

# County Authority: A State by State Report



*December 2010*

**NACO** *National Association of Counties*  
  
*The Voice of America's Counties*

# County Authority: A State by State Report

**A Publication of the  
Research Division of NACo's  
County Services Department**

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The National Association of Counties (NACo) is the only national organization that represents county governments in the United States. Founded in 1935, NACo provides essential services to the nation's 3,068 counties. NACo advances issues with a unified voice before the federal government, improves the public's understanding of county government, assists counties in finding and sharing innovative solutions through education and research, and provides value-added services to save counties and taxpayers money. For more information about NACo, visit [www.naco.org](http://www.naco.org).

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# Foreword

This publication represents a compilation of state laws governing county authority. The broad topic addresses the services counties provide to their residents, their responsibilities, and their duties as outlined by the state. The publication includes tables intended to facilitate cross-referencing between states to make conclusions about counties with similar authority.

The National Association of Counties published this report to serve as a reference tool for county officials interested in some of the specific laws concerned with county authority. The information found in this guide reflects the statutes as of the date of this publication.

\*Connecticut and Rhode Island are omitted from this report, as neither has counties with elected governing boards.



# Table of Contents

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**Introduction • 6**

**Frequently Used Terms • 9**

## **Section I: Open Records State by State**

Alabama • 12	Louisiana • 74	North Dakota • 138
Alaska • 15	Maine • 78	Ohio • 143
Arizona • 17	Maryland • 81	Oklahoma • 146
Arkansas • 21	Massachusetts • 86	Oregon • 150
California • 24	Michigan • 88	Pennsylvania • 153
Colorado • 28	Minnesota • 91	South Carolina • 158
Delaware • 32	Mississippi • 95	South Dakota • 163
Florida • 36	Missouri • 99	Tennessee • 167
Georgia • 40	Montana • 101	Texas • 170
Hawaii • 43	Nebraska • 104	Utah • 174
Idaho • 47	Nevada • 108	Vermont • 180
Illinois • 51	New Hampshire • 114	Virginia • 181
Indiana • 55	New Jersey • 116	Washington • 186
Iowa • 60	New Mexico • 122	West Virginia • 190
Kansas • 65	New York • 126	Wisconsin • 195
Kentucky • 69	North Carolina • 131	Wyoming • 198

## **Section II: Tables • 201**

Dillion's Rule State & Alternative Forms of Government • 204
Zoning and Land Use • 206
Public Health, Safety, and Sanitation • 210
Roads, Bridges, and Infrastructure • 214
Recreation, Leisure, and Culture • 216

# Introduction

The term “county” encompasses a wide range of definitions depending on the state, the population of the county, and the authority state law allows it to exercise. County authority includes the power to create budgets, levy taxes, issue bonds, create public corporations, provide services, and perform multitudinous other tasks associated with the day-to-day operation of government. Some states, like Vermont, offer their counties little authority beyond requesting a budget from a municipality and providing fire protection. Other states, like Alabama, must write a new law each time a county wishes to accomplish something for which there is no precedent in state law. Still others, like Ohio, allow counties to exercise any authority they wish, so long as they do not irreconcilably conflict with state law.

The above examples illustrate a legal theory known as Dillon’s Rule, a precedent set by John Forrest Dillon, a Supreme Court Justice in Iowa. In *Clinton v. Cedar Rapids and the Missouri River Railroad* (24 Iowa 455; 1868) Justice Dillon stated that “municipal corporations owe their origin to, and derive their powers and rights wholly from, the legislature. It breathes into them the breath of life, without which they cannot exist. As it creates, so may it destroy. If it may destroy, it may abridge and control.” With these phrases, Dillon essentially eliminated any autonomy county governments had prior to his decision, forcing them instead to derive all power from the state government, including those that are implied from a grant of power or those that are essentially indispensable to the functioning of a municipal government. The contrasting theory, the Cooley Doctrine, proposes a constitutionally inherent right to local self-governance. In *People v. Hurlbut* 24 Mich. 44, 108 (1871), Michigan Supreme Court Justice John Cooley argues that “local government is a matter of absolute right.” When the narrative says “This state is a Dillon’s Rule state,” then, it means that the state does not allow county governments to take actions which are not specifically laid out in the state code. When the state analysis says, “This state is not a Dillon’s Rule state,” it means that counties are allowed to take any action which does not conflict with state law. A summary of Dillon’s Rule and non-Dillon’s Rule states may be found in the table at the end of the book.

All analyses follow a template to facilitate comparison between states. Because each state varies so widely with its code and what counties may and may not do, the topics are as broad as possible to include as much information as possible. Below is a summary of the template and what kind of information can be found in each section.

The Introduction lists the parts of the constitution and state code from where counties derive authority, as well as describes the structure of the county government. It outlines any special legislation that allows home rule, however limited, and concludes by telling whether the state is a Dillon’s Rule state or not.

## **County Finance:**

The County Finance section describes the procedure for the adoption of the budget, including whether or not an executive official creates it or not. This section also describes the legal taxes and assessments the county may make in brief, ranging from allowable property taxes to transient room taxes. In addition, this section describes allowable debt limits, whether or not the county may supersede those debt limits, and the types of bonds it may issue. The section also discusses special funds the county may create to discharge special purposes—e.g., a capital improvements fund for roads or a sinking fund to discharge debt. The section concludes by listing any licenses the county may issue and the fees it may collect from them.

## **Contracts:**

This section describes the contract authority for county governments, including which body is responsible for making contracts and what, if any, special interlocal or regional cooperatives the county may join.

## **Zoning and Land Use:**

This broad category includes county authority to acquire, hold, and sell public land, as well as all the means by which it may acquire and sell land. In addition, it lists all public buildings which counties are authorized to construct and the legal methods for funding them. This section also includes the

energy saving measures counties may take in public buildings, and whether or not counties may lease space in public buildings to other private and public bodies.

It goes on to discuss zoning and platting authority, including the types of things it can regulate in zones and whether or not the county is allowed to engage in mixed-use zoning. This narrative also includes the kinds of special zones counties can create, including special service districts, improvement districts, economic development districts, and industrial development districts. A brief description of the process for creating such districts and the powers of such districts, which differs from state to state, is included.

The section concludes with special initiatives the county may take which relate to land use and zoning, including the county's powers related to providing low- and moderate-income housing, any environmental conservation initiatives the county may take, and any regional cooperative initiatives the county may participate in.

### **Public Safety, Health, and Sanitation:**

This second broad category opens by describing the county's authority related to public safety. It includes a discussion of the various fire protection measures counties can undertake, from volunteer fire departments to fire protection districts. It also discusses whether or not the county can support a police department and the measures counties can take related to public safety, like setting curfews and regulating gun discharge.

The second part of this section discusses the county's power to promote public health. It discusses the creation of health departments, hospitals, and ambulance services and whether the county must run them or whether the county may create a board to do it. This section also includes discussions of county nursing homes and juvenile services, if any. It concludes with a discussion of public nuisances and the steps counties may take to abate everything from noxious weeds and junk cars to mosquitoes and dangerous buildings.

This category concludes with a discussion of the services counties can provide to promote public health and sanitation. In general, this includes water, sewerage, and solid waste disposal services, though certain states have programs to handle nuclear waste, for example. This section also includes any

utilities the county may operate, including natural gas and electricity.

### **Roads, Bridges, and Transportation:**

This section discusses the procedure by which counties lay out, construct, maintain, and improve the county road system. This section also discusses other transportation projects the county may undertake, including port authorities, airports, canals, waterways, and all forms of public transportation. The section also discusses transportation authorities in the county, whether or not the county may create them, and what kinds of options the authorities have for generating revenue.

