of the lots covered by the proposed change and extending 200 feet from those lots or from the street frontage of the opposite lots.

(d) After the commissioners court receives the protest, the court shall hold a public hearing. The court shall publish notice in the manner provided by Subsection (a).

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989.

Sec. 231.138. SPECIAL EXCEPTION. (a) Any of the following persons may petition the commissioners court for a special exception to a zoning regulation adopted by the commissioners court:

(1) a person aggrieved by the regulation; or

(2) any officer, department, board, or bureau of the county or of a municipality in the county.

(b) The commissioners court shall hold a public hearing on the petition and shall publish notice of the hearing before the 15th day before the date of the hearing in a newspaper of general circulation in the county.

(c) Except as provided by Subsection (d), the commissioners court may grant a petition for a special exception by majority vote.

(d) If a proposed special exception to a zoning regulation is protested in accordance with this subsection, the proposed special exception must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the commissioners court. The protest must be presented at the hearing and signed by the owners of at least 20 percent of:

(1) the lots covered by the proposed exception; or

(2) the lots immediately adjacent to the rear of the lots covered by the proposed exception extending 200 feet from

those lots or from the street frontage of the opposite lots.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989.

Sec. 231.139. ENFORCEMENT; PENALTY; REMEDIES. (a) The commissioners court may adopt orders to enforce this subchapter, any order adopted under this subchapter, or a zoning regulation.

(b) A person commits an offense if the person violates this subchapter or a zoning regulation. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day that a violation occurs constitutes a separate offense. Trial shall be in the district court.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this subchapter, an order adopted under this subchapter, or a zoning regulation, the appropriate county authority, in addition to other remedies, may institute appropriate action to:

- (1) prevent the unlawful action or use;
- (2) restrain, correct, or abate the violation;
- (3) prevent the occupancy of the building, other structure, or land; or
- (4) prevent any illegal act, conduct, business, or use on or about the premises.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989.

Sec. 231.140. CONFLICT WITH OTHER LAWS; EXCEPTIONS. (a) If a zoning regulation adopted under this subchapter requires a greater width or size of a yard, court, or other open space, requires a lower building height or fewer number of stories for a building, requires a greater percentage of a lot to be left unoccupied, or otherwise imposes higher standards than those required under another statute or local order or regulation, the regulation adopted under this subchapter controls. If the other

statute or local order or regulation imposes higher standards, that statute, order, or regulation controls.

(b) This subchapter does not authorize the commissioners court to require the removal or destruction of property that exists at the time the court implements this subchapter or restrict the right of a landowner, acting in the owner's behalf, to construct improvements for agriculture and ranching operations or to otherwise use the land for agriculture and ranching operations. Agriculture and ranching operations include cultivating the soil; producing crops for human food, animal feed, planting seed, or fiber; floriculture; viticulture; horticulture; raising or keeping livestock or poultry; and planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure. The commissioners court may take those actions to restrict or prohibit any commercial agricultural enterprise, such as a commercial feed lot, that are reasonably necessary to protect the public health, safety, peace, morals, and general welfare from the dangers of explosion, flooding, vermin, insects, physical injury, contagious disease, contamination of water supplies, radiation, storage of toxic materials, or other hazards.

(c) This subchapter, an order adopted under this subchapter, or a zoning regulation does not apply to the location, construction, maintenance, or use of central office buildings or equipment used by a person engaged in providing telephone service to the public.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989.

Sec. 231.141. REGULATION OF SAM WAHL RECREATION AREA. (a) The Commissioners Court of Garza County may zone for commercial or residential development the area adjacent to Lake Alan Henry known as the Sam Wahl Recreation Area.

(b) Notwithstanding this chapter, Chapter 253, or other law, a municipality owning property in the Sam Wahl Recreation Area may develop, change the use of, or dispose of the property.

