

Draft Legislation re: County Minimum Building Standards for Structures Within the Floodplain

Counties have limited policy tools to regulate buildings in areas most prone to flooding, even though a quarter of the state's land carries some degree of severe flood risk, placing nearly 5 million Texans potentially in harm's way. Floodplain experts highlight that state lawmakers should consider ways to give counties better tools to manage flood plain development. Increasing county and state standards can help reduce flood risk and lower the impact of high hazard flood events on people, property, and revenues.

<https://www.texastribune.org/2025/07/09/texas-floods-growth-kerr-county-camp-mystic/>
[As Texans seek to rebuild in floodplains, local governments face safety challenges](#)

This is a draft bill that has not, to the extent knowable, been proposed in prior sessions. This bill would give counties authority, if they choose, to adopt minimum building standards within the floodplain to protect current and future residents from the impacts of flooding. We hope to see this or similar bills filed and supported in the 89th special session or the 90th Session.

A BILL TO BE ENTITLED
AN ACT

Relating to county land use authority for structures within certain floodplains.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 232, Local Government Code, is amended to read as follows:

Section 232.003. SUBDIVISION REQUIREMENTS. By an order adopted and entered in the minutes of the commissioners court, and after notice is published in a newspaper of general circulation in the county, the commissioners court may:

- (1) require a right-of-way on a street or road that functions as a main artery in a subdivision, of a width of not less than 50 feet or more than 100 feet;
- (2) require a right-of-way on any other street or road in a subdivision of not less than 40 feet or more than 70 feet;
- (3) require that the shoulder-to-shoulder width on collectors or main arteries within the right-of-way be not less than 32 feet or more than 56 feet, and that the shoulder-to-shoulder width on any other street or road be not less than 25 feet or more than 35 feet;
- (4) adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road;
- (5) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices;
- (6) require that each purchase contract made between a subdivider and a purchaser of land in the subdivision contain a statement describing the extent to which water will be made available to the subdivision and, if it will be made available, how and when;
- (7) require that the owner of the tract to be subdivided execute a good and sufficient bond in the manner provided by Section 232.004;
- (8) adopt reasonable specifications that provide for drainage in the subdivision to:
 - (a) efficiently manage the flow of stormwater runoff in the subdivision; and
 - (b) coordinate subdivision drainage with the general storm drainage pattern for the area; and
- (9) adopt minimum building standards for structures and physical facilities within a 500-year floodplain to minimize and prevent flooding; and
- ~~(9)~~ (10) require lot and block monumentation to be set by a registered professional surveyor before recordation of the plat.

Section 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2027.

Draft Legislation re: FEMA Flood Maps and the National Flood Insurance Program

Many news sources have covered over the last few weeks that Camp Mystic was able to have some of its property – including structures in the floodway – exempted from the FEMA flood maps, placing campers at risk.

<https://www.nytimes.com/2025/07/12/us/texas-camp-mystic-flood-plain-maps.html?searchResultPosition=3>
<https://www.npr.org/2025/07/13/nx-s1-5465635/camp-mystic-flood-maps-fema-texas-flooding>

TWDB mapping and data efforts highlight risk at a greater level than FEMA does. TWDB has a better understanding of not just the risk, but also of the region and river basins. TWDB should be allowed to weigh in on and provide FEMA recommendations as to whether a requested exemption from the FEMA flood map should be approved.

This is a draft bill that has, to the extent knowable, not been filed in a prior session. This bill would allow TWDB to operate in an advisory role to FEMA during the LOMR and CLOMR process, when property owners are applying to exempt their properties from the floodplain maps. We hope to see this or similar bills filed and supported during the 89th special session or during the 90th Session.

A BILL TO BE ENTITLED AN ACT

Relating to the coordination of local, state, and federal programs pursuant to the National Flood Insurance Program by the Texas Water Development Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter I, Chapter 16, Water Code, is amended to read as follows:

Section 16.316. COORDINATION OF LOCAL, STATE, AND FEDERAL PROGRAMS BY BOARD.

