

LOCAL GOVERNMENT CODE

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

SUBTITLE B. COUNTY REGULATORY AUTHORITY

CHAPTER 240. MISCELLANEOUS REGULATORY AUTHORITY OF COUNTIES

SUBCHAPTER A. REGULATION OF KEEPING OF WILD ANIMALS

Sec. 240.001. DEFINITION. In this subchapter, "wild animal" means a nondomestic animal that the commissioners court of a county determines is dangerous and is in need of control in that county.

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

Sec. 240.002. REGULATION. (a) The commissioners court of a county by order may prohibit or regulate the keeping of a wild animal in the county.

(b) The order does not apply inside the limits of a municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 54, Sec. 2, eff. Sept. 1, 2001.

Sec. 240.003. OFFENSE. (a) A person commits an offense if the person violates an order adopted under this subchapter and the order defines the violation as an offense.

(b) An offense under this section is prosecuted in the same manner as an offense defined under state law.

(c) An offense under this section is a Class C misdemeanor.
Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 240.004. INJUNCTION. The county attorney or an attorney representing the county may file an action in a district court to enjoin a violation or threatened violation of an order adopted under this subchapter. The court may grant appropriate relief.

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

SUBCHAPTER B. OUTDOOR LIGHTING NEAR
OBSERVATORIES AND MILITARY INSTALLATIONS

Sec. 240.031. DEFINITIONS. In this subchapter:

(1) "Major astronomical observatory" means a facility that is established to conduct scientific observations of astronomical phenomena and is equipped with one or more telescopes that:

(A) have objective diameters that total 69 inches or more; and

(B) are permanently mounted in enclosed buildings.

(2) "Outdoor lighting" means any type of fixed or movable lighting equipment that is designed or used for illumination out of doors. The term includes billboard lighting, street lights, searchlights and other lighting used for advertising purposes, and area lighting. The term does not include lighting equipment that is required by law to be installed on motor vehicles or lighting required for the safe operation of aircraft.

(3) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1166, Sec. 5, eff. January 1, 2012.

(4) "Agricultural use" has the meaning assigned by Section [23.51](#), Tax Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 975, Sec. 1, eff. June 15, 2001; Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(11), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 233 (H.B. [1852](#)), Sec. 1, eff. May 25, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1166 (H.B. [2857](#)), Sec. 5, eff. January 1, 2012.

Sec. 240.032. COUNTY REGULATORY AUTHORITY; ADOPTION OF ORDERS. (a) The commissioners court of a county, any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory, shall adopt orders regulating the installation and use of outdoor lighting in any unincorporated

territory of the county.

(b) On the request of the director of the George Observatory or the Stephen F. Austin State University Observatory, the commissioners court of a county, any part of which is located within five miles of a major astronomical observatory at the George Observatory or the Stephen F. Austin State University Observatory, may adopt orders regulating the installation and use of outdoor lighting in any unincorporated territory of the county.

(b-1) This subsection applies only to a county with a population of more than one million that has at least five United States military bases and to any county adjacent to that county that is within five miles of a United States Army installation, base, or camp. On the request of a United States military installation, base, or camp commanding officer, the commissioners court of a county subject to this subsection may adopt orders regulating the installation and use of outdoor lighting within five miles of the installation, base, or camp in any unincorporated territory of the county.

(c) The orders must be designed to protect against the use of outdoor lighting in a way that interferes with scientific astronomical research of the observatory or military and training activities of the military installation, base, or camp. In the orders, the commissioners court may:

(1) require that a permit be obtained from the county before the installation and use of certain types of outdoor lighting in a regulated area;

(2) establish a fee in an amount to cover the costs of administering the order for the issuance of the permit;

(3) prohibit the use of a type of outdoor lighting that is incompatible with the effective use of the observatory or military installation, base, or camp;

(4) establish requirements for the shielding of outdoor lighting; and

(5) regulate the times during which certain types of outdoor lighting may be used.

(d) The commissioners court may apply more stringent standards for areas in which the use of outdoor lighting has a

greater impact on observatory or military installation, base, or camp activities.

(e) The commissioners court may adopt an order under this subchapter only after conducting a public hearing on the proposed order. The court shall give at least two weeks' public notice of the hearing.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 182, Sec. 1, eff. May 26, 1989; Acts 2001, 77th Leg., ch. 975, Sec. 2, eff. June 15, 2001; Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(11), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 233 (H.B. [1852](#)), Sec. 3, eff. May 25, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1114 (H.B. [1013](#)), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1166 (H.B. [2857](#)), Sec. 2, eff. January 1, 2012.