### **Recreation, Leisure, and Culture:**

This section opens by discussing the county's powers regarding the creation of parks and recreational facilities, including which facilities the state government empowers counties to create. These include stadiums, convention centers, pools, sports facilities, and many others. This section also discusses the creation of stadium authorities and county governments' interaction with sports teams.

This section also enumerates any cultural facility the county may appropriate funds to operate. These might include art galleries, museums, and public libraries. The section also discusses what authority such facilities fall under, whether the parks and recreation authority or another authority entirely. It also deals with the zoning ordinances, nonprofit organizations, and societies the county may create to preserve cultural, historical, and archaeological sites in the county.

The section concludes by discussing any other celebrations or memorials the county may fund on behalf of veterans or county historical figures.

### **Alternative Forms of Government:**

This section summarizes the various types of structural governmental changes the county commission can make. These include changes in size to the county commission, adoption of a charter, consolidation of a city and a county, creation of an elected executive, and creation of an appointed county manager. Any other structural changes are listed here as well.

These sections were organized so as to facilitate comparison, but their breadth makes extreme specificity difficult. Therefore, the report includes



only those powers and responsibilities specifically enumerated in general state law. Most local legislation is ignored, as is any law which affects only a small number of counties. It is also necessary to note that any state which is not a Dillon's Rule state can perform any function it deems necessary

to the operation of its government, whether or not explicitly stated in the law. The report should not be considered comprehensive, but instead should be thought of as a reference for the general powers county governments can execute.

# Frequently Used Terms

## **City-county consolidation:**

When a city government and a county government unify, they eliminate their separate legislative and executive position and instead become one government. Though it varies state by state, often city-county consolidations have simultaneous status as a city and as a county, with the powers to execute the functions of both.

## **Dillon's Rule:**

as explained above, Dillon's Rule states that county governments can only exercise powers explicitly stated in the state law.

## **General obligation bond:**

a general obligation bond is essentially a loan by an individual to a government. The government uses the funds to execute some kind of capital project, whereas the individual may collect interest on the bond until it matures. Public officials are often required to post bond before taking office as a way of promising that they will faithfully execute the duties of their office. General obligation bonds may be repaid over time.

## **Public authority:**

a public authority is a body created by a county government to execute a function, like a transportation authority authorized to provide public transit options to county residents. An authority is a body politic and corporate with the power to levy taxes and issue bonds, just like a county government, though it remains subordinate to the county government's ordinances. Any debt it contracts is not, however, on the county's faith and credit.

## **Public corporation:**

a public corporation is a corporation created by a governmental body to undertake commercial activity on behalf of that body. In this case, a public corporation might operate county waterworks and charge fees for that purpose on behalf of the government. Public corporations are not taxable.

## **Revenue bonds:**

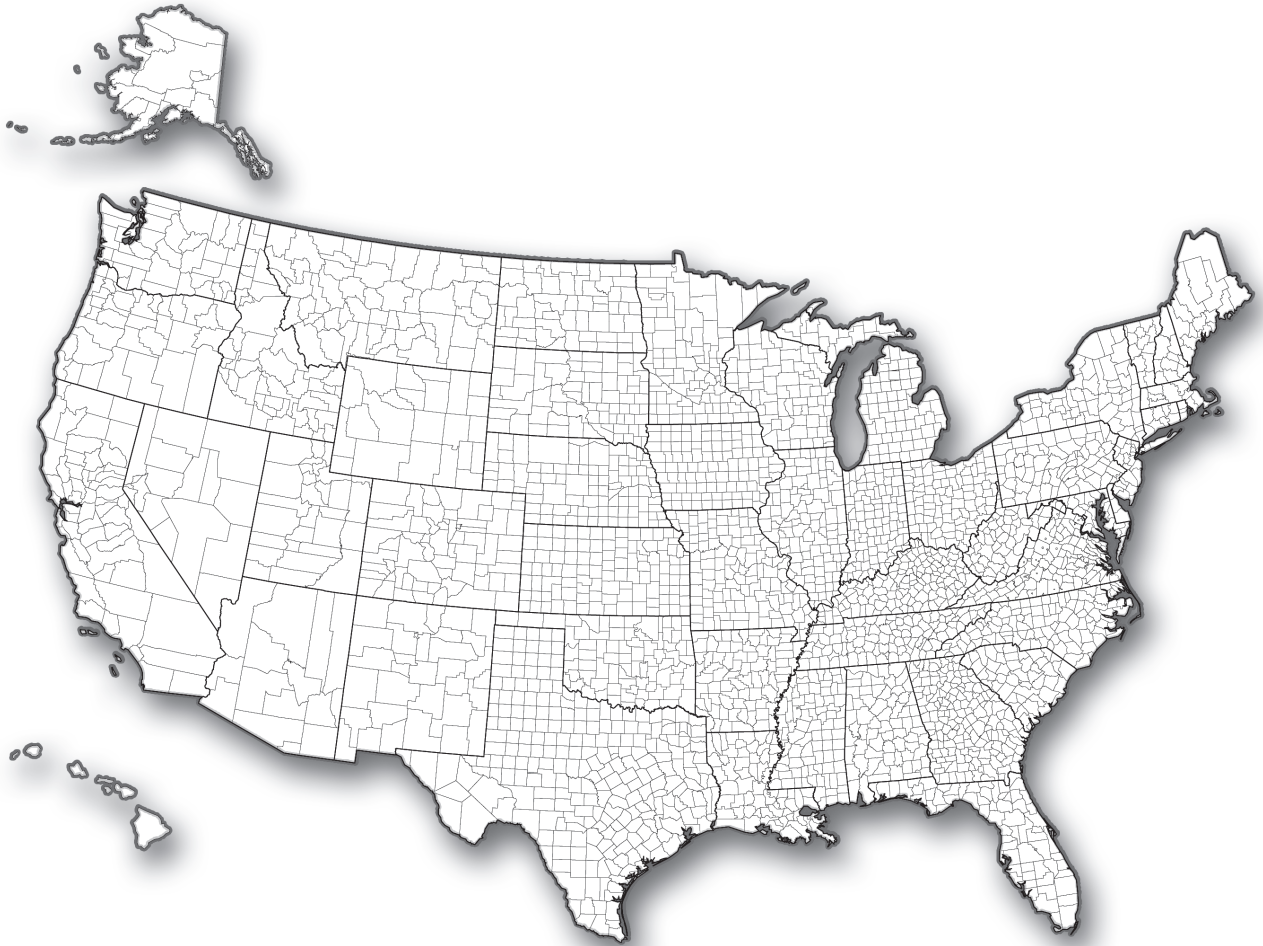
A revenue bond differs from a general obligation bond in that it is to be repaid solely by the revenues of a revenue generating entity. For example, if a county electric utility issues a revenue bond, it must repay the bond from revenue generated by providing electricity.

## **Special district:**

A special district is a tract of land set aside by a county government for a specific purpose. These districts are delineated on a district map, which shows their boundaries and extent. These districts may be headed up by boards of individuals living within the district who administer whatever program—water, sewer, lighting, fire protection, etc.—that the district was created to provide.