(A) The board shall aid, advise, and coordinate the efforts of present and future political subdivisions endeavoring to qualify for participation in the National Flood Insurance Program.

(B) Pursuant to the National Flood Insurance Program and state and local efforts complementing the program, the board shall aid, advise, and cooperate with political subdivisions, the Texas Department of Insurance, and the Federal Emergency Management Agency when aid, advice, and cooperation are requested or deemed advisable by the board.

(C) The aforementioned aid may include by is not necessarily limited to:

(1) coordinating local, state, and federal programs relating to flood, flood losses, and floodplain management;

(2) evaluating the present structure of all federal, state, and political subdivision flood control programs within or adjacent to the state, including an assessment of the extent to which public and private floodplain management activities have been instituted;

(3) carrying out studies with respect to the adequacy of present public and private measures, laws, regulations, and ordinances in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;

(4) evaluating all available engineering, hydrologic, and geologic data, relevant to flood-prone areas and flood control in those areas;

(5) carrying out floodplain studies and mapping programs of floodplains, flood-prone areas, and flood-risk zones;

(6) providing guidance and recommendations to the Federal Emergency Management Agency on floodplain map exclusion or revision requests;

~~(6)~~ (7) encouraging the Federal Emergency Management Agency to evaluate flood-prone areas by river basin and river system;

~~(7)~~ (8) coordinating the use of federal, state, and local grant money;

~~(8)~~ (9) making floodplain maps and floodplain information accessible to the public, including in electronic format through the board's Internet website; and

~~(9)~~ (10) maintaining at least one staff member in each of the board's field offices to encourage participation in the National Flood Insurance Program by performing education and outreach and coordinating the efforts of political subdivisions.

(D) On the basis of such studies and evaluations, the board, to the extent of its capabilities, shall periodically identify and publish information and maps with respect to all floodplain areas, including the state's coastal area, which have flood hazards, and where possible aid the federal government in identifying and establish flood-risk zones in all such areas. Section 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2027.

Draft Legislation re: County Authority for Impervious Cover Regulation

Limiting impervious cover over environmentally sensitive areas is exceedingly critical to the protection of local and regional water supplies – polluted runoff is widely recognized by scientists as the greatest threat to water quality, and increased runoff can lead to floods, placing people and property in harm's way. Impervious cover reduces ground water recharge, threatening aquifer supplies, as well as impacting groundwater-based springflow to streams, especially during periods of low rainfall, which then impacts surface water supplies.

By decreasing the ability of the ground to infiltrate storm water, impervious cover can lead to significant increases in the volume and velocity of flooding. With increasing impervious cover, cities, counties, and other local authorities must spend more of their limited budgets on flood preparation and prevention, emergency responses, new water supplies, and more expensive water treatments.

This bill was originally filed in the 87th Session and has been updated with a few changes. This bill would allow counties, if they choose, to adopt impervious cover regulations within high-risk floodplains to protect current and future residents from harm and to protect the quality and quantity of water supplies. This is legislation that we would like to see filed again and supported during the special session or during the 90th Session.

A BILL TO BE ENTITLED AN ACT

relating to the authority of a county to regulate impervious cover around certain floodplains.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter Z, Chapter 240, Local Government Code, is amended by adding Section 240.911 to read as follows:

Sec. 240.911. REGULATION OF IMPERVIOUS COVER AROUND CERTAIN FLOODPLAINS. The commissioners court of a county may regulate, including by adopting land use regulations, impervious cover located in the unincorporated area of the county provided that area is also within 100 feet outside the 500-year floodplain of perennial and intermittent streams and rivers.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2027.