Sec. 240.0325. EXCEPTION FOR CERTAIN OUTDOOR LIGHTING. The commissioners court may not adopt an order under Section [240.032](#) regulating the installation and use of outdoor lighting that is located within five miles of a military installation, base, or camp located in the unincorporated area of a county and:

(1) was installed or used before the effective date of the order and is necessary for the operations of:

(A) an electric utility, power generation company, or transmission and distribution utility, as those terms are defined by Section [31.002](#), Utilities Code;

(B) an electric cooperative or a municipally owned utility, as those terms are defined by Section [11.003](#), Utilities Code;

(C) a gas utility, as defined by Section [101.003](#) or [121.001](#), Utilities Code;

(D) surface coal mining and reclamation operations, as defined by Section [134.004](#), Natural Resources Code;

(E) a telecommunications provider, as defined by Section [51.002](#), Utilities Code, or its affiliates; or

(F) a manufacturing facility required by Texas Commission on Environmental Quality rule to hold a permit; or

(2) is owned or maintained for the purpose of illuminating:

(A) a tract of land that is maintained as a single family residence and that is located outside the boundaries of a platted subdivision;

(B) a tract of land maintained for agricultural use;

(C) an activity that takes place on a tract of land maintained for agricultural use;

(D) structures or related improvements located on a tract of land maintained for agricultural use; or

(E) a correctional facility operated by or under a contract with the Texas Department of Criminal Justice.

Added by Acts 2007, 80th Leg., R.S., Ch. 233 (H.B. 1852), Sec. 4, eff. May 25, 2007.

Sec. 240.033. REGULATION OF SUBDIVISIONS. (a) This section applies only to real estate subdivisions subject to the plat approval authority of the commissioners court of a county.

(b) The commissioners court of a county, any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory, shall adopt orders establishing standards relating to proposed subdivisions to minimize the interference with observatory activities caused by outdoor lighting.

(c) The commissioners court of a county, any part of which is located within five miles of a major astronomical observatory at the George Observatory or the Stephen F. Austin State University Observatory, may adopt orders establishing standards relating to proposed subdivisions to minimize the interference with observatory activities caused by outdoor lighting.

(d) A commissioners court that adopts orders under this section may not approve a plat of a proposed subdivision that does not meet the standards established in the orders.

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

by Acts 1989, 71st Leg., ch. 182, Sec. 2, eff. May 26, 1989; Acts 2001, 77th Leg., ch. 975, Sec. 3, eff. June 15, 2001; Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(11), eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1166 (H.B. [2857](#)), Sec. 3, eff. January 1, 2012.

Sec. 240.034. EXEMPTION. This subchapter does not apply to outdoor lighting in existence or under construction on September 1, 1975.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 234.004 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(11), eff. Sept. 1, 2001.

Sec. 240.035. ENFORCEMENT; PENALTY. (a) A county or district attorney may sue in the district court to enjoin a violation of this subchapter.

(b) A person who violates an order adopted under this subchapter commits an offense. An offense under this section is a Class C misdemeanor.

(c) Both civil and criminal enforcement may be used against the same conduct.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 234.005 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(11), eff. Sept. 1, 2001.

SUBCHAPTER C. REGULATION OF WATER WELLS IN CERTAIN COUNTIES

Sec. 240.041. DEFINITION. In this subchapter, "on-site sewage disposal system" has the meaning assigned by Section [366.002](#), Health and Safety Code.

Added by Acts 2005, 79th Leg., Ch. 794 (S.B. [343](#)), Sec. 1, eff. September 1, 2005.

Sec. 240.042. AUTHORITY TO REGULATE PLACEMENT OF WATER WELLS. (a) The commissioners court of a county with a population of 2.1 million or more by order may regulate the placement of

private water wells in the unincorporated area of the county to prevent:

(1) the contamination of a well from an on-site sewage disposal system;

(2) rendering an on-site sewage disposal system that was in place before the well was drilled out of compliance with applicable law because of the placement of the well; and

(3) drilling of a domestic well into a contaminated groundwater plume or aquifer.

