

OCTOBER FLOODING AND YOUR COUNTY

Texas Association of Counties is always available to discuss issues that arise in your county. In the aftermath of the recent flooding, we understand that these issues are particularly complex and time-sensitive. Our goal is to provide you with resources that address frequent topics that arise in states of emergency. We encourage you to discuss these and any other legal questions with your county attorney. You can always call the TAC Helpline at (888) 275-8224 and one of our legal staff will be happy to assist you.

DISASTER DECLARATION

The Texas Governor has issued a [Disaster Declaration](#) for the 18 counties currently experiencing extreme weather and prolonged flooding. Your county may also be experiencing widespread and severe property damage. If so, you may request a Major Disaster Declaration through the [Texas Department of Public Safety – Texas Division of Emergency Management](#). Your county judge may also adopt a [Declaration of Local Disaster](#).

COMMISSIONERS COURT MEETINGS

Meeting Prevented by Catastrophe

If the commissioners court is prevented from convening a properly posted meeting because of a catastrophe, the court may convene in a convenient location within 72 hours if the court complies with the posting requirements for an emergency meeting. If it is not possible to convene within that 72-hour period, the court must post a new notice before it may meet. [Gov't Code §551.0411](#)

Emergency Posting

In an emergency, the notice of a meeting may be posted as late as two hours before the meeting is scheduled to begin. An emergency exists only if immediate action is required of a governmental body because of an imminent threat to public health and safety or a reasonably unforeseeable situation. The Act includes “the sudden relocation of a large number of residents from the area of a declared disaster to a governmental body’s jurisdiction” within the scope of reasonably unforeseeable situations. The posting must clearly identify the emergency. [Gov't Code §551.045](#)

Location of Meeting

If the posted location of the commissioners court meeting is unavailable due to emergency conditions, the county may select an alternative meeting place within the county. The alternative meeting place may be any auxiliary courthouse, annex, or other county building that houses other courts or county administration offices within the city serving as the county seat. [Loc. Gov't Code §81.005](#)

Telephone Meeting

The commissioners court may hold an open or closed meeting by telephone conference if an emergency or public necessity exists or the convening at one location of a quorum of the governmental body is difficult or impossible. The emergency telephone meeting is subject to the notice requirements applicable to other meetings held under the Act.

The open portions of the meeting are required to be audible to the public at the location specified in the notice and must be recorded. The location of the meeting must be set up to provide two-way communication during the entire conference call and the identity of each party to the conference call must be clearly stated prior to speaking.

[Gov't Code §551.125](#)

Quorum

A quorum is not required for the commissioners court to act if the county's jurisdiction is wholly or partly located in the area of a declared disaster and a majority of the members of the court are unable to be present as a result of the disaster. [Gov't Code §418.1102](#)

PURCHASING AUTHORITY IN EMERGENCY

Items required in public calamity that must be promptly purchased in order to relieve the necessity of the citizens or to preserve the property of the county are exempt from the County Purchasing Act. [Loc. Gov't Code §262.024](#)

ELECTIONS AND EARLY VOTING

The Texas Secretary of State's Election Division has issued an [Advisory](#) to the 18 counties covered by the Governor's most recent [Disaster Declaration](#), including preliminary advice on how to conduct early voting and elections in the affected areas. Issues addressed are: polling place and address information; voting in person, both early and on election day; by-mail voting; outreach to election judges; and voter information.

COURT PROCEDURES

Many courthouses are unavailable or unusable in an emergency. The commissioners court may designate any building in the county for use as a court. Counties may hold court proceedings outside of the county seat if there are no viable buildings available. [Loc. Gov't Code §292.001](#)

The Texas District & County Attorneys Association has [provided detailed information](#) on this topic.

AID ASSISTANCE

A county group may provide mutual aid assistance on request from another local government entity or organized volunteer group. The chief or highest ranking officer of the entity from which assistance is requested, with the approval and consent of the county judge, may provide that assistance while acting in accordance with the policies, ordinances, and procedures established by the governing body of that entity. [Gov't Code §418.109](#)

A request for mutual aid assistance may be submitted verbally or in writing. If a request is submitted verbally, it must be confirmed in writing. [Gov't Code §418.115](#)

CLEARANCE OF DEBRIS

The county judge may use county equipment on private land if deemed necessary to meet or prevent a locally declared disaster emergency, assuming the action is consistent with the local disaster plan so activated. [Attn'y Gen. Op. MW-140](#)

If the governor provides for clearance of debris or wreckage, state employees or other individuals acting by authority of the governor may enter on private land or water to perform tasks necessary to the removal or clearance operation. Except in cases of willful misconduct, gross negligence, or bad faith, a state employee or agent performing his duties while complying with orders of the governor issued under this chapter is not liable for the death of or injury to a person or for damage to property. [Gov't Code §418.023](#)

CONTACTS



TEXAS ASSOCIATION OF COUNTIES (800) 456-5974
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TEXAS DEPARTMENT OF EMERGENCY MANAGEMENT (512) 424-2208

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