Draft Legislation re: County Floodplain Authority in Parts of Flash Flood Alley

The Guadalupe, San Antonio, and Lower Colorado Rivers are major contributors to flooding in Flash Flood Alley in the Hill Country due to their unique hydrogeological characteristics. Counties with land in the floodplains of these river basins are very limited in their ability to protect current and future residents from the high risks of flooding. Some level of land use authority would allow counties to ensure that inappropriate structures are not placed within the risky 100-year floodplain.

This bill is not an unprecedented expansion of county land use authority. Counties within the Trinity River Basin below the Livingston Dam currently have this exact authority due to their similar propensity to experience flooding.

This is a draft bill that has, to the extent knowable, not been filed in a prior session. This bill would allow counties, if they choose, to adopt rules for residential lots in high-risk floodplains. We hope to see this or similar bills filed and supported during the 89th special session or during the 90th Session.

A BILL TO BE ENTITLED
AN ACT

Relating to the land use regulations for flood control around certain floodplains.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 231, Local Government Code, is amended by adding Subchapter N to read as follows:

Section 240.905 LAND USE REGULATIONS FOR FLOOD CONTROL IN GUADALUPE, SAN ANTONIO, OR LOWER COLORADO RIVER BASIN.

(A) The commissioners court of a county located with all or part of its area within the 100-year floodplain of the Guadalupe River basin, the San Antonio River basin, or the Lower Colorado 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 Guadalupe River basin, San Antonio River basin, or Lower Colorado 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 only apply 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.

Section 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2027.

Draft Legislation re: Hill Country PGMA Stormwater Management Authority

Texas counties are generally not granted full authority to meet all of the permit requirements of the Texas Pollutant Discharge Elimination System stormwater management programs.

Enhanced county authority strictly related to stormwater management would allow counties within the Hill Country Priority Groundwater Management Area – many of which are directly in Flash Flood Alley – to implement Stormwater Management Plans in a manner that fully meets the requirements of the Texas Pollutant Discharge Elimination System stormwater management programs.

Counties would have greater flexibility to identify, evaluate, and solve flooding, erosion, and water quality problems. Many of the efforts the counties would be able to undertake to protect water quality would also help ensure Texans are not placed in harm's way during floods. These counties would be able to implement their stormwater programs to account for stormwater impacts county-wide, easing planning and management efforts and protecting water quality. Counties in the region consider the ability to implement appropriate levels of stormwater management critical to protecting the quality of water supplies and the safety of those who rely on them.

This bill was filed as HB 4135 during the 89th Session and has been refiled as HB 114 in the 89th Special Session. This bill should help counties, if they choose, to appropriately manage stormwater within their jurisdiction to prevent and respond to stormwater impacts on water quality and flooding. This is a bill for which we'd like to see support, including coauthors and sponsors.

By: Zwiener

H.B. No. 114

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of stormwater management by certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 573.001, Local Government Code, is amended to read as follows:

Sec. 573.001. COUNTY OR DISTRICT SUBJECT TO CHAPTER. This chapter applies only to:

- (1) a county with a population of 2.8 million or more;
- (2) a district or authority created under Section 59, Article XVI, Texas Constitution, that:
 - (A) has boundaries coterminous with a county described by Subdivision (1); and
 - (B) is authorized to provide stormwater drainage and flood control facilities;
- (3) a county with a population of more than 1.3 million for which the primary source of drinking water is an underground aquifer; or

(4) a county [~~with a population of 800,000 or more~~]
that:

- (A) contains a portion of the Edwards Aquifer; or
- (B) is located wholly or partly within the
boundaries of the Hill Country Priority Groundwater Management Area.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2025.

Draft Legislation re: Updated Building Codes for Counties

Counties have no jurisdiction to implement comprehensive zoning rules that could limit people from living close to the water's edge. Therefore, the inability to require higher building standards places residents who do live close to the water at even greater risk due to inadequate or inappropriate structures.