(b) A commissioners court that decides to regulate the placement of private water wells under this subchapter by order shall adopt rules governing the placement of a water well in relation to an existing on-site sewage disposal system or drilling into a contaminated groundwater plume or aquifer and enforcement of those rules. The rules must require:

(1) a person desiring to drill a private water well, or the owner of the land on which the well is to be located, to:

(A) notify the county health officer or an official designated by the commissioners court of the intent to drill the well; and

(B) include with the notice a diagram showing the proposed location of the well and its distance from any on-site sewage disposal system that is located within 100 feet of the well; and

(2) the county health officer or an official designated by the commissioners court to:

(A) review the notice and diagram;

(B) not later than the 10th business day after the date the notice is received:

(i) approve the drilling of the well if the well will not be drilled into or through an aquifer or groundwater plume that has been confirmed as contaminated by the Texas Commission on Environmental Quality or the United States Environmental Protection Agency and placement of the well will not violate the rules adopted by the Texas Commission of Licensing and Regulation under Chapters 1901 and 1902, Occupations Code; or

(ii) disapprove the drilling of the well;

and

(C) provide a written acknowledgment to the person desiring to drill the well and to the owner of the land on which the well is to be located that states:

(i) that the requirements of the rules adopted under Subdivision (1) have been satisfied; and

(ii) whether the drilling of the well has been approved or disapproved.

Added by Acts 2005, 79th Leg., Ch. 794 (S.B. 343), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 83, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 149, eff. September 1, 2023.

Sec. 240.043. NOTICE. (a) Before rules adopted under Section 240.042 may take effect, the commissioners court of the county must publish notice of the adoption of the rules in a newspaper of general circulation in the county.

(b) The notice must:

(1) include:

(A) a brief summary of the rules; and

(B) a statement that the full text of the rules is on file in the office of the county clerk; and

(2) be published on two separate dates.

(c) The rules may not take effect until after the 14th day after the date of the second publication as provided by Subsection (b)(2).

Added by Acts 2005, 79th Leg., Ch. 794 (S.B. 343), Sec. 1, eff. September 1, 2005.

Sec. 240.044. FEE. The county may impose a placement review fee in the amount of not more than \$50 to be paid by the person drilling the well. Fees collected under this section shall be deposited to the county's general fund to be used only for the administration and enforcement of this subchapter.

Added by Acts 2005, 79th Leg., Ch. 794 (S.B. 343), Sec. 1, eff. September 1, 2005.

Sec. 240.045. INSPECTION. A county health officer or an official designated by the commissioners court may inspect a proposed private water well site to ensure that it complies with the requirements of this subchapter and county rules adopted under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 794 (S.B. 343), Sec. 1, eff. September 1, 2005.

Sec. 240.046. COMPLIANCE REQUIRED. A person may not drill a private water well in a county that has chosen to regulate the placement of private water wells under this subchapter unless the placement of the well complies with this subchapter and applicable rules and has been approved by the county health officer or an official designated by the commissioners court.

Added by Acts 2005, 79th Leg., Ch. 794 (S.B. 343), Sec. 1, eff. September 1, 2005.

Sec. 240.047. OFFENSE; PENALTY. (a) A person who drills a private water well without possessing a written acknowledgment, or a copy of a written acknowledgment, under Section 240.042 by the county health officer or an official designated by the commissioners court approving the drilling of the well commits an offense. An offense under this section is a Class C misdemeanor.

(b) The county health officer or an official designated by the commissioners court shall report a citation issued under this section to the Texas Department of Licensing and Regulation.

Added by Acts 2005, 79th Leg., Ch. 794 (S.B. 343), Sec. 1, eff. September 1, 2005.

Sec. 240.048. EXCEPTIONS. This subchapter does not apply to:

- (1) a private water well drilled:
 - (A) on a parcel of land that:
 - (i) is 10 acres or more in size; or

(ii) is qualified open-space land, as defined by Section 23.51, Tax Code;

(B) within the boundaries of a groundwater conservation district;

(C) within the boundaries of a subsidence district other than the Harris-Galveston Subsidence District; or

(D) incident to the exploration, development, or production of oil, gas, or other minerals; or

(2) a public water system that has been permitted under rules adopted by the Texas Commission on Environmental Quality.

Added by Acts 2005, 79th Leg., Ch. 794 (S.B. 343), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 12.005, eff. September 1, 2013.

SUBCHAPTER E. COMMUNICATION FACILITY STRUCTURES

Sec. 240.081. DEFINITIONS. In this subchapter:

(1) "Residential subdivision" means a subdivision:

(A) for which a plat is recorded in the county real property records;

(B) in which the majority of the lots are subject to deed restrictions limiting the lots to residential use; and

(C) that includes at least five lots that have existing residential structures.