# Section I: State by State



# Alabama

## **Introduction:**

Alabama adheres strictly to Dillon's rule; Alabama counties derive authority from the Alabama legislature, which vests local legislative authority in a county commission. Much of the legislature's session is spent empowering local governments to perform specific functions by amendment to the Alabama Constitution or by passing "local legislation." The Limited Home Rule Bill allows voters within counties to decide whether or not their local government may exercise the power granted under this bill, but few counties have chosen to adopt limited home rule. The Alabama Constitution and Title 11 of the Alabama Statute contains all the powers delegated to county governments by the state. Alabama is a Dillon's Rule state.

## **County Finance:**

The Alabama legislature regulates the creation and promulgation of county budgets, with rules dealing with timelines, the procedure for producing the budget, and requiring that revenues exceed expenditures. The county commission is charged with auditing the accounts of all officers who receive county money and make disbursements on the county's behalf. The county commission has the sole power to discharge claims against the county.

Counties may generate revenue from property taxes, sales and use taxes, franchise taxes and fees, excise taxes, miscellaneous taxes, and licenses and permits. General property taxes and sales taxes generate revenue for the county's general fund, though counties may establish a special purpose sales tax to pay for public schools. Counties which establish other special taxes to pay for public works, including buildings and utilities, must use the revenue of the special tax to pay for the construction and maintenance of the public building or utility only.

The county may also issue interest-bearing warrants to raise funds to pay for public facilities, including sanitary services, sewage lines, and sewage treatment plants. In certain circumstances, counties may issue warrants in expectation of taxes, such as in anticipation of gasoline tax revenue or ad valorem tax revenue. In any case when a county issues a warrant, the county may issue refunding warrants to

generate money to pay outstanding debts. Counties may borrow money against the expected receipt of a grant and may also apply for and provide security in the form of letters of credit.

Alabama maintains a capital improvements fund for use by counties in construction projects. Counties may appropriate this money for use on public buildings, solid waste disposal, public utilities, and on the operation of the county health department. Up to 50% of the funds may be used on roads and bridges.

## **Contracts:**

Counties may enter into contracts with the United States of America, the State of Alabama, or other counties and municipalities in Alabama. Counties may enter into contracts with public corporations to build public buildings, to establish recreational facilities, to provide ambulance services, and to provide other utilities. In short, the county may enter into any contract in order to fulfill one of its stated responsibilities as set forth by the legislature of the State of Alabama, including providing housing and establishing public corporations.

## **Zoning and Land Use:**

The county commission has control of all county lands and property. The commission must maintain and improve the property when necessary. In addition, the county commission is charged with erecting county buildings, courthouses, jails, and hospitals. The courthouse may include a law library. Counties may acquire land by donation or purchase, as well as exercise of eminent domain, provided the county uses the land for public purpose. Such purposes include recreation, betterment, and health of the community, agricultural use, wildlife management, and other public use. Though the county itself may not engage in any industrial or commercial enterprise, it may acquire and lease land for the purpose of promoting industrial, commercial, and agricultural enterprises.

The county may create such zones as may be necessary to promote county development. The county commission may regulate the minimum size of lots, plan and construct roads and drainage

structures, and require appropriate placement of utilities near proposed subdivision of land. The county may only exercise this authority outside of the incorporated areas of the county. This includes the authority to create land-use measures, flood zones, and building codes to control flood damage and minimize the risk of flooding. Counties may additionally ask the governor to appoint a regional planning commission to develop equitable compromises between two or more municipalities and/or counties disputing construction of public works, buildings, roads, or bridges.

Counties may also acquire sites to construct, develop, or improve single or multi-family dwellings which meet certain standards of sanitation, building codes, and safety. In addition, counties may acquire, construct, develop, or improve food kitchens, day shelters, and shelters for the homeless. To pay for these improvements, counties may receive funds from any federal, state, private, or other source, may issue bonds and warrants, or purchase mortgages. Counties may not, however, impose rent ceilings.

The county may delegate its duties to acquire public land and construct public buildings to a public building authority. The authority may lease buildings to the county for no more than one fiscal year with the option of annual renewal. The county may also invest surplus or idle funds in interest-bearing warrants issued by the public building authority to stimulate the construction of county buildings.

Alabaman counties may also establish public corporations to act as economic authorities. These corporations are aimed at acquiring, enlarging, improving, and leasing property to the private sector in order to stimulate industrial or agricultural development to promote Alabama's natural and human resources. More recently, the Alabama legislature enabled the county to create similar corporation with the end goal of creating industrial parks to entice industrial development in the county. This particular corporation has the power to make surveys of land, provide services from the county to industrial parks, and to search for industries well-suited to the development of a strong manufacturing or commercial base in the county.

Counties, including Mobile and Baldwin counties on the Gulf of Mexico, have the power to create port authorities with intention of developing recreational, transportation, agricultural, industrial, and commercial purposes by financing, acquiring,

constructing, enlarging, and maintaining waterfront property. Counties may also incorporate public hospitals to provide for the general welfare of citizens, whether alone or jointly with a municipality. Finally, counties may create a public corporation with the express purpose of leasing land and/or buildings to the federal government for use by federal agencies.

Counties may acquire appropriate lands by purchase or gift to establish county forests. Counties may additionally fund the planting of trees on this land if it is not already wooded.

### **Public Safety, Health, and Sanitation:**

To ensure fire safety in the county, the commission may establish fire safety corporations. These corporations' board of directors may provide fire protection on behalf of the county; however, the county commission may retain the authority to regulate rates for service provision.

Counties may create and maintain ambulance services. The county is permitted to appropriate any funds necessary to operate the service. If it so desires, the county may join with the governing body of a municipality to operate an ambulance service.

Counties may not regulate guns, firearms, ammunition, or gun shows. They are also barred from regulating the purchase, distribution, ownership, and possession of guns.

Counties are required to provide some kind of social services for the welfare of the poor and have broad powers to do so, provided such ordinances do not conflict with federal or state laws. To do so, the State of Alabama allocates 95% of its funding from the Community Services Block Grant from the Omnibus Budget Reconciliation Act of 1981. The amount of funding received is directly proportional to poverty levels within a county. Funds of this type may be used to provide services for elderly poor or to administer head start programs, among other qualifying programs.

Under the Alabama Limited Self-Governance Act, county commissions may authorize, by a majority vote of the commissioners, themselves to perform certain other tasks otherwise unavailable to county commissions. These tasks include the abatement of weeds, the control of animals and animal nuisances, the control of litter and rubbish, and the control of junkyards. These specific powers are mitigated by the strict limitation, which forbids use of these powers to affect schools, municipalities, courts, and a variety

of other public institutions and corporations.

Counties may lawfully acquire an electric system, a water system, and a gas system to provide services to unincorporated areas of the county. They may provide the same services to incorporated areas of the county with a franchise from the municipality in which they intend to provide utility service. Counties may not extend electric, water, or gas services to an area of the county which already has these services operated, whether publicly or privately owned. The county may acquire, operate, and extend electric light plants, power plants, and electric distribution systems in unincorporated and incorporated areas of the county or to other municipalities and counties after acquisition of a franchise.

Counties have the authority purchase water works and distribution systems and assume their indebtedness without any election. Upon acquisition of the waterworks, the county is responsible for maintenance of the utility. Similarly, counties may convey water works or distributions systems or portions thereof to municipalities with or without a monetary exchange; however, without a franchise from the municipality, counties may not provide water services to areas within the municipality. In addition to water services, counties are required to provide sewage services and treatment facilities to homes within the county not served by a septic tank. The county may charge a sanitary tax to pay for these facilities.