Under state law, Texas counties are unable to implement regulations and ordinances stricter than those imposed by the state. Home-rule Texas cities, meanwhile, are able in many instances to regulate and pass rules and ordinances stricter than state law. Counties have very limited land development and land-use authority and have no zoning authority. Counties are also only able to currently regulate under rules that conform to the 2008 International Residential Building Code or to the version of the code adopted by the county seat (Section 233.153(a), Local Government Code).

Texas counties and cities also do not have the same authority to implement all aspects of the Community Rating System, which helps communities achieve lower flood insurance premiums. To qualify for CRS Class 6 or better, a community must receive a 5/5 classification or better under the Building Code Effectiveness Grading Schedule (BCEGS). To achieve this BCEGS score, a community must have the ability to adopt building codes, pass code amendments, and implement zoning and land-use provisions, effectively barring county participation or advancement past a Class 7 rating. The CRS also provides credit for adopting the current editions of the International Residential Code and International Building Code, which counties in Texas are unable to do.

By preventing counties from being able to fully meet the requirements of the Community Rating System, Texas is not just leaving residents close to the water at risk from lower standard buildings, the state is in effect capping the discount residents in unincorporated areas can receive on their flood insurance premiums at 15 percent, while their counterparts in incorporated cities could plausibly receive up to 45 percent.

This bill was filed as HB 882 during the 89th Session. We hope to see this bill refiled and supported during the 89th special session or during the 90th Session.

A BILL TO BE ENTITLED AN ACT
relating to building codes applicable in the unincorporated areas
of a county; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subchapter F, Chapter 233, Local
Government Code, is amended to read as follows:

SUBCHAPTER F. ~~[RESIDENTIAL]~~ BUILDING CODE STANDARDS APPLICABLE TO
UNINCORPORATED AREAS OF CERTAIN COUNTIES

SECTION 2. Section 233.151, Local Government Code, is
amended to read as follows:

Sec. 233.151. DEFINITIONS. (a) In this subchapter:

(1) "New commercial construction" includes:

(A) construction of a commercial building on a
vacant lot; and

(B) construction of an addition to or a
renovation of an existing commercial building, if the addition or
renovation will increase the square footage or value of the
existing building by more than 50 percent.

(2) "New construction" means new commercial
construction and new residential construction.

(3) "New [~~new~~] residential construction" includes:

(A) [~~(1) residential~~] construction of a
single-family house, a [~~or~~] duplex, or other construction defined
as a residential building by the International Residential Code on
a vacant lot; and

(B) [~~(2)~~] construction of an addition to or a
renovation of an existing single-family house, a [~~or~~] duplex, or
other construction defined as a residential building by the
International Residential Code, if the addition or renovation will
increase the square footage or value of the existing residential
building by more than 50 percent.

(b) The term "new residential construction" does not include a structure that is constructed in accordance with Chapter 1201, Occupations Code, or a modular home constructed in accordance with Chapter 1202, Occupations Code.

(c) For purposes of this section, "International Residential Code" means the International Residential Code as it existed on January 1, 2025.

SECTION 3. Section 233.153, Local Government Code, is amended by amending Subsections (a), (b), (d), and (f) and adding Subsections (b-1) and (g) to read as follows:

(a) Except as provided by Subsection (b-1), new [New] residential construction [of a single-family house or duplex] in the unincorporated area of a county to which this subchapter applies shall conform to the [version of the] International Residential Code as it existed on January 1, 2025 [published as of May 1, 2008, or the version of the International Residential Code that is applicable in the county seat of that county].

(b) Except as provided by Subsection (b-1), new commercial construction in the unincorporated area of a county to which this subchapter applies shall conform to the International Building Code as it existed on January 1, 2025 [Standards required under this subchapter apply only to new residential construction that begins after September 1, 2009].

(b-1) The commissioners court of a county may:

(1) adopt and apply a version of the International Residential Code or the International Building Code published after January 1, 2025, to new construction; or

(2) establish standards for new construction that exceed the standards of those codes.

