

**Texas Local Government Code**

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](#), 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 1.4 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;

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(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](#), Sec. 1, eff. June 18, 2005.

### 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](#), 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

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of the structure, whichever is greater, of a residential subdivision.

Added by Acts 2005, 79th Leg., Ch. [945](#), 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](#), 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;

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(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](#), 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](#), 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

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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](#), Sec. 1, eff. June 18, 2005.