(2) "Communication facility structure" means:

(A) antenna support structures for mobile and wireless telecommunication facilities, whip antennas, panel antennas, microwave dishes, or receive-only satellite dishes;

(B) cell enhancers and related equipment for wireless transmission from a sender to one or more receivers for mobile telephones, mobile radio systems facilities, commercial radio service, or other services or receivers; or

(C) a monopole tower, a steel lattice tower, or any other communication tower supporting mobile and wireless

telecommunication facilities.

Added by Acts 2005, 79th Leg., Ch. 945 (H.B. 843), Sec. 1, eff. June 18, 2005.

Sec. 240.082. APPLICABILITY. (a) This subchapter applies only to real property that is located in the unincorporated area of a county with a population of 2.1 million or more.

(b) This subchapter does not apply to:

(1) existing communication facilities or other structures used for the purpose of colocation, provided the height is not increased by more than 10 feet;

(2) a communication facility structure built to replace an existing communication facility structure if:

(A) the replacement communication facility structure is constructed within 50 feet of the existing communication facility structure;

(B) the replacement communication facility structure is no higher than and constructed for the same purpose as the existing communication facility structure; and

(C) the existing communication facility structure is removed not later than the 14th day after the date the replacement communication facility begins operations; or

(3) a communications antenna, antenna facility, or antenna tower or support structure located in a residential area that is used by an amateur radio operator exclusively for amateur radio communications or public safety services.

Added by Acts 2005, 79th Leg., Ch. 945 (H.B. 843), Sec. 1, eff. June 18, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 84, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 150, eff. September 1, 2023.

Sec. 240.083. AUTHORITY OF COUNTY TO REGULATE. (a) Subject to the restrictions in Section 240.084, the commissioners court of a county subject to this subchapter may by order regulate the

location of communication facility structures in the unincorporated areas of the county.

(b) The regulations may include a requirement for a permit for the construction or expansion of the facility and may impose fees, not to exceed \$50, on regulated persons to recover the cost of administering the regulations.

Added by Acts 2005, 79th Leg., Ch. 945 (H.B. 843), Sec. 1, eff. June 18, 2005.

Sec. 240.084. LOCATION OF COMMUNICATION FACILITY STRUCTURE. The commissioners court of a county that is subject to this subchapter may by order prohibit the construction of a communication facility structure within 300 feet, or the height of the structure, whichever is greater, of a residential subdivision.

Added by Acts 2005, 79th Leg., Ch. 945 (H.B. 843), Sec. 1, eff. June 18, 2005.

Sec. 240.085. FILING REQUIREMENTS REGARDING CONSTRUCTION. A person proposing to construct a communication facility structure in the unincorporated area of a county subject to this subchapter shall file with the county official designated by the commissioners court:

(1) a statement informing the county that the construction is proposed and providing the date on or after which the construction is proposed to begin;

(2) copies of any necessary permits from the Federal Communications Commission or Federal Aviation Administration;

(3) a plat or map of the specific proposed location of the communication facility structure; and

(4) the correct phone number and address of the entity primarily responsible for the construction.

Added by Acts 2005, 79th Leg., Ch. 945 (H.B. 843), Sec. 1, eff. June 18, 2005.

Sec. 240.086. VARIANCES. (a) A person who desires to construct or increase the height of a communication facility structure in violation of an order adopted by a county subject to

this subchapter may apply to the commissioners court of the county for a variance from the regulation.

(b) The commissioners court may allow a variance from a regulation if the commissioners court finds that:

(1) a literal application or enforcement of the regulation would result in practical difficulty or unnecessary hardship; and

(2) the granting of the relief would:

(A) result in substantial justice being done;

(B) not be contrary to the public interest; and

(C) be in accordance with the spirit of the regulation and this subchapter.

(c) The commissioners court may impose any reasonable conditions on the variance that it considers necessary to accomplish the purposes of this subchapter.

(d) Before granting a request for a variance under this section, the county may require the applicant to prominently post an outdoor sign at the location stating that a communication facility structure is intended to be located on the premises and providing the name and business address of the applicant.

(e) The sign must be at least 24 by 36 inches in size and must be written in lettering at least two inches in size. The county in which the communication facility structure is to be located may require the sign to be in English and a language other than English if it is likely that a substantial number of the residents in the area speak a language other than English as their familiar language.