Added by Acts 1999, 76th Leg., ch. 109, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER I. ZONING AND OTHER REGULATION IN EL PASO MISSION TRAIL
HISTORICAL AREA

Sec. 231.171. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the El Paso Mission Trail Historical Area will be frequented for recreational and educational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings in the area that will be frequented for recreational, cultural, or educational purposes will tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation, education, and historic preservation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare, protecting and preserving places and areas of historical, cultural, or architectural importance and significance, and encouraging recreation and education.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.172. AREA SUBJECT TO REGULATION. This subchapter applies to the area of land in El Paso County, to be known as the El Paso Mission Trail Historical Area, described by Section 2, House Bill No. 2561, Acts of the 72nd Legislature, Regular Session, 1991. Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.173. ZONING AND OTHER REGULATIONS GENERALLY. The commissioners court of El Paso County may regulate in the El Paso Mission Trail Historical Area:

(1) the height, number of stories, and size of buildings or other structures;

(2) the percentage of a lot that may be occupied;

(3) the size of yards, courts, and other open spaces;

(4) population density;

(5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes;

(6) the construction, reconstruction, alteration, or razing of buildings or other structures of historical, cultural, or architectural significance;

(7) the placement of water and sewage facilities, parks, and other public requirements;

(8) the style of and construction standards applying to buildings and other structures; and

(9) the location, size, style, and other characteristics of signs.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.174. COMPLIANCE WITH COMPREHENSIVE PLAN. The regulations must be adopted in accordance with a comprehensive plan and must be designed to:

(1) lessen congestion in the streets and roads;

(2) secure safety from fire, panic, and other dangers;

(3) promote health and the general welfare;

(4) provide adequate light and air;

(5) prevent the overcrowding of land;

(6) avoid undue concentration of population;

(7) facilitate the adequate provision of transportation, water, sewers, parks, and other public requirements; or

(8) assist in developing the area into parks, playgrounds, recreational areas, and educational areas and in preserving areas of historical, cultural, or architectural importance or significance for the residents of this state and other states and nations.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.175. DISTRICTS. (a) The commissioners court may divide the El Paso Mission Trail Historical Area into districts of a number, shape, and size the court considers best for carrying out

this subchapter. Within each district, the commissioners court may regulate the erection, construction, reconstruction, removal, alteration, repair, or use of buildings, other structures, or land.

(b) The regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings, protecting historic landmarks and structures, and encouraging the most appropriate use of land throughout the area.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.176. COMMISSION. (a) To exercise the powers authorized by this subchapter, the commissioners court shall appoint a commission. If the county has a planning commission or historic commission, the commissioners court may designate either of those commissions to serve as the commission required by this section. The commission shall recommend boundaries for the original districts and appropriate regulations for each district.

(b) The commission shall elect a chairman from its members. The chairman serves in that capacity for a term set by the commission. The commission may at any time choose for a particular meeting or occasion an acting chairman as necessary from its members. In the event of resignation, end of term, or a vacancy, the commissioners court shall appoint new members. The commission shall fill a vacancy in the office of chairman by election. The commission may employ a secretary, an acting secretary, and other technical or clerical personnel.

(c) A member of the commission is not entitled to compensation but is entitled to expenses actually incurred while serving on the commission as provided by order of the commissioners court.

(d) The commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the commissioners court. The commissioners court may not take final action or hold a public hearing until it has received the

final report of the commission.

(e) Before the 10th day before the hearing date, written notice of each public hearing before the commission on a proposed change in a classification in the district shall be sent to:

(1) each owner of affected property or to the person who renders the property for county taxes; and

(2) each owner of property that is located within 200 feet of property affected by the change or to the person who renders the property for county taxes.

(f) The notice may be served by depositing it, postage paid and properly addressed, in the United States mail.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.177. PROCEDURES GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES. (a) The commissioners court shall establish procedures for adopting and enforcing regulations and district boundaries. A regulation or district boundary is not effective until it is adopted by the commissioners court after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, the commissioners court must publish notice of the hearing in a newspaper of general circulation in the county.

(b) The commissioners court by a majority vote may amend or reject a regulation or boundary proposed by the commission.

(c) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the commissioners court. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the area of the lots covered by the proposed change; or

(2) the lots immediately adjacent to the rear of the lots covered by the proposed change and extending 200 feet from those lots or from the street frontage of the opposite lots.

(d) After the commissioners court receives the protest, the

court shall hold a public hearing. The court shall publish notice in the manner provided by Subsection (a).

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.178. BOARD OF ADJUSTMENT. (a) The commissioners court may provide for the appointment of a board of adjustment. In the regulations adopted under this subchapter, the commissioners court may authorize the board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of the regulations that are consistent with the general purpose and intent of the regulations and in accordance with any applicable rules contained in the regulations.