Counties may establish public corporations to provide service for water and sewer authorities with all the responsibilities and liabilities of a body corporate. Charged with providing water or sewer service, or any combination thereof, these authorities may also float bonds and make loans with no liability on the part of the county. Counties may establish a similar corporation to provide disposal service for solid waste.

### **Roads, Bridges, and Infrastructure:**

Counties have the power to acquire land, create, construct, and maintain roads. They may spend up to 50% of their gasoline tax funds on road construction. Counties are also charged with constructing bridges. Counties are responsible for maintaining municipal roads as well.

Counties may grant franchises for the installation of poles or conduits within the boundaries of public roads for the operation of antenna television facilities, including cable television facilities, in unincorporated areas of the county. The county may also levy a tax on this franchise.

### **Recreation, Leisure, and Culture:**

The county commission may appropriate funds up to \$750 for the exhibition of agricultural and other natural resources to be found in the county. In addition, the county may appropriate funds to pay premiums on livestock shown at livestock shows in the county.

Counties may construct and fund establishments providing a social, recreational, or cultural outlet to senior citizens.

Counties with convention facilities may apply to the legislature for assistance in maintaining those facilities for the good of the district in which they exist. Qualifying facilities are eligible to receive funding to ensure that conventions continue to come to the same facility to stimulate the local economy.



# Alaska

## **Introduction:**

Alaska's boroughs are some of the biggest in the nation, and derive their authority from the Alaskan constitution and statutes. Alaska vests legislative authority in a borough assembly, but places executive authority in a "borough mayor," who must execute all legislative action. Many of Alaska's census boroughs are unincorporated, meaning they have no functioning borough government. They are considered one unorganized borough under Alaska statute. The sheer size of many of Alaska's boroughs precludes the county government from offering services to the entirety of the borough without extreme cost to its residents, so Alaska's counties have limited authority to fulfill the traditional roles of county governments. Instead, small incorporated cities and service districts established by the borough assembly do much of the service provision. The Alaska State Constitution and Title 29 of the Alaska Statutes delegates boroughs their authority.

## **Unorganized Borough:**

The unorganized borough, though divided into more boroughs for the purpose of the United States Census Bureau, consists in the eyes of the Alaskan legislature as one unincorporated political unit. The Alaskan legislature may establish service districts within the unorganized borough to provide schools, utilities, land use regulations, and fire protection; however, without a functioning county government, only the legislature may take such a step in the large unincorporated areas. The state also has platting authority within the unorganized borough.

## **County Finance:**

The borough assembly has budget making authority for all borough programs. In addition, the assembly is the only body authorized to levy taxes on assessable property in the state. Taxes must be levied for a public purpose. If a borough is levying a tax specifically for a borough-wide or service district-wide purpose, it may only levy the tax in the unincorporated areas of the borough or within the boundaries of the service district. The aggregate value of taxes on any property may not exceed 3% of the property's assessed valuation. The borough's taxes additionally may not exceed \$1,500 per person

living in the borough. The borough may, however, collect a sales and use tax on any service, good, or utility it provides to its residents following a referendum which approves that measure.

Boroughs are not allowed to contract any debt, unless authorized by the legislature for capital improvements; however, the borough assembly may borrow money in anticipation of revenues provided all such contracts and debts are discharged before the beginning of the next fiscal year. Before the assembly may issue bonds, it must seek the approval of voters residing within the borough. If the borough contracts debt to execute any capital project, it must assess the discharge of the debt on the area for which it was contracted. That is, if a service district contracts debt for a waterworks, then the discharge of the debt must be assessed on the service district rather than the entirety of the borough.

## **Zoning and Land Use:**

First and second class boroughs have planning, platting, and land use regulation authority. These classes of boroughs may create five-member planning commissions to assist them in creating and adopting a physical development plan. The plan may include future transportation, land use, and facilities, as well as make recommendations for the implementation of the plan. Implementation may be achieved by creating zones in the borough and regulating the type, characteristics, height, and bulk of buildings therein.

Borough assemblies may create service areas within the corporate limits of the borough to provide services therein. The borough, however, must be the body which levies any taxes which are necessary to the operation of the area. First class boroughs may create service areas that provide the same service as first class cities; second and third class boroughs may create service areas that provide the same services as second and third class cities. Third class cities have only two mandated powers: taxation and education. The other two service areas, however, may provide roads, fire protection, schools, utilities, water service, sewerage service, parks and recreation, solid waste disposal assistance, and a variety of other services. The borough is authorized to acquire land, facilities, and equipment pursuant to providing these services.



The borough and city legislative bodies may jointly establish a charge for the use of utilities in the borough and city.

### **Roads, Bridges, and Transportation:**

The borough assembly may lay out, construct, vacate, and maintain roads within service areas designated for that purpose. See “zoning and land use” for the assembly’s specific powers over service areas. In addition, the borough may grant easements and rights-of-way along these roads for the construction of wires or other permissible structures for service delivery.

### **Alternative Forms of Government:**

Any borough of the first class may adopt a home rule charter to better govern its territory. The electors of the county wishing to adopt home rule must elect a charter commission to author a home rule charter which explains the new governmental structure. Following the charter drafting, a majority of the proposed borough’s electors must affirm the charter

in an election. A charter borough may exercise its powers to execute any function not denied specifically by law. Additionally, the legislature may extend home rule status to other boroughs as it sees fit. Additionally, boroughs and the cities contained within them may incorporate to form a unified home rule government.

The unincorporated areas of Alaska in the unorganized borough have the option to become incorporated if the area is a first class borough, meaning it has a large and stable enough population to support a government, no geographic boundaries will overly hinder service provision or representation in the county government, and the area has sufficient economic valuation to fund itself. The borough must put forth a petition, provide public notice of an election, and then hold said election on whether or not to incorporate the borough. Any service area the legislature had been operating may be placed under the borough’s jurisdiction. New boroughs receive grants from the state to ease the transition into a new governmental structure.

# Arizona

## **Introduction:**

Arizona's counties derive their authority from the state's constitution and Title 11 of the Arizona Revised Statutes. The constitution establishes three-member commissions, except in Maricopa and Pima counties which utilize five member commissions. In addition, three other counties (Coconino, Navajo, and Yuma) have adopted five-member commissions as the county's governing body. The commission has legislative and limited executive power, though it shares many functions with its row officers. The commission elects a chairman at its first meeting to sign all warrants and orders of the board.

## **County Finance:**

The county commission has the power to create a budget, levy taxes, issue bonds, and appropriate money for county programs. The authority to create a budget extends supervisory power to the county. The county commission has the authority levy taxes and may not delegate that authority to any other body. The county may not, however, levy ad valorem taxes in excess of one percent of the assessed valuation of the property. The county may levy additional special assessments to fund the construction public works and improvements and require that special districts reimburse the county for services rendered, as well as charge a flat fee for any transfer of real estate. If operating a service authority or public utility, the county may charge reasonable fees for the use of the utility.

The county commission is allowed to contract debt up to six percent of the assessed valuation of taxable property in the county; however, the commission may not contract debt without holding an election to do so and subsequently holding another election to levy a tax to discharge the debt. No county may extend its credit or money to a private corporation, public corporation, church, private school, or individual, nor may a county contract debt to exceed six percent of the assessed value of taxable property in the county. Whenever any claimant holds a charge against the county, the commission is the only body with the authority to discharge it.

