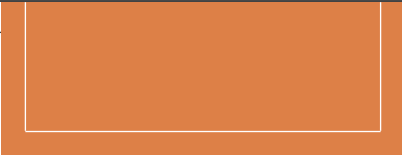



# COUNTY REGULATORY AUTHORITY

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# SUBDIVISION REGULATIONS



By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in a newspaper of general circulation in the county, the commissioners court may a subdivision regulation to impose additional requirements.

TEX. LOC. GOV'T CODE § 232.003



# SOLID WASTE




Specific Statutory Authority for Counties

Solid Waste Issues

The **Solid Waste Disposal Act** – Tex. Health & Safety Code, Chapter 361, Subchapter E.

The **Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act** – Tex. Health & Safety Code, Chapter 363, Subchapter F.

The **County Solid Waste Control Act** – Tex. Health & Safety Code, Chapter 364.



A county has the opportunity to review permit applications submitted to the TCEQ for the construction, operation, and maintenance of solid waste facilities used to store, process or dispose of solid waste.

If the commission determines that a permit application submitted to it is administratively complete, it shall mail a copy of the application or a summary of its contents to the county judge and the health authority of the county in which the facility is located.

A county to whom the information is mailed shall have a reasonable time, as prescribed by the commission, to present comments and recommendations on the permit application before the commission acts on the application.

(Tex. Health & Safety Code §361.067)

# **Solid Waste Disposal Act**

## **(Tex. Health & Safety Code, Chapter 361)**

It is this state's policy and the purpose of this chapter to safeguard the health, welfare, and physical property of the people and to protect the environment by controlling the management of solid waste, including accounting for hazardous waste that is generated.

The storage, processing, and disposal of hazardous waste at municipal solid waste facilities pose a risk to public health and the environment, and in order to protect the environment and to provide measures for adequate protection of public health, it is in the public interest to require hazardous waste to be stored, processed, and disposed of only at permitted hazardous industrial solid waste facilities. Tex. Health & Safety Code §361.002



# GAME ROOM REGULATIONS






A county may regulate the operation of game rooms and may:


1. restrict the location to specified areas of the county;
2. prohibit the location within a certain distance of a school, regular place of religious worship or residential neighborhood; or
3. restrict the number of game rooms that may operate in a specific area of the county.



# SEXUALLY ORIENTED BUSINESSES



"sexually oriented business" means a sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, or other commercial enterprise the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer. TEX. LOC. GOV'T CODE §243.002



A county by order of the commissioners court may adopt regulations regarding sexually oriented businesses as the municipality or county considers necessary to promote the public health, safety, or welfare. A regulation adopted by a county applies only to the parts of the county outside the corporate limits of a municipality. § 243.003



(a) The location of sexually oriented businesses may be:

(1) restricted to particular areas; or

(2) prohibited within a certain distance of a school, regular place of religious worship, residential neighborhood, or other specified land use the governing body of the municipality or county finds to be inconsistent with the operation of a sexually oriented business.

(b) A municipality or county may restrict the density of sexually oriented businesses.

§ 243.006



# PUBLIC NUISANCE



## TEX. HEALTH & SAFETY CODE § 365.012

### ILLEGAL DUMPING; DISCARDING LIGHTER MATERIALS; CRIMINAL PENALTIES

- disposes of litter or other solid waste at a place that is not an approved solid waste site, including a place on or within 300 feet of a public highway, on a right-of-way, on other public or private property, or into inland or coastal water of the state;
- receives litter or other solid waste for disposal at a place that is not an approved solid waste site, regardless of whether the litter or other solid waste or the land on which the litter or other solid waste is disposed is owned or controlled by the person.
- transports litter or other solid waste to a place that is not an approved solid waste site for disposal at the site.



## TEX. HEALTH & SAFETY CODE § 365.017

Regulation of Litter by County – Commissioners Court may adopt regulations to control the disposal of litter and the removal of illegally dumped litter from private property in unincorporated areas of that county.





## TEX. HEALTH & SAFETY CODE § 365.034

County Regulation of Litter Near Public Highway; Criminal Penalty – Commissioners Court by order may: (1) prohibit the accumulation of litter for more than 30 days on a person's property within 50 feet of a public highway; (2) order for the removal and disposition of litter; (3) provide for the assessment against a person who owns the property from which litter is removed.



## TEX. HEALTH & SAFETY CODE § 343.011

Public Nuisance – (1) keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;

(2) keeping, storing, or accumulating rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood or within 300 feet of a public street for 10 days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street;

(3) maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests;

(9) discarding refuse or creating a hazardous visual obstruction on: county-owned land; or land or easements owned or held by a special district that has the commissioners court of the county as its governing body;

(12) discarding refuse on property that is not authorized for that activity

# TEX. HEALTH & SAFETY CODE

§ 343.012

§ 343.013

Criminal Penalty for Public Nuisance – misdemeanor punishable by fine; if previously convicted, punishable by fine and/or confinement in jail.

Injunction – a county may bring suit for an injunction to prevent, restrain, abate or otherwise remedy a Public Nuisance.

# TEX. HEALTH & SAFETY CODE

§ 343.021

§ 343.022

## County Authority to Abate Nuisance

County may abate a nuisance if County has adopted abatement procedures.

## County Abatement Procedures

Must be administered by regularly salaried, full-time county employee; written notice to individual at premises and state condition of nuisance; individual may request hearing.



## TEX. HEALTH & SAFETY CODE § 343.023

Assessment of Costs; Lien – County may assess the cost of abating the nuisance, cost of legal notice and administrative fee; County may obtain a lien against the property to secure an assessment.




## TEX. HEALTH & SAFETY CODE § 343.024

County Authority to Enter Premises -- May enter any premise at a reasonable time to inspect, investigate or abate a nuisance.



## OTHER CONSIDERATIONS

# THE PRIVATE REAL PROPERTY RIGHTS PRESERVATION ACT



The Private Real Property Rights Preservation Act may apply to the adoption or issuance of an ordinance, rule, regulatory requirement, resolution, policy, guideline, or similar measure by a County . (Tex. Gov't Code § 2007.003)


- Attorney General to prepare guidelines (Tex. Gov't Code §2007.041)
- A “taking” is : (1) affects an owner's private real property that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and (ii) is the producing cause of a reduction of at least 25 percent in the market value. (Tex. Gov't Code §2007.0002(5)).





The takings impact assessment must:

- (1) describe the specific purpose of the proposed action and identify:
  - (A) whether and how the proposed action substantially advances its stated purpose; and
  - (B) the burdens imposed on private real property and the benefits to society resulting from the proposed use of private real property;
- (2) determine whether engaging in the proposed action will constitute a taking; and
- (3) describe reasonable alternative actions that could accomplish the specified purpose and compare, evaluate, and explain:
  - (A) how an alternative action would further the specified purpose; and
  - (B) whether an alternative action would constitute a taking. (Tex. Gov't Code §2007.043)



A governmental action requiring a takings impact assessment is void if an assessment is not prepared. A private real property owner affected by a governmental action taken without the preparation of a takings impact assessment may bring suit for a declaration of the invalidity of the governmental action. (Tex. Gov't Code §2007.044)



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