

Draft Legislation re: County 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, with nearly 6 million Texans (nearly 20 percent of the state's population) 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/>
- <https://www.statesman.com/story/news/local/2025/07/15/as-texans-seek-to-rebuild-in-floodplains-local-governments-face-safety-challenges/85204052007/>
- https://www.twdb.texas.gov/flood/planning/sfp/2024/doc/SFP-2024.pdf?d=4059.1000000089407&mc_cid=ad1df6fcf6&mc_eid=70d72ac712

Counties have no jurisdiction to implement comprehensive zoning rules that could limit people from living close to the water's edge, which means their 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 a 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 to communities that have adopted 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 a 45 percent discount.

These are draft bills that have not, to the extent knowable, been proposed in prior sessions. The versions increase in their rigorousness, with Version 1 being the least rigorous and Version 3 the most.

Version 1 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.

Version 2 would require counties to adopt minimum building standards within the floodplain to protect current and future residents from the impact of flooding.

Version 3 would require counties to adopt standards that meet the flood protection aspects of the 2021 version of the International Building Code and International Residential Code for all new developments and substantial improvements within the 1 percent (100-year) annual chance floodplain. This proposal is recommended by the TWDB as part of its State Flood Plan recommendations.

We hope to see these or similar bills filed and supported in the 89th special session or the 90th Session.

Version 1

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.

Version 2

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 by adding Section 232.00315 to read as follows:

Section 232.00315. FLOODPLAIN DEVELOPMENT 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 shall adopt minimum building standards for structures and physical facilities within a 500-year floodplain to minimize and prevent flooding.

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.

Version 3

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 by adding Section 232.00315 to read as follows:

Section 232.00315. FLOODPLAIN DEVELOPMENT 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 shall adopt all flood protection aspects of the 2021 International Building Code and International Residential Code for all new development and substantial improvements within a 100-year floodplain to minimize and prevent flooding.

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

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.

Limiting impervious cover over environmentally sensitive areas is exceedingly critical to the protection of local and regional water supplies – polluted runoff is widely recognized to be 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 spring flow to streams, especially during periods of low rainfall, which then impacts surface water supplies.

We have two proposed versions of this bill. Version 1 was originally filed in the 87th as HB 3843, and I have updated it with a few proposed 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. Version 2 was filed as HB 188 during the 89th Special Session. This bill would grant counties the authority, if they choose, to regulate impervious cover in unincorporated areas of the county in order to prevent and mitigate flood risk. The versions increase in their rigorousness, with Version 1 being less rigorous and Version 2 more so. These are pieces of legislation we would like to see filed and supported during the special session or 90th Session.

Version 1

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.

Version 2

By: Zwiener

H.B. No. 188

A BILL TO BE ENTITLED
AN ACT

relating to the authority of a county to regulate impervious cover in the unincorporated area of the county.

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 240.912 to read as follows:

Sec. 240.912. REGULATION OF IMPERVIOUS COVER IN UNINCORPORATED AREA. The commissioners court of a county may regulate impervious cover located in the unincorporated area of the county for the purpose of:

(1) protecting, mitigating, or reducing flood risk;
(2) promoting the development of flood projects, as defined by Section 15.531(2), Water Code;
(3) promoting drainage; or
(4) promoting nature-based features to reduce flooding.

SECTION 2. This Act takes effect on the 91st day after the last day of the legislative session.

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.fox4news.com/news/fema-camp-mystic-flood-plain-removed>
- <https://www.texastribune.org/2025/07/12/camp-mystic-flood-plain-FEMA/>
- <https://www.nytimes.com/2025/07/12/us/texas-camp-mystic-flood-plain-maps.html?searchResultPosition=3>

FEMA does not have the same level of understanding of risks on the ground in Texas as does the Texas Water Development Board. 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 floodplain map should be approved.

The Texas Floodplain Management Association has informally expressed support for this proposed policy.

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.