(d) This subchapter may not be construed to:

(1) [require prior approval by the county before the beginning of new residential construction;

[(2)] authorize the commissioners court of a county to adopt or enforce zoning regulations; or

(2) [(3)] affect the application of the provisions of Subchapter B, Chapter 232, to land development.

(f) A county may [not] charge a fee to a person subject to standards under this subchapter to defray the costs of enforcing the standards.

(g) The commissioners court of a county may adopt rules necessary to administer and enforce the standards adopted under this subchapter.

SECTION 4. Subchapter F, Chapter 233, Local Government Code, is amended by adding Section 233.1535 to read as follows:

Sec. 233.1535. NOTICE AND PUBLIC COMMENT. (a) A commissioners court of a county shall publish notice of the proposed adoption of or amendment to a building code under this subchapter in a conspicuous location on the county's Internet website at least 30 days before the date of the adoption of or amendment to the building code.

(b) The commissioners court shall:

(1) as provided by Section 551.007, Government Code, allow public testimony regarding the adoption of or amendment to a building code under this subchapter before formal action is taken by the commissioners court; and

(2) make a reasonable effort to encourage public comment from persons affected by the adoption of or amendment to a building code under this subchapter.

(c) On the written request from five or more persons, the commissioners court of the county shall hold a public hearing open to public comment on the proposed adoption of or amendment to a building code under this subchapter. The hearing must be held on or before the 14th day before the date the commissioners court adopts

or amends the building code.

SECTION 5. Section 233.154, Local Government Code, is amended by amending Subsections (a) and (c) and adding Subsections (a-1) and (a-2) to read as follows:

(a) A person who builds new ~~[residential]~~ construction ~~[described by Section 233.153]~~ shall have the construction inspected to ensure building code compliance in accordance with this section as follows:

(1) for new ~~[residential]~~ construction described by Section 233.151(a) (1) (A) or (3) (A) ~~[on a vacant lot]~~, a minimum of three inspections must be performed during the construction project to ensure code compliance, as applicable, at the following stages of construction:

(A) the foundation stage, before the placement of concrete;

(B) the framing and mechanical systems stage, before covering with drywall or other interior wall covering; and

(C) on completion of construction of the residence or building; and

(2) for new ~~[residential]~~ construction ~~[of an addition to an existing residence as]~~ described by Section 233.151(a) (1) (B) or (3) (B) ~~[233.151(a)(2)]~~, the inspections under Subdivision (1) must be performed as necessary based on the scope of work of the construction project.

(a-1) A county may employ a building inspector certified by the International Code Council to review construction plans and inspect new construction or shall require~~;~~ and

~~[(3) for new residential construction on a vacant lot and for construction of an addition to an existing residence, the builder]:~~

(1) the builder of new residential construction to contract for inspection ~~[(A) is responsible for contracting to perform the inspections required by this subsection]~~ with:

(A) ~~[(i)]~~ a licensed engineer;

(B) ~~[(ii)]~~ a registered architect;

(C) ~~[(iii) a professional inspector licensed by the Texas Real Estate Commission;~~

~~[(iv)] a plumbing inspector employed by a municipality and licensed by the Texas State Board of Plumbing Examiners;~~

(D) ~~[(v)]~~ a building inspector employed by a political subdivision; or

(E) ~~[(vi)]~~ an individual certified as a residential combination inspector by the International Code Council; or

(2) the general contractor for new commercial construction to contract for inspection with:

(A) a licensed engineer;

(B) a registered architect;

(C) a certified building inspector employed by a political subdivision; or

(D) an inspector certified by the International Code Council as a commercial building inspector, commercial electrical inspector, commercial mechanical inspector, or commercial plumbing inspector.

(a-2) A builder or general contractor ~~[and~~

~~[(B)]~~ may use the same inspector for all the required inspections or a different inspector for each required inspection under Subsection (a) if the builder or general contractor contracts for the inspection.