(b) A board of adjustment must consist of five members to be appointed for staggered terms of two years. The appointing authority may remove a board member for cause on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(c) The board shall adopt rules in accordance with any order adopted under this subchapter. Meetings of the board are held at the call of the chairman and at other times as determined by the board. The chairman or acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

(d) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or indicate that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.179. AUTHORITY OF BOARD. (a) The board of adjustment may:

(1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or a

regulation adopted under this subchapter;

(2) hear and decide special exceptions to the terms of a regulation adopted under this subchapter when the regulation requires the board to do so; and

(3) authorize in specific cases a variance from the terms of a regulation adopted under this subchapter if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the regulation would result in unnecessary hardship, and so that the spirit of the regulation is observed and substantial justice is done.

(b) In exercising its authority under Subsection (a)(1), the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.

(c) The concurring vote of four members of the board is necessary to:

(1) reverse an order, requirement, decision, or determination of an administrative official;

(2) decide in favor of an applicant on a matter on which the board is required to pass under a regulation adopted under this subchapter; or

(3) authorize a variation in a regulation adopted under this subchapter.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.180. APPEAL TO BOARD. (a) Any of the following persons may appeal to the board of adjustment a decision made by an administrative official:

(1) a person aggrieved by the decision; or

(2) any officer, department, board, or bureau of the county or of a municipality affected by the decision.

(b) The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a

reasonable time as determined by board rule. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(c) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.

(d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.181. JUDICIAL REVIEW OF BOARD DECISION. (a) Any of the following persons may present to a court of record a verified petition stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality:

- (1) a person aggrieved by a decision of the board;
- (2) a taxpayer; or
- (3) an officer, department, board, or bureau of the county or of the municipality.

(b) The petition must be presented within 10 days after the date the decision is filed in the board's office.

(c) On the presentation of the petition, the court may grant a writ of certiorari directed to the board to review the board's decision. The writ must indicate the time within which the board's return must be made and served on the petitioner's attorney, which must be after 10 days and may be extended by the court. Granting of the writ does not stay the proceedings on the decision under appeal, but on application and after notice to the board the court may grant a restraining order if due cause is shown.

(d) The board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision under appeal. The board is not required to return the original documents on which the board acted but may return certified or sworn copies of the documents or parts of the documents as required by the writ.

(e) If at the hearing the court determines that testimony is necessary for the proper disposition of the matter, the court may take evidence or appoint a referee to take evidence as directed. The referee shall report the evidence to the court with the referee's findings of fact and conclusions of law. The referee's report constitutes a part of the proceedings on which the court shall make its decision.

(f) The court may reverse or affirm, in whole or in part, or modify the decision that is appealed. The court may not assess costs against the board unless the court determines that the board acted with gross negligence, in bad faith, or with malice in making its decision.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.182. ENFORCEMENT; PENALTY; REMEDIES. (a) The commissioners court may adopt orders to enforce this subchapter or an order or a regulation adopted under this subchapter.

(b) A person commits an offense if the person violates this subchapter or an order or a regulation adopted under this subchapter. An offense under this subsection is a Class B misdemeanor. Each day that a violation occurs constitutes a separate offense. Trial shall be in a county court.

(c) A person who violates this subchapter or an order or a regulation adopted under this subchapter is liable to the county for a civil penalty in an amount not to exceed \$1,000 for each day the violation exists. The appropriate attorney representing the county in civil actions may file a civil action in a court of competent jurisdiction to recover the civil penalty. If the appropriate attorney for the county prevails in the civil action, the person shall reimburse the attorney for the costs of the civil action, including court costs and attorney's fees. In determining

the amount of the penalty, the court shall consider the seriousness of the violation. A penalty recovered under this subsection shall be deposited in the county treasury to the credit of the general fund.