## **Contracts:**

Counties may make and enter into contracts and other agreements for the lawful execution of county functions and exercise of county authority. The county commissions serve as the county's contract making body, with the authority to enter into interlocal agreements with other governmental entities for the sale, lease, purchase, or conveyance of land at a diminished price or for other joint exercises of power; however, the county must cooperate with other governmental units in the enforcement of immigration laws. The commission may also make an annual contract with a private corporation to advertise and otherwise promote the county's advantages and resources. The county commission must appropriate any funds necessary to discharge the duties and responsibilities laid out in any contract they may enter.

## **Zoning and Land Use:**

The county, as a body politic and corporate, may purchase and hold land for public purposes. The county commission may acquire additional land by purchase, lease, gift, bequest, or eminent domain and sell or lease any real or personal property which no longer serves the public interest. Whenever the county exercises eminent domain, it must provide relocation assistance, including monetary support; whenever the county commission purchases real property, it must pay off its debt on the land within five years. If the value of the property the county wishes to sell is less than \$1,000, it may do so through commercial and retail venues.

The county may convey, sell, or lease any property which is suitable for affordable housing to residents in need or to the United States government for the operation of public housing. If the county does not wish to pursue either of these avenues, then the commission may convey public land for a variety of public purposes, one of which includes the construction of affordable housing for low- and moderate-income residents. To fund a county housing program, the commission may establish a trust fund overseen by five trustees, who are charged with allocating the proceeds of the fund

to any public or nonprofit private entity engaged in providing housing to facilitate the construction and maintenance of affordable housing.

The county commission must maintain certain public buildings for county use, including suitable rooms for county officers, county jails, courthouses, hospitals, and other public buildings the commission may deem necessary. Because of the large size of some counties, commissions may operate branch jails at a point distant from the county seat. The county may issue bonds for public buildings and improvements only when the aggregate debt of the county does not exceed the constitutional limit of six percent of the value of taxable property in the county.

Arizona's zoning law will be repealed as of October 2011, with a new code to take its place on the day it is no longer effect. Counties may still establish planning and zoning commissions to assist the county commission to create such zones as will preserve public health and safety and foster growth, adopt a master plan and effectuate that plan by passing zoning ordinances, and regulate the type, size, height, bulk, and other characteristics of buildings through zoning ordinances. The new law allows for an advisory commission to give the county commission advice on the establishment and enforcement of building code. The county must require building permits for the construction of any building over \$1,000 in the unincorporated areas of the county and in those corporate municipalities which do not require building permits. Any building operating solar energy facilities must acquire an additional permit for it. The county may adopt building codes and ordinances to enforce certain restrictions on new buildings, including solar water heating for single-family homes, prohibiting wood burning in homes unless an exception applies, and adopt an ordinance requiring clean burning fireplaces.

Though the county may regulate many kinds of buildings, it is specifically allowed to regulate any bathhouse or manual massage parlor operating within the corporate bounds of the county. The commission may also create zoning ordinances which preserve land from erosion by grading, excavation, and landfill, as well as introduce plumbing codes to conserve water and environmental building codes to reduce carbon monoxide and ozone emissions. Such a zoning ordinance may not extend to vehicular emissions, however. If there is a large parcel of unused or underused land suitable for a renewable energy district, then the county may acquire land

therein, protect it from urban or developmental encroachment, and construct renewable energy equipment thereon.

The county commission may also exercise regulatory authority over proposed subdivision of the county, including enforcing zoning procedures. More importantly, the county may require adequate service delivery, specifically water service delivery, before approving a subdivision.

The county commission is authorized to acquire flood control waterworks whenever water threatens to destroy or damage a public road, public property, private property, or human life. Control facilities include dikes and levees, or other structures to abate flood waters. The county may levy a fifteen mill tax for the purpose of funding these operations.

Because the county commission is charged with overseeing the economic development of the county, it may appropriate up to 1.5 million dollars annually to grant to a governmental agency or nonprofit corporation which is engaged in fostering economic development. In addition, the county may establish infill incentive zones which demonstrate chronic crime, unemployment, or population decline, as well as blighted, vacant, or dilapidated areas. In such zones, the county may encourage the rehabilitation of buildings. A county with less than 400,000 residents living in unincorporated areas may establish a rural planning district to provide better services, promote better infrastructure, and promote economic development which does not impinge on the rural resident's livelihoods and farms.

The county may also construct industrial plants and acquire equipment thereof following approval of bond issuance by referendum in the county. The plant's products may provide materials for public improvements in the county or may be sold to neighboring counties at a charge designed to discharge public debt acquired by building the plant.

Conversely, the county may acquire land to curb or guide development by creating urban buffer zones, open spaces, and by protecting ranches from the encroachment of development. Such zones must adhere to federal regulations regarding endangered species.

### **Public Safety, Health, and Sanitation:**

The county commission may create and enforce ordinances related to public safety, including reasonable curfews for juveniles, regulations on the treatment of domestic animals, and fines for

violation of public safety ordinances. Other public safety ordinances include the regulation of alarm systems manufacturers and installers to foster public trust and inspire confidence in alarm systems' ability to protect residents. The county's sheriff may offer a reward of up to \$10,000 for information leading to the arrest and conviction of a criminal, with the amount of the reward to be established by the county commission.

Public health, as a legislative interest of the county commission, may be regulated by ordinance. Pursuant to the county's duty to reserve public health, county commissions may establish, erect, operate, and maintain public hospitals for the care of the sick, injured, and indigent in the county. In addition, the county may establish a facility which may be part of the hospital to provide outpatient care. Administrative and supervisory responsibility may be delegated to a hospital board; the property may be sold to a hospital district and maintenance thereof delegated to the district board. Alternately, the property may be sold or leased to a nonprofit corporation to operate. The county commission may also establish a county farm to be operated in conjunction with the hospital and adopt ordinances for the working of the farm.

County commissions may provide programs and resources to county residents aged sixty and older, including nursing care, sheltered care, day care, home maintenance, housekeeping, transportation, and nutrition services. The county commission may establish operate a home equity conversion program for residents aged sixty and older.

The county is charged with providing indigent services to homeless and poor in the county, including long-term medical care and foster care. Whenever any indigent residents die, the county may provide funds for a proper burial if no relative or friend of the deceased may be found or if no relative or friend has the funds to do so. If the indigent deceased served in the military, then the county may find a veteran to preside over a military funeral.

The commission must budget funds for the foster care of mentally handicapped or otherwise handicapped children who attend a county school which serves handicapped children.

To protect both public health and safety, the county may regulate, identify, abate, and remove public nuisances on both public and private land. Included in this authority is the power to appoint animal

control officers to enforce animal cruelty ordinances and abate any wild animal which poses a threat to public safety. Dogs that are domestic pets must be licensed and not allowed to roam free. The county may establish a pound to responsibly abate dangerous wild animals or strays. Other public nuisances include graffiti on buildings in public view, rubbish, trash, weeds, debris, and dilapidated buildings. The county may enter private property to abate any of the above nuisances and may charge the owner of the property for doing so.

The county must provide alternatives to solid waste disposal, which may include recycling and waste reduction programs.

Any county commission may create and enforce ordinances related to public sanitation; however, only counties with populations between one and two million may operate sewerage systems, sewage mains, and other treatment or collection facilities. The commission of a county which meets that requirement may levy taxes, issue bonds, and charge reasonable rates for the use of the system. A county authorized to create such a system may construct or improve a nonpoint source project wastewater treatment facility.

### **Roads, Bridges, and Transportation:**

The county commission is charged with laying out, constructing, maintaining, and vacating all county highways, bridges, easements, and public rights-of-way. In addition, the county may operate ferries for the public's use. To fund these activities, the county commission may levy any tax which may be authorized for the above stated purposes, as well as contract debt and borrow money. Any bond issuance must be approved by referendum. The commission may enter into agreements with the federal government or other government subdivisions to maintain public roads. The commission is charged with regulating county roads, but it may also regulate the use and operation of off-road vehicles and make an ordinance banning idling vehicles.