(c) If required by the county for new residential construction, not later than the 10th day after the date of the final inspection under this section, the builder shall submit

notice of the inspection stating whether or not the inspection showed compliance with the building code standards applicable to that phase of construction in a form required by the county to:

(1) the county employee, department, or agency designated by the commissioners court of the county to receive the information; and

(2) the person for whom the new residential construction is being built, if different from the builder.

SECTION 6. Section 233.155, Local Government Code, is amended to read as follows:

Sec. 233.155. ENFORCEMENT OF STANDARDS. (a) If proper notice for new residential construction is not submitted in accordance with Section 233.154(c) [~~Sections 233.154(b) and (c)~~], the county may take any or all of the following actions:

(1) [~~refer the inspector to the appropriate regulatory authority for discipline;~~

~~[(2)]~~ in a suit brought by the appropriate attorney representing the county in the district court, obtain appropriate injunctive relief to prevent a violation or threatened violation of a standard or notice required under this subchapter from continuing or occurring; or

(2) [~~(3)~~] refer the builder for prosecution under Section 233.157.

(b) If the notice the builder provided to the county under Section 233.154(c) does not indicate that the inspection showed compliance with the applicable building code standards, the county may take either or both of the actions under Subsections (a)(1) [~~(a)(2)~~] and (2) [~~(3)~~].

SECTION 7. Sections 233.157(a) and (c), Local Government Code, are amended to read as follows:

(a) A builder commits an offense if:

(1) the builder fails to provide proper notice in accordance with Section 233.154(c) [~~Sections 233.154(b) and (c)~~]; or

(2) as provided by Section 233.155(b), the builder does not provide notice under Section 233.154(c) that indicates that the inspection showed compliance with the applicable building code standards.

(c) An individual who fails to provide proper notice in accordance with Section 233.154(c) [~~Sections 233.154(b) and (c)~~] is not subject to a penalty under this section [~~subsection~~] if:

(1) the new residential construction is built by the individual or the individual acts as the individual's own contractor; and

(2) the individual intends to use the residence as the individual's primary residence.

SECTION 8. Sections 233.154(b) and 233.157(d), Local Government Code, are repealed.

SECTION 9. Subchapter F, Chapter 233, Local Government Code, as amended by this Act, applies only to new construction that commences on or after the effective date of this Act. New construction that commences before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 10. Section 233.157, Local Government Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 11. This Act takes effect January 1, 2028.

Draft Legislation re: Land Use in Certain Water Quality Protected Areas

Counties are limited in their ability to enact land use regulations that protect hydrologically sensitive areas, including aquifer recharge zones, floodplains, karst topographic areas, riparian areas, and other watersheds. This limited ability to regulate land use in these areas places water quality at risk of contamination, properties at risk of flooding, and people at risk from both contaminated water quality and the impacts of flooding.

As counties continue to develop, and Texas continues to face the whiplash of severe drought punctuated by severe floods, counties are increasingly relying on outdated tools or no tools at all to protect water supplies and those who depend on them or live nearby them.

This is an updated and revised version of SB 1954, filed during the 89th regular session. This bill would allow counties, if they choose, to adopt land use rules for the protection of designated hydrologically sensitive areas. We hope to see this or similar bills filed and supported during the 89th special session or during the 90th Session.

A BILL TO BE ENTITLED
AN ACT

relating to the authority of a county to regulate land use in certain areas in and around hydrologically sensitive areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 231, Local Government Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. LAND USE NEAR CERTAIN WATER QUALITY PROTECTED AREAS

Sec. 231.301. DEFINITION. In this subchapter, "development plan" has the meaning assigned by Section 232.00285.

Sec. 231.302. PROTECTED AREAS. The regulatory authority granted under this subchapter applies only to an area designated by the commissioners court of a county as a protected area for the purpose of protecting public health and safety by regulating land use and development in a hydrologically sensitive area, including an aquifer recharge zone, floodplain, karst topographic area, riparian area, or other watershed.