Added by Acts 2005, 79th Leg., Ch. 945 (H.B. 843), Sec. 1, eff. June 18, 2005.

Sec. 240.087. OFFENSE. (a) A person commits an offense if the person violates an order adopted under this subchapter and the order defines the violation as an offense.

(b) An offense under this section is prosecuted in the same manner as an offense defined under state law.

(c) An offense under this section is a Class C misdemeanor.

Added by Acts 2005, 79th Leg., Ch. 945 (H.B. 843), Sec. 1, eff. June

18, 2005.

Sec. 240.088. INJUNCTION. The county attorney or an attorney representing the county may file an action in a district court to enjoin a violation or threatened violation of an order adopted under this subchapter. The court may grant appropriate relief.

Added by Acts 2005, 79th Leg., Ch. 945 (H.B. 843), Sec. 1, eff. June 18, 2005.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 240.901. LAND USE REGULATION FOR FLOOD CONTROL IN COASTAL COUNTIES. (a) This state recognizes the personal hardships and economic distress caused by flood disasters since it has become uneconomical for the private insurance industry alone to make flood insurance available to those in need of protection on reasonable terms and conditions. Recognizing the burden on the nation's resources, congress enacted the National Flood Insurance Act of 1968, under which flood insurance can be made available through the coordinated efforts of the federal government and the private insurance industry by pooling risks and by the positive cooperation of state and local governments. The purpose of this subchapter is to evidence a positive interest in securing flood insurance coverage under the federal program, thus procuring coverage for the citizens of this state who desire to participate, to promote the public interest by providing appropriate protection against the perils of flood losses, and to encourage sound land use by minimizing exposure of property to flood losses.

(b) A county bordering on the Gulf of Mexico or on the tidewater limits of the gulf may determine the boundaries of any flood-prone area of the county. The suitability of that determination is conclusively established when the commissioners court of the county adopts a resolution finding that the area is a flood-prone area.

(c) The commissioners court may adopt and enforce rules that regulate the management and use of land, structures, and other

development in a flood-prone area of the county in order to reduce the extent of damage caused by flooding. The matters to which the rules may apply include:

(1) the floodproofing of structures located or to be constructed in the area;

(2) the minimum elevation of a structure permitted to be constructed or improved in the area;

(3) specifications for drainage;

(4) the prohibition of the connection of land with water, sewer, electricity, and gas utility service, if a structure or other development on the land is not in compliance with a rule adopted by the commissioners court; and

(5) any other action feasible to minimize flooding and rising water damage.

(d) In this section, "flood-prone area" means an area that is subject to damage from rising water or flooding from the Gulf of Mexico or its tidal waters, including lakes, bays, inlets, and lagoons.

(e) Rules and regulations adopted by counties under this section shall comply with rules and regulations promulgated by the Commissioner of the General Land Office under Sections [16.320](#) and [16.321](#), Water Code.

(f) If the commissioners court prohibits the connection of land with water, sewer, electricity, and gas utility service under Subsection (c)(4), a person may not provide utility services that connect the land with utility services without written certification from the county that the property complies with rules adopted under this section.

(g) A commissioners court may authorize procedures for filing a notice in the real property records of the county in which a property is located that identifies any condition on the property that the county determines violates the rules adopted under this section or a permit issued under this section. The notice is not a final legal determination and is meant only to provide notice of the county's determination that a violation of the rules or a permit exists on the property. The notice must include a description legally sufficient for identification of the property and the name

of the owner of the property.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 295, Sec. 40, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 461, Sec. 1, eff. Sept. 1, 1997.

Sec. 240.902. CLOSING OF GULF BEACHES. (a) The commissioners court of a county in which a public beach is located may by order close a part of the beach for a maximum of three days each year to allow a nonprofit organization to hold an event on the beach to which the public is invited and to which the organization charges no more than a nominal admission fee.

(b) In this section, "public beach" means a beach located on a bay or inlet of the Gulf of Mexico to which the general public or a substantial part of the general public has free access.

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

Sec. 240.905. LAND USE REGULATION FOR FLOOD CONTROL IN TRINITY RIVER BASIN. (a) The commissioners court of a county located below the dam of Lake Livingston with all or part of its area within the 100-year floodplain of the Trinity River basin as described by county maps developed according to Federal Emergency Management Agency requirements may adopt and enforce rules that regulate the future construction of residences and the laying out of residential lots or the development of subdivisions in that portion of the county located in the 100-year floodplain of the Trinity River basin.