In addition to ground transportation, the commission may receive any land by purchase, lease, or gift for aviation fields. This power also authorizes the county to construct necessary buildings and facilities for the operation of an airport in the county, as well as to enter into agreements with municipalities and the state and federal government to operate airfields.

## **Recreation, Leisure, and Culture:**

The county commission may acquire land for the use of county fairs, as well as conduct and manage county fair operations. The county may also lease county lands and buildings to a county fair association or nonprofit corporation for the operation of fairgrounds, including such grounds in an incorporated municipality. The commission may appropriate money based on the county's population to fund county fairs.

County commissions may purchase, lease, or obtain by gift land for a public park within or without of its territorial boundaries and fund such acquisitions and the maintenance of them by tax levy. The county may delegate advisory and supervisory authority to a public park commission, which shall also have the authority to supervise recreational programs. The commission may charge reasonable fees for use of park facilities, preserve public health and safety within the park, and establish broad policies for the maintenance and acquisition of parkland.

By election, the county commission may create a sports authority with corporate status in both the unincorporated and incorporated areas of the county. Headed by a board of directors, the authority may contract debt and charge reasonable rates for admission, as well as receive appropriations from the county commission, to maintain property related to sporting events and put on sporting events for the county residents. In addition, the county park commission may acquire long-term interest in open spaces to preserve them against urban encroachment.

Counties may receive a proportion of funds from a statewide fund to provide summer camps and employment to the county's youth. Such programs

may be educational or experiential, and may be paid or provide transportation and nutritional programs. The commission shall establish such programs to assist youth who are at-risk, failing in school, or foster children in the care of the county.

Arizona has a unique office known as an immigration commissioner, which any county may create for the purpose of corresponding with federal immigration agencies and providing information to county residents who wish to immigrate to the county. The commissioner may additionally promote tourism, furnish maps, and assist nonprofit tourist attractions.

The county commission may acquire land by lease or purchase to protect historic property which has cultural or value in the county. The commission may also appropriate money to fund a nonprofit arts organization operating within the county's boundaries. To improve educational access, the county may establish a public library system free of charge to county residents. The commission may delegate administrative authority by contract to a town or city, or may operate the library itself by levying a tax and depositing the proceeds thereof into a county free library district fund.

Any game or entertainment business may be required to pay a license fee to operate.

## **Alternative Form of Government:**

Article 12 of the state constitution establishes the authority of counties with populations in excess of 500,000 people to call for the election of a charter commission. The elected commission may study the local government and author a charter conferring home rule power on the county. The constitution establishes the necessary provisions to be included in the charter, as well as delineates certain necessary governmental structures.



# Arkansas

## **Introduction:**

The 55<sup>th</sup> amendment to the Arkansas Constitution, as well as Title 14 of Arkansas' Code, establishes the powers and duties of Arkansas' quorum courts, composed of nine to fifteen members based on population. Headed by a county judge, these courts have all legislative power in the county. Counties, bodies politic and corporate in the State of Arkansas, are considered extensions of the state for the more effective administrative of law at the local level. Constitutional amendment aside, county quorum courts may establish a government departmental structure they feel will best provide services to county residents. This includes creating departments, boards, and advisory boards by ordinance of the quorum court. Headed by a county judge with veto power, the county quorum court may overturn the veto by a three-fifths majority vote.

## **County Finance:**

County quorum courts have authority to make and adopt a budget which includes tax levies, appropriations, contraction of debt, and set county employee salaries. Counties may not tax property at a rate to exceed 1.5%, except that they may tax property at an additional 1.5% to discharge debt. Excess county revenue may be kept in the State Treasury or a depository bank which is FDIC insured.

The county quorum court is specifically authorized to contract debt to execute any function or exercise any authority granted by state statute. Bonds may be issued, including general obligation bonds, revenue bonds, and bonds in anticipation of taxes. Whenever issuing a bond or contracting any kind of debt, the county quorum court must hold a referendum to seek approval from voters. Claims against the county must be first presented to the county auditor, who shall investigate and validate claims; however, only the county quorum court may levy the funds to discharge the claim. Therefore, the county quorum court has the authority to review all claims and make a decision to discharge or challenge them.

## **Contracts:**

The county quorum court serves as the contract making authority for Arkansas counties. Per constitutional amendment, Arkansas counties may make a contract with any political subdivision of Arkansas, the state government, and the federal government for the execution of any public purpose. To provide support for counties entering into contracts with other local governmental entities, the county may create an intergovernmental cooperation council to oversee the execution of agreements and foster cooperation between governments. In addition, the county may contract with private entities to provide services or execute a county function.

## **Zoning and Land Use:**

County quorum courts may keep and care for public property on behalf of the county, as well as acquire property by purchase, lease, gift, or eminent domain. In addition, county property which no longer serves a public purpose may be sold or leased to other public or private entities. The county quorum court must maintain certain public buildings in the county, including a courthouse and a jail. The court may contract debt and levy taxes to provide these buildings. The court must appoint a public buildings commissioner to oversee the construction and maintenance of all public buildings in the county. If the county can receive a guaranteed savings contract, then it may equip public buildings with energy saving devices to diminish county energy usage.

The county quorum court may divide the county into such zones and districts as may be useful for providing services and regulating building code. To assist in this endeavor, the county may establish planning commission to study the land and make recommendations about future county growth. The county quorum court may adopt the plan, and regulate the type, size, number, height, and other characteristics of buildings with zones to put the plan into practice. The development plan may also include roads, service districts, and emergency service districts, enumerating the future of the county's service provision. When making zoning ordinances, the county may establish zones in

which to build flood protection structures, including bulkheads, as well as to require flood resistant buildings.

County quorum courts may divide the county into service districts to provide one or more of any service the county may lawfully provide, including emergency, solid waste, water, sanitary, and transportation service. The county may provide for the administration of the district either by the appointment of a board or as part of the county judge's office. The district's budget shall be appropriated as other county funds, though districts may also charge for the provision of services. The power to provide services includes the power to provide facilities, equipment, and personnel to furnish those services, as well as regulate those services.

Arkansas's counties are empowered to execute a variety of functions within special districts. Allowable districts include improvement districts to finance local improvements to roads, public buildings, or infrastructure, water and soil conservation to protect the county's natural resources, and economic improvement districts to spur industrial, commercial, residential, or touristic growth. The above districts have all the powers of service districts mentioned above, but are created as regulatory agencies or to execute some special capital improvements project rather than to provide services.

Within such districts, counties may also establish industrial commissions, planning and development organizations, housing authorities, and tourist facilities. Each has similar powers to issue bonds and receive money appropriated to them from the county, as well as make contracts, though each is authorized to execute different functions. Industrial commissions provide for industrial redevelopment by providing infrastructure to industrial parks, planning and development organizations provide resources to districts for economic development and sustainable planning, housing authorities provide affordable housing to low- and moderate-income county residents, and tourist facilities provide hospitality and attractions to tourists visiting the county.

Any county with a navigable stream or river within the county or on the boundary may establish port facilities, to be contracted or furnished in the same manner as other public buildings.

## **Public Health, Safety, and Sanitation:**

To preserve public safety from fires and to educate the public about fire prevention and safety, the county may appropriate money to a volunteer fire department or contract with another municipality to provide fire prevention services.

If the county quorum court establishes a county hospital, then it may acquire land and construct, operate, and maintain the same by financing the facility with general obligation bonds. To oversee the hospital, the quorum court may create a board of trustees to purchase equipment and hire employees. County quorum courts may lease or sell any county-owned hospital to another public or private entity.

County quorum courts may establish a list of public nuisances that is not inconsistent with state law. Such nuisances may include dangerous or noxious substances, plants, stagnant pools of water, mosquitoes, and other animals. The county may order a department to take steps to abate nuisances, whether on public or private property. If on private property, the county may charge the abatement to the property landowner, which shall constitute a lien on the real estate.

As part of the county's effort to abate public nuisances, the court may operate solid waste disposal services in the unincorporated areas of the county. This includes the authority to acquire, contract for, construct, finance, operate, and maintain solid waste disposal facilities. The court may charge fees for the use of solid waste disposal.

To preserve public health, the county may operate sanitary sewer disposal facilities. This includes the authority to construct, acquire, maintain, and finance such facilities, as well as provide the appropriate equipment and personnel to operate them. The county may charge for sewerage access to offset the debt contracted by issuing revenue bonds. In addition to operating sewerage facilities, the county may operate water supplies and waterworks to distribute clean water to county residents. As with sewerage facilities, the county may acquire, construct, maintain, and finance the waterworks, as well as provide appropriate equipment and personnel. The quorum court may establish fees for use of the water supply.

### **Roads, Bridges, and Transportation:**

County quorum courts have authority to lay out, construct, maintain, vacate, and operate county roads. The county may additionally maintain bridges over navigable streams and establish parking authorities to construct parking facilities for county residents. For use of the parking facilities, the authority may charge reasonable rates.

The county quorum court may also establish authorities to provide public transportation to county residents, including bus, electric rail, and subways. The authority, as a body politic and corporate, may contract debt, issue bonds, and levy taxes to fund public transportation efforts. In addition, it may charge reasonable rates for the use of such facilities.

Counties may create commissions and appoint members thereof to manage the lands, facilities, and funds associated with airports. The county quorum court may acquire land, and the commissioners may charge reasonable rates for use the facilities. The airport commission may also establish rules and regulations related to the orderly, safe use of the airport. In addition, the county may operate the airport regionally as a joint-venture with other counties and municipalities.

### **Recreation, Leisure, and Culture:**

Counties may operate recreational facilities, playgrounds, and recreational programs for the benefit of county residents. This includes the acquisition, construction, maintenance, and operation of public parks and playgrounds, to be funded by tax levies or bond issuance. County quorum courts may cooperate with other governmental units to provide recreational programs as well as offer recreational programs to residents of other governmental units by contract.

County quorum courts may construct public library systems, whose services shall be offered free of charge to the public. To construct the library, the quorum court may acquire land and construct, improve, operate, and maintain the library building. In addition, the quorum court may hire employees and furnish the library with equipment and materials. To fund the project, the county may issue both general obligation and revenue bonds.

When making zoning ordinances, the county may consider historic buildings as set apart from building code requirements in favor of requiring preservation and renovation of historic buildings. The quorum court may acquire historic buildings and sites to preserve for the county as well.



# California

## **Introduction:**

The California Constitution and California Government Code create counties as political subdivision of the State of California and empower the legislature to lay out county responsibilities. The constitution creates boards consisting of five supervisors and vests them with legislative authority, as well as establishing several other offices. The commission or legislative body has the authority to consolidate some of the constitutional offices with other non-constitutional offices, however, as well as to elect a chairman from among the supervisors. Counties are considered bodies politic and corporate with all the powers attributed thereto by statute. While largely limited by state statute, the miscellaneous powers of the county does include a provision enabling the county board to appropriate money to meet any social need of the county in the areas of healthcare, law enforcement, public safety, rehabilitation, welfare, education, and legal services, as well as the needs of disabled, handicapped, or mentally handicapped persons.

## **County Finance:**

The board of supervisors has final budgetary authority in the county, with the power to make appropriations, expend money, and examine the county's accounts. The county board of supervisors is also the only body authorized to levy a property tax on assessable property in the county, including real and personal property, as well as improvements on real property. Any increase in property tax must be approved by the electors residing within the county before the increase may take effect. No special district board may levy any taxes; such power is reserved to the county board. The board may place any money it collects into special funds for the execution of specific county purposes, including capital funds, revolving funds of various types, and enterprise funds. The county is authorized to make appropriations for a variety of public purposes, including funding the construction of a storm sewer, drainage sewer, or sanitary sewer.

While county commissions are authorized to contract debt by issuing general obligation and revenue bonds, no commission may contract debt which exceeds the projected revenue for the

coming fiscal year without the assent of two-thirds of the voters in the county. Moreover, the county may never extend its credit or any revenue to a private individual or corporation unless specifically authorized to do so by legislative action. Any public entity, including municipal corporations, public waterworks, mosquito abatement districts, hospitals, public cemeteries, and other public institutions are eligible to receive funds as loans or grants from the county. Pursuant to this power, the county may establish a revolving fund to loan out money. The county commission is the only body with the authority to review and discharge claims against a county, or to challenge such claims in court.

The county has the authority to purchase any equipment or other articles necessary to the execution of its duties. This includes any papers or books necessary for the functioning of county courts and departments. The county board may appoint a purchasing agent to coordinate purchasing activities and make purchases in bulk to save county funds.

## **Contracts:**

The counties of California may enter into such contracts as may be necessary to the exercise of its powers, including any provision of service which it may lawfully provide under California law. The county board, which has legislative power, is authorized to make any contract permitted in state statute or in the constitution which is legitimately linked to the county's execution of its duties.

## **Zoning and Land Use:**

As bodies politic and corporate, counties may purchase, lease, receive by gift, or exercise eminent domain to acquire and hold land; however, no purchase may be made in excess of \$50,000 without notification of the county's electors. In addition, the county may make contracts to execute functions on its land. The county may also sell or lease out such land as no longer serves a public purpose to the federal government for federal purposes, as well as to other political subdivisions and private entities. Counties may take all of the above action related to public lands in other counties, provided they have a legitimate county purpose for doing so.

To stimulate economic development, counties may additionally sell or lease public land, with a lease period not to exceed 99 years, to a public or private entity, individual, or corporation. The agreement to sell or lease must come with an agreement to the board of supervisors to stimulate economic growth by constructing and operating a facility of cultural, residential, commercial, or industrial use or development. The lessee or buyer must also agree to participate in public works of residential, commercial, or industrial significance.

The county board may additionally establish, construct, furnish, repair, and renovate public buildings on county lands alone or jointly with municipalities. Public buildings may include hospitals, almshouse, courthouse, jail, historical museum, aquarium, library, art gallery, art institute, exposition building for exhibiting and advertising farming, mining, manufacturing, or livestock raising, and other resources of the county, stadium, coliseum, sports arena, or sports pavilion or other building for holding sports events, athletic contests, contests of skill, exhibition, spectacles and other public meetings, and such other public buildings as are necessary to carry out the work of the county government<sup>1</sup>. The board may also obtain interest in a condominium for use by the city or county government or any private firm or person. The county board must operate a jail and a courthouse, as these are vital to the preservation of justice and public safety. In addition, however, the county may lease or sell public buildings to nonprofit and municipal corporations. To assist with the construction of public buildings, the county may own and operate a cement plant and may sell the products thereof to another political subdivision, the state, the federal government, or to an individual or private entity.

County commission may establish service districts which contain all of the unincorporated areas of the county, whether contiguous or noncontiguous. In the event a municipal corporation wishes to join the service area, the corporation may request to be included. The county commission may, upon receipt

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<sup>1</sup> State code typically authorizes counties to construct the above buildings in separate parts of the state code, which is reflected in other parts of this report by separating county authority to construct public buildings into different sections. California code empowers counties to construct all of the above buildings in one place in the code, California Government Code 25351, and this report is organized to reflect that.

of a petition of the individuals living within the proposed district or by resolution of the commission, hold an election regarding the establishment of a service district. The board may exercise all its legislative powers, including the power to tax, issue bonds, expend funds, and exercise eminent domain, to assist in the formation of the district by purchasing equipment and facilities, as well as land. Allowable services include: law enforcement or police protection, fire protection and nuisance abatement, emergency medical and ambulance service, recreation, libraries, television translator stations, water service, sewerage and storm water drainage service, road improvement and construction, street-light operation, solid waste disposal and recycling service, land use planning, soil conservation, cultural centers, sports facilities, airports, flood control, and open-space preservation<sup>2</sup>. Other counties have more specific powers related to what services they can provide, but such local legislation is outside the scope of this report.

The county board of supervisors serves as the administrative head of any special district which it may create by resolution. This includes the authority to establish a budget for the district, levy county-wide property taxes to fund it, appropriate a proportion of such taxes to the district, levy district-specific property taxes, levy benefit assessments, establish user fees, appropriate general county funds to the district, and appropriate up to two million dollars from the county revolving fund to finance any additional services the district may require to execute its duties, such as architects, engineers, or auditors. The county board may additionally issue general obligation and revenue bonds to provide capital finance for the project rather than waiting on the collection of taxes or assessments.

If the county commission finds that providing service to the entirety of the county creates obstacles to financial solvency, if the residents of a particular part of the county want a service that no other part of the county desires, or if the residents of a particular part of the county do not want a service that other parts of the county desires, it may

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<sup>2</sup> State code is generally organized to include a separate section enumerating the county's powers with respect to each service being provided. In the case of California, the state code includes all service in one section. To reflect that, all services which the county may lawfully provide under California Government Code 25312 are listed here.

establish service zones which do not consist of the entire unincorporated county. In such zones, the county may provide different authorized service, different levels of service, or raise different revenues.

Counties may create low-rent housing districts to serve their residents with low and moderate incomes; however, the county may not create such a district without the approval of the people living within the county.

### **Public Safety, Health, and Sanitation:**

The county is constitutionally authorized to make any law related to police or sanitary regulations to protect public health and safety. In line with that power, county commissions may establish departments of corrections with a head officer to administer the department. Such an officer will have responsibility for all corrections activities, including the jail. The corrections officer may provide any rehabilitation programs the county commission may authorize and fund. In addition to the corrections department, the board may establish law enforcement, police, and fire protection districts, as well as provide such districts with the appropriate facilities, equipment, and buildings. These districts and facilities are discussed above in the “zoning and land use section.” The police power of the board extends to disallowing the discharge of firearms within certain areas of the county. The county may also provide relevant educational programs at public libraries regarding fire safety and prevention, as well as personal safety.

“Zoning and land use” additionally discusses the county’s authority to provide emergency medical and ambulance service, hospitals, and other healthcare services in special districts, as well as the county’s authority to construct hospitals and related facilities and equipment. See that section for a more thorough description of the county’s authority to finance and administer these facilities and districts. Whenever the county has individuals providing foster care service within its corporate boundaries, it may extend insurance to the providers.

The county also has the authority to regulate and abate public nuisances. Nuisances include graffiti, excessive vegetation, mosquitoes, wild animals, roaming domestic animals, and other such nuisances the commission may define. To enforce this authority with respect to animals, the board may establish a pound. The county has the authority to

do so on both public and private land. If private land is afflicted with a nuisance, the county may enter on it, abate the nuisance, and charge the cost of the abatement to the owner of the property.

In the interest of public health, the county may create special service districts to provide sewerage, water, and solid waste disposal services; however, unlike other state codes which divide such districts based on the type of service provided, California statute defines all service districts similarly. California additionally gives counties the power to construct any facility or acquire any equipment pursuant to the proper functioning of any of the above districts. See the above “zoning and land use” section to read about county powers related to the establishment and finance of these special service districts. The county may acquire water rights pursuant to the provision of water or sewerage service.

Any county may establish a hydroelectric facility or a wind farm to generate electricity in the county. The board may also establish transmission lines to supply electricity. The county board may lease such a facility to be operated by a private company or by a pre-existing public utility. The county may not acquire an existing public utility to execute this function, however.

### **Roads, Bridges, and Transportation:**

County commissions are charged with laying out, maintaining, vacating, and constructing public roads, rights-of-way, easements, bridges, and other infrastructure the county provides. The board is additionally empowered to provide street lights on public highways. See “zoning and land use” for a comprehensive description of the county’s financing and legislative authority in road districts. In addition to these more traditional types of transportation, counties may provide airport service districts and facilities. If the county does not provide airport facilities but a municipality contained therein does, then the county may appropriate and expend money to fund the city’s operations. In addition to the above mentioned modes of transportation, counties may establish, construct facilities for, and operate public ferries to cross bodies of water.

The county commission may grant franchises to operate piers, wharves, chutes, and booms, as well as grant the authority to charge assessments when the franchise is granted. In addition, the county may grant franchises along public highways for all lawful

purposes which may be conducted along them. A county granting road franchises may require that such lines as may be required to provide any service to county residents by laid underground. Any funds received for the sale of franchises may be placed in the county general road fund to improve public highways.

### **Recreation, Leisure, and Culture:**

County commissions may acquire land for and establish parks, recreational facilities, sports facilities, cultural facilities, libraries, and community centers in special service districts. In said districts, the county may construct museums, libraries, convention centers, sports facilities, and a variety of other cultural and recreational institutions. California code enumerates these powers in the same section as it enumerates other services and buildings counties may provide, ergo this report places them together. See “zoning and land use” for a more thorough description of the county’s authority to finance and administer these special districts. Any county operating one of the above facilities may charge a reasonable admission to enter any event. Parks which include streams may be stocked with fish by the county board.

County boards may elect to join fair associations, erect permanent buildings on county fairgrounds, and levy a special tax to promote agricultural, viticultural, and horticultural, and pastoral pursuits in the county. The county may additionally conduct research and publish it at said fairs for the benefit of county farmers, as well as sell surplus plants and agricultural implements acquired in pursuing said research. The fair is to stimulate the exchange of agricultural information, as well as to advertise county products and provide a market for the sale and purchase of agricultural implements. The county may make an appropriation of up to \$50,000 to advertise county products and advantages at any fair in the United States. If the board does not wish to execute this authority itself, it may contract with a nonprofit organization to run the fair.

County boards may acquire land for the preservation of any historical landmark or site by keeping such property in the care of the county. The board may levy taxes, issue bonds, and make contracts related to the preservation of historical land. The county may also preserve historical documents within the county from destruction by time or by man for future historical research.

Any land which the county is using for park purposes may be conveyed at no cost to a municipality to operate as a city or municipal park, except that the municipality must assume any outstanding debt. Park purposes may include recreational facilities and sports facilities, or any of the other facilities defined above. In addition, counties may vacate park lands by selling them to an interested buyer, provided the park lands no longer serve a county purpose.

The board, to preserve California’s resources, may designate a variety of protection areas in which it may limit driving, residential and commercial use