Sec. 231.303. ADOPTION OF SUBCHAPTER. This subchapter applies only to a county for which the commissioners court by order has adopted this subchapter following an election held under Section 231.305.

Sec. 231.304. PETITION FOR ADOPTION. (a) A person may submit a petition to the county clerk of a county to request that the county hold an election on the question of adopting this subchapter.

(b) The petition must:

(1) be signed by a number of registered voters in the county that is equal to at least 10 percent of the number of votes received by all candidates for governor in the most recent gubernatorial general election in the county;

(2) include each signer's current voter registration number, printed name, and residence address, including zip code;

(3) include a signature date entered by each signer next to the signer's signature; and

(4) include a statement on each page of the petition preceding the space for signatures in substantially the following form:

"This petition is to request that an election be held in (name of county) to authorize the county to adopt zoning and building regulations applicable in protected areas designated by the county for the protection of water quality."

(c) A petition signature is not valid if:

(1) the signer fails to enter the date the signer signs the petition; or

(2) the date is earlier than the 90th day before the

date the petition is submitted to the county clerk.

(d) Not later than the 30th day after the date the county clerk receives a petition under this section, the clerk shall provide a written determination on whether the petition is valid to the commissioners court of the county.

(e) If the county clerk determines the petition is invalid, the clerk shall provide written notice to the commissioners court and the person submitting the petition, which must include each reason the clerk determines the petition is invalid.

Sec. 231.305. ADOPTION ELECTION. (a) After receipt of the county clerk's determination of a valid petition under Section 231.304, the commissioners court of the county shall order an election on the question of adopting this subchapter.

(b) An election held under this section must be held on the first uniform election date after the date the commissioners court receives the county clerk's determination of a valid petition under Section 231.304 that allows sufficient time to comply with other requirements of law.

(c) The ballot for the election must be printed to provide for voting for or against the following proposition:
"Granting authority to the county to adopt land use and building regulations applicable in protected areas designated by the county for the protection of water quality."

(d) If a majority of the votes cast in the election favor the proposition, the commissioners court shall adopt by order this subchapter at the next scheduled meeting of the court.

Sec. 231.306. AUTHORITY TO REGULATE. (a) The commissioners court of a county by order may:

(1) designate one or more geographic areas in the county as a protected area under Section 231.302; and

(2) adopt regulations authorized by this subchapter that apply only to an area designated by the commissioners court as a protected area.

(b) A commissioners court may 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.

(c) A commissioners court may require a person to submit a development plan during the plat approval process for land any part of which is located in a protected area designated by the commissioners court under this subchapter.

(d) A commissioners court may not regulate:

(1) the use, design, or placement of public utility buildings, land, or facilities; or

(2) 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.

Sec. 231.307. PLANNING COMMISSION; MEMBERS. (a) The commissioners court of a county shall appoint a planning commission for each protected area in the county. Each planning commission must consist of:

(1) five members appointed by the county judge;

(2) one member appointed by each county commissioner; and

(3) one member appointed by the mayor of each municipality in which any part of the protected area covered by the planning commission is located.

(b) Members appointed to the planning commission must reside in the jurisdiction of the person appointing the member. Members appointed by the county judge must own land in the county.

(c) A member appointed to the initial planning commission serves a term that expires on February 1 of the first odd-numbered year after the date of the member's appointment. Except for a member appointed to the initial commission, a member of a planning commission serves a two-year term beginning February 1 of each odd-numbered year.

(d) A planning commission shall annually elect a presiding officer and vice presiding officer from among its members.

(e) A county shall employ necessary staff for a planning commission to carry out its duties.

Sec. 231.308. PLANNING COMMISSION: POWERS AND DUTIES. (a) A planning commission established for a protected area under this subchapter shall recommend to the commissioners court:

(1) boundaries for the protected area; and

(2) appropriate land use regulations for the protected area.