(b) Before the commissioners court may adopt and enforce the rules described in Subsection (a) of this section the commissioners court must make a determination that the rules are necessary to protect the health and safety of the public by reducing the damage caused by flooding in the 100-year floodplain.

(c) The rules described in Subsection (a) of this section apply only to development and construction commenced after the effective date of this section for:

(1) the flood-proofing of structures constructed or placed in the floodplain;

(2) the type of structures which may be constructed or

placed in the floodplain;

(3) the minimum elevation of structures constructed or placed in the floodplain; and

(4) specification for drainage of residential lots or subdivisions to be laid out in the floodplain.

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

Added by Acts 1991, 72nd Leg., ch. 858, Sec. 4, eff. Sept. 1, 1991.
Renumbered from Sec. 240.904 by Acts 1991, 72nd Leg., 1st C.S., ch. 14, Sec. 8.01(19), eff. Nov. 12, 1991.

Sec. 240.907. FEE FOR CUTTING COUNTY ROAD. (a) In this section, a cut of a county road means the act of excavating or cutting the surface of a county road.

(b) To provide funds for the future inspection, repair, and maintenance of a cut road, a county may impose a fee on a person or other entity for each cut of a county road during or as an incident to the installation, maintenance, or repair of any facilities or properties of the person or entity.

(c) The fee authorized by this section:

(1) may not exceed \$500;

(2) may be imposed either before or after the cutting of the road; and

(3) is in addition to any other charge the county is authorized to impose to repair damage to the road because of the cut.

(d) This section does not apply in relation to a person or other entity that:

(1) has entered into an agreement with the county that provides for fees to be paid by the person or entity for the use of the county roads; or

(2) is a utility that is not required under Chapter 181, Utilities Code, to provide notice to a commissioners court of a county.

Added by Acts 2005, 79th Leg., Ch. 957 (H.B. [1610](#)), Sec. 1, eff. June 18, 2005.

Sec. 240.909. REGULATION OF TREE CUTTING IN CERTAIN COUNTIES. (a) This section applies only to a county with a population of 50,000 or less that borders the Gulf of Mexico and in which is located at least one state park and one national wildlife refuge.

(b) The commissioners court of a county subject to this section may prohibit or restrict the clear-cutting of live oak trees in the unincorporated area of the county.

(c) A person commits an offense if the person violates an order adopted under this section and the order defines the violation as an offense. An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$500. An offense under this section is prosecuted in the same manner as an offense defined under state law.

(d) The county attorney or an attorney representing the county may file an action in district court to enjoin a violation or threatened violation of an order adopted under this section. The court may grant appropriate relief.

(e) This subchapter, or an order or zoning regulation adopted under this subchapter, does not apply to the facilities or operations of an electric utility as defined by Section [31.002](#), Utilities Code, or a gas utility as defined by Section [101.003](#) or [121.001](#), Utilities Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1398 (S.B. [2553](#)), Sec. 1, eff. June 19, 2009.

Sec. 240.910. REGULATION OF LITTER AND MOSQUITO CONTROL IN CERTAIN COUNTIES. (a) This section applies only to a county located on an international border and adjacent to the Gulf of Mexico.

(b) In this section:

(1) "Illegally dumped litter" means litter dumped anywhere other than in an approved solid waste site, as defined by Section [365.011](#), Health and Safety Code.

(2) "Litter" has the meaning assigned by Section [365.011](#), Health and Safety Code.

(c) In addition to the authority granted under Section [365.017](#), Health and Safety Code, the commissioners court of a county may adopt and enforce orders to:

(1) control the disposal of litter and the removal of illegally dumped litter from public or private property; and

(2) regulate the storage or abandonment of property, including tires and appliances, on public or private property that creates a nuisance or habitat conducive to mosquito breeding.

(d) An order adopted under this section:

(1) applies only to the unincorporated area of the county;

(2) may require the record property owner to pay for the cost of enforcing the order on the property owner's land if the commissioners court gives the property owner 30 days' written notice of the enforcement action; and

(3) may not regulate manufactured or industrialized housing constructed to state or federal building standards in a manner that is different from regulation of site-built housing.

(e) This section does not authorize the adoption of:

(1) zoning regulations not otherwise authorized under Chapter [231](#); or

(2) building regulations not otherwise authorized under Chapter [233](#).

Added by Acts 2019, 86th Leg., R.S., Ch. 350 (H.B. [2566](#)), Sec. 1, eff. June 2, 2019.