

Amend **CSHB 789** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION \_\_. Chapter 240, Local Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. COMMUNICATION FACILITIES

Sec. 240.081. DEFINITIONS. In this subchapter:

(1) "Communication facility structure" means:

(A) an antenna support structure for a mobile or land-based telecommunication facility, or a whip antenna, panel antenna, microwave dish, or receive-only satellite dish;

(B) a cell enhancer and related equipment for wireless transmission from a sender to one or more receivers for a mobile telephone, or a mobile radio system facility, commercial radio service, or other service or receiver; or

(C) a monopole tower, a steel lattice tower, or any other communication tower.

(2) "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 are designated as homestead property.

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 and located within one-quarter mile of a residential subdivision.

(b) This subchapter does not apply to:

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

(A) the replacement communication facility structure is constructed within 300 feet of the existing communication facility structure;

(B) the replacement communication facility structure is the same size 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 structure begins operation; or

(2) a communication antenna, antenna facility, or antenna tower or support structure located in a residential area that is used by an amateur radio operator:

(A) exclusively for amateur radio communication or public safety services; and

(B) who is licensed by the Federal Communications Commission.

Sec. 240.083. AUTHORITY OF COUNTY TO REGULATE. (a) The commissioners court of a county subject to this subchapter may by order regulate the location of a communication facility structure.

(b) The regulations may include a requirement for a permit for the construction or expansion of the communication facility structure and may impose fees on regulated persons to recover the cost of administering the regulations.

Sec. 240.084. COUNTY PERMIT. (a) This section applies only to the issuance of a permit to construct or improve a communication facility structure under a regulation adopted under this subchapter.

(b) The commissioners court must, not later than the 45th day after the date the application for the permit is filed:

(1) grant or deny the permit application;

(2) provide written notice to the applicant stating the reason the commissioners court has not acted on the permit application; or

(3) enter into an agreement with the applicant establishing a date by which the commissioners court will grant or deny the permit application.

(c) If the commissioners court provides notice to the applicant under Subsection (b) (2), the commissioners court must grant or deny the permit application not later than the 30th day after the date the applicant received the notice.

(d) If the commissioners court fails to act on a permit application within the 30-day period prescribed by Subsection (c) or under the terms of an agreement under Subsection (b)(3), the

commissioners court:

(1) may not collect any permit fees associated with the permit application; and

(2) shall refund to the applicant any permit fees associated with the application that have been previously collected.

Sec. 240.085. NOTICE BY SIGN. (a) Not later than the 60th day before the date a permit application is filed under Section 240.084, the applicant for a permit for a location not previously licensed or permitted shall prominently post an outdoor sign at the proposed location:

(1) stating that a communication facility structure is proposed for the location; and

(2) providing the name and business address of the applicant.

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

Sec. 240.086. VARIANCES. (a) A person who proposes to construct or increase the height of a communication facility structure in violation of a regulation adopted by order by a county subject to this subchapter may apply to the commissioners court for a variance from the regulation.

(b) The commissioners court shall hold a public hearing on the proposed variance. The commissioners court may authorize 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) granting the relief sought would:

(A) result in substantial justice;

(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 the commissioners court considers necessary to accomplish the purposes of this subchapter.

(d) Before the 10th day before the date the commissioners court hold a public hearing on the variance request, written notice of the public hearing shall be provided to each owner of property located within one-quarter mile of the proposed location of the communication facility structure. The notice must include:

(1) the date, time, and place of the public hearing;

(2) the proposed location, height, and use of the proposed communication facility structure; and

(3) the name and telephone number of a person interested persons may contact to receive information regarding the construction of the proposed communication facility structure.

Sec. 240.087. ADDITIONAL FILING REQUIREMENTS REGARDING CONSTRUCTION. Before the 90th day before the date construction begins, a person proposing to construct a communication facility structure in the unincorporated area of a county subject to this subchapter that is taller than 60 feet 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 will begin;

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

(3) any necessary engineered drawings that have been approved by the Federal Aviation Administration;

(4) the correct phone number and address of each entity involved in the construction; and

(5) a plat or map of the specific proposed location of the communication facility structure.

Sec. 240.088. 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.

Sec. 240.089. 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.