(d) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, razed, or maintained or if a building, other structure, or land is used in violation of this subchapter or an order or a regulation adopted under this subchapter, the appropriate county authority, in addition to other remedies, may institute appropriate action to:

(1) prevent or remove the unlawful action or use, including an unlawful erection, construction, reconstruction, alteration, repair, conversion, razing, or maintenance;

(2) enjoin, restrain, correct, or abate the violation;

(3) prevent the occupancy of the building, structure, or land; or

(4) prevent any illegal act, conduct, business, or use on or about the premises.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.183. CONFLICT WITH OTHER LAWS; EXCEPTIONS. (a) If a regulation adopted under this subchapter requires a greater width or size of a yard, court, or other open space, requires a lower building height or fewer number of stories for a building, requires a greater percentage of a lot to be left unoccupied, or otherwise imposes higher standards than those required under another statute or local order or regulation, the regulation adopted under this subchapter controls. If the other statute or local order or regulation imposes higher standards, that statute, order, or regulation controls.

(b) The commissioners court may require the removal, destruction, or change of any structure or use of any property that does not conform to an order or a regulation adopted under this subchapter only if:

(1) the court permits the owner's investment in the structure or property to be amortized over a period of time determined by the court; or

(2) the court determines the nonconforming structure or property has been permanently abandoned.

(c) This subchapter or an order or a regulation adopted under this subchapter does not apply to the location, construction, maintenance, or use of central office buildings or equipment used by a person engaged in providing telephone service to the public.

(d) This subchapter does not authorize the commissioners court to require the removal or destruction of property that exists at the time the court implements this subchapter or restrict the right of a landowner, acting in the owner's behalf, to construct improvements for agriculture and ranching operations or to otherwise use the land for agriculture and ranching operations. Agriculture and ranching operations include cultivating the soil; producing crops for human food, animal feed, planting seed, or fiber; floriculture; viticulture; horticulture; raising or keeping livestock or poultry; and planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure. The commissioners court may take those actions to restrict or prohibit any commercial agricultural enterprise, such as a commercial feed lot, that are reasonably necessary to protect the public health, safety, peace, morals, and general welfare from the dangers of explosion, flooding, vermin, insects, physical injury, contagious disease, contamination of water supplies, radiation, storage of toxic materials, or other hazards.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

SUBCHAPTER J. ZONING AROUND LAKE SOMERVILLE

Sec. 231.201. DEFINITIONS. In this subchapter:

(1) "Affected county" means Burleson, Milam, Lee, or Washington County.

(2) "Lake area" means the area within 5,000 feet of the project boundary line for Lake Somerville.

Added by Acts 1997, 75th Leg., ch. 1450, Sec. 1, eff. Sept. 1, 1997.

Sec. 231.202. LAKE SOMERVILLE PLANNING COMMISSION. (a) A

lake planning commission is established for the lake area in Burleson, Milam, Lee, and Washington counties and is composed of:

(1) one resident of each affected county, appointed by the county judge of that county; and

(2) the presiding officer of the commission appointed by the county judge of Burleson County.

(b) Except for the initial appointed members, the appointed members of the commission are appointed for terms of two years expiring on February 1 of each odd-numbered year. The initial appointed members are appointed for terms expiring on the first February 1 of an odd-numbered year occurring after the date of their appointment.

(c) The commissioners courts of the affected counties may employ staff for the use of the commission in performing its functions.

Added by Acts 1997, 75th Leg., ch. 1450, Sec. 1, eff. Sept. 1, 1997.

Sec. 231.203. COMMISSION STUDIES; REPORTS; HEARINGS. (a) At the request of the commissioners court of an affected county, the lake planning commission shall, or on its own initiative the commission may, conduct studies of the lake area in that county and prepare reports to advise the commissioners court about matters affecting the lake area in that county, including the need for zoning regulations in the lake area in that county.

(b) Before the commission may prepare a report, it must hold a public hearing at which members of the public may present testimony about any subject to be included in the commission's report. The commission shall give notice of the hearing as required by the commissioners court of the affected county.

Added by Acts 1997, 75th Leg., ch. 1450, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER K. DEVELOPMENT REGULATIONS IN HOOD COUNTY

Sec. 231.221. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) all of Hood County is located within the watershed that drains into Lake Granbury and the Brazos River;

(2) the area that surrounds Lake Granbury and the Brazos River in Hood County is or will be frequented for recreational purposes by residents from every part of the state;

(3) orderly development of the area and the watershed is of concern to the entire state; and

(4) without adequate development regulations, the area and the watershed will be developed in ways that endanger and interfere with the proper use of that area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of:

(1) promoting the public health, safety, peace, morals, and general welfare;