(b) A planning commission shall seek input from appropriately qualified scientists, including hydrologists, geologists, and environmental scientists, to determine the appropriate size and extent of the protected area for the purpose of recommending boundaries for the protected area under Subsection (a).

(c) A planning commission may not recommend boundaries for a protected area that are located:

(1) outside the boundary of a 100-year floodplain as determined by the most recent maps published by the Federal Emergency Management Agency;

(2) less than 200 feet from the boundary of a riparian zone;

(3) less than 300 feet from the boundary of an aquifer recharge zone; or

(4) less than 500 feet from the boundary of a karst topographic area.

(d) A planning commission may conduct a study of the protected area under its jurisdiction to inform the planning commission's advice to the commissioners court about the boundaries of the protected area, regulations that apply in the protected area, and proposed changes to the boundaries or regulations. A planning commission shall conduct a study described by this subsection on request of the commissioners court.

Sec. 231.309. PLANNING COMMISSION REPORT; PUBLIC HEARING.

(a) A planning commission that conducts a study under Section 231.308(d) shall prepare a report based on the study and present it to the commissioners court.

(b) Before a planning commission prepares a report under this section, the planning commission shall:

(1) hold a public hearing at which members of the public may present testimony about any subject to be included in the report; and

(2) give notice of a public hearing to be held under this section as required by the commissioners court.

(c) If a study conducted under Section 231.308(d) advises the planning commission to change the land use classification of a parcel of land, the planning commission shall send written notice to each landowner, as listed on the county tax rolls, whose land would be directly affected by the advised change in zoning classification or is located within 500 feet of land directly affected by the advised change in land use classification. The notice must:

(1) inform the landowner of the time and place of the

public hearing held under Subsection (b) at which the landowner may present testimony to the commission about the advised change in zoning classification; and

(2) be deposited in the United States mail before the 10th day before the date of the hearing held under Subsection (b).

Sec. 231.310. ADOPTION OF ORDER AFTER RECEIPT OF REPORT.

The commissioners court may adopt an order relating to a land use classification or regulation affecting a protected area under this subchapter only after the commissioners court receives a report prepared under Section 231.309 relating to the protected area.

Sec. 231.311. SPECIAL EXCEPTIONS. (a) The commissioners court may grant a special exception to an order or regulation adopted under this subchapter if the commissioners court finds that the special exception will not be contrary to the public interest and that a literal enforcement of the order or regulation 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.

Sec. 231.312. CONFLICT WITH OTHER ACTION OR REGULATION. In the event of a conflict between an order adopted under this subchapter and an action or regulation of a municipality or special-purpose district or authority, the more stringent regulation prevails. A more stringent regulation is the regulation that imposes a higher standard.

Sec. 231.313. ENFORCEMENT. (a) The county attorney or other prosecuting attorney representing the county in the district court may file an action to enjoin a violation or threatened violation of a regulation adopted under this subchapter. The court may grant appropriate relief.

(b) If an order adopted under this subchapter defines an offense, an offense under that order is a Class C misdemeanor.

SECTION 2. Section 232.0025, Local Government Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) Except as provided by Subsections (d-1) and [Subsection] (f), the commissioners court or the county authority responsible for approving plats shall approve, approve with conditions, or disapprove a plat application not later than the 30th day after the date the completed application is received by the commissioners court or the county authority. An application is approved by the commissioners court or the county authority unless the application is disapproved within that period and in accordance with Section 232.0026.

(d-1) The commissioners court or the county authority responsible for approving plats of a county that has exercised the regulatory authority granted under Subchapter N, Chapter 231, may not approve with conditions a plat application for land any part of which is located in a protected area regulated by the county under that subchapter if the conditions relate to the protected area.

SECTION 3. Section 232.00285, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c) A county that has exercised the regulatory authority granted under Subchapter N, Chapter 231, may require a person to submit a development plan during the plat approval process required by this subchapter.

SECTION 4. This Act takes effect September 1, 2027.