(2) encouraging recreation; and

(3) safeguarding and preventing the pollution of the state's rivers and lakes.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.222. AREAS SUBJECT TO REGULATION. This subchapter applies only to the unincorporated areas of Hood County.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.223. DEVELOPMENT REGULATIONS GENERALLY. The Commissioners Court of Hood County may regulate:

(1) the percentage of a lot that may be occupied or developed;

(2) population density;

(3) the size of buildings;

(4) the location, design, construction, extension, and size of streets and roads;

(5) the location, design, construction, extension, size, and installation of water and wastewater facilities, including the requirements for connecting to a centralized water or wastewater system;

(6) the location, design, construction, extension, size, and installation of drainage facilities and other required

public facilities;

(7) the location, design, and construction of parks, playgrounds, and recreational areas; and

(8) the abatement of harm resulting from inadequate water or wastewater facilities.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.224. COMPLIANCE WITH COUNTY PLAN. Development regulations must be:

(1) adopted in accordance with a county plan for growth and development of the county; and

(2) coordinated with the comprehensive plans of municipalities located in the county.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.225. DISTRICTS. (a) The commissioners court may divide the unincorporated area of the county into districts of a number, shape, and size the court considers best for carrying out this subchapter.

(b) Development regulations may vary from district to district.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.226. PROCEDURE GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES. (a) A development regulation adopted under this subchapter is not effective until it is adopted by the commissioners court after a public hearing. Before the 15th day before the date of the hearing, the commissioners court must publish notice of the hearing in a newspaper of general circulation in the county.

(b) The commissioners court may establish or amend a development regulation only by an order passed by a majority vote of the full membership of the court.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.227. DEVELOPMENT COMMISSION. (a) The commissioners court may appoint a development commission to assist

in the implementation and enforcement of development regulations adopted under this subchapter.

(b) The development commission must consist of an ex officio chairman who must be a public official in Hood County and four additional members.

(c) The development commission is advisory only and may recommend appropriate development regulations for the county.

(d) The members of the development commission are subject to the same requirements relating to conflicts of interest that are applicable to the commissioners court under Chapter 171.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.228. SPECIAL EXCEPTION. (a) A person aggrieved by a development regulation adopted under this subchapter may petition the commissioners court or the development commission, if the commissioners court has established a development commission, for a special exception to a development regulation adopted by the commissioners court.

(b) The commissioners court shall adopt procedures governing applications, notice, hearings, and other matters relating to the grant of a special exception.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.229. ENFORCEMENT; PENALTY. (a) The commissioners court may adopt orders to enforce this subchapter or an order or development regulation adopted under this subchapter.

(b) A person commits an offense if the person violates this subchapter or an order or development regulation adopted under this subchapter. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day that a violation occurs constitutes a separate offense. Trial shall be in the justice court.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 958 (H.B. 3464), Sec. 1, eff. September 1, 2009.

Sec. 231.230. COOPERATION WITH MUNICIPALITIES. The commissioners court by order may enter into agreements with any municipality located in the county to assist in the implementation and enforcement of development regulations adopted under this subchapter.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.231. CONFLICT WITH OTHER LAWS. If a development regulation adopted under this subchapter imposes higher standards than those required under another statute or local order or regulation, the regulation adopted under this subchapter controls. If the other statute or local order or regulation imposes higher standards, that statute, order, or regulation controls.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

SUBCHAPTER L. ZONING AROUND FALCON LAKE

Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the area that surrounds Falcon Lake in Zapata County is frequented for recreational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings in the area that are frequented for resort or recreational purposes tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county land.

Added by Acts 2007, 80th Leg., R.S., Ch. 797 (S.B. 63), Sec. 2, eff. June 15, 2007.

Sec. 231.252. AREAS SUBJECT TO REGULATION. This subchapter

applies only to the unincorporated area of counties exercising the powers of a Type A municipality located within 25,000 feet of:

- (1) the project boundary line for Falcon Lake;
- (2) the Rio Grande River; and
- (3) tributaries and arroyos leading to Falcon Lake or to the Rio Grande River.

Added by Acts 2007, 80th Leg., R.S., Ch. 797 (S.B. 63), Sec. 2, eff. June 15, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1054 (H.B. 4607), Sec. 1, eff. September 1, 2009.

Sec. 231.253. FALCON LAKE PLANNING COMMISSION. (a) A lake planning commission is established for the area subject to this subchapter. The commission is comprised of:

- (1) four residents of Zapata County, with one resident from each of the county commissioner precincts, appointed by that precinct's commissioner; and

- (2) a person, who shall serve as the commission's presiding officer, appointed by the county judge of Zapata County.

(b) Except as provided by Subsection (c), the members of the commission shall be appointed for two-year terms that expire February 1 of each odd-numbered year.

(c) The terms of the initial members of the commission expire on February 1st of the first February in an odd-numbered year following their appointment.

(d) The commissioners court of Zapata County may employ staff for the commission to use in performing the commission's functions.

Added by Acts 2007, 80th Leg., R.S., Ch. 797 (S.B. 63), Sec. 2, eff. June 15, 2007.

Sec. 231.254. COMMISSION STUDY AND REPORT; HEARING. (a) At the request of the commissioners court of Zapata County, the lake planning commission shall, or on the commission's own initiative, the commission may, conduct studies of the area subject to this subchapter and prepare reports to advise the commissioners court

about matters affecting that area, including any need for zoning regulations in that area.

(b) Before the commission may prepare a report, the commission must hold a public hearing in which members of the public may offer testimony regarding any subject to be included in the commission's report. The commission shall provide notice of the hearing as required by the commissioners court.

Added by Acts 2007, 80th Leg., R.S., Ch. 797 (S.B. 63), Sec. 2, eff. June 15, 2007.

Sec. 231.255. ZONING REGULATIONS. After receiving a report from the lake planning commission under Section 231.254, the commissioners court of Zapata County may adopt zoning regulations for the area subject to this subchapter and in accordance with the report that regulate:

(1) the height, number of stories, and size of buildings and other structures;

(2) the percentage of a lot that may be occupied;

(3) the size of yards, courts, and other open spaces;

(4) population density;

(5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

(6) the placement of water and sewage facilities, parks, and other public requirements.

Added by Acts 2007, 80th Leg., R.S., Ch. 797 (S.B. 63), Sec. 2, eff. June 15, 2007.

Sec. 231.256. DISTRICTS. (a) The commissioners court may divide the area in the county that is subject to this subchapter into districts of a number, shape, and size the court considers best for carrying out this subchapter. Within each district, the commissioners court may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) The zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from

district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the area.

Added by Acts 2007, 80th Leg., R.S., Ch. 797 (S.B. 63), Sec. 2, eff. June 15, 2007.

Sec. 231.257. ENFORCEMENT; PENALTY; REMEDIES. (a) The commissioners court may adopt orders to enforce this subchapter, any order adopted under this subchapter, or a zoning regulation.

(b) A person commits an offense if the person violates this subchapter, an order adopted under this subchapter, or a zoning regulation. An offense under this subsection is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the commissioners court. The commissioners court may also provide civil penalties for a violation.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this subchapter, an order adopted under this subchapter, or a zoning regulation, the appropriate county authority, in addition to other remedies, may institute appropriate action to:

(1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

(2) restrain, correct, or abate the violation;

(3) prevent the occupancy of the building, structure, or land; or

(4) prevent any illegal act, conduct, business, or use on or about the premises.

Added by Acts 2007, 80th Leg., R.S., Ch. 797 (S.B. 63), Sec. 2, eff. June 15, 2007.

SUBCHAPTER M. REGULATION OF COTTAGE FOOD PRODUCTION OPERATIONS

Sec. 231.281. DEFINITIONS. In this subchapter, "cottage food production operation" and "home" have the meanings assigned by Section 437.001, Health and Safety Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 653 (H.B. 970), Sec. 8, eff. September 1, 2013.

Sec. 231.282. CERTAIN ZONING REGULATIONS PROHIBITED. A county zoning ordinance may not prohibit the use of a home for cottage food production operations.

Added by Acts 2013, 83rd Leg., R.S., Ch. 653 (H.B. 970), Sec. 8, eff. September 1, 2013.

Sec. 231.283. ACTION FOR NUISANCE OR OTHER TORT. This subchapter does not affect the right of a person to bring a cause of action under other law against an individual for nuisance or another tort arising out of the individual's use of the individual's home for cottage food production operations.

Added by Acts 2013, 83rd Leg., R.S., Ch. 653 (H.B. 970), Sec. 8, eff. September 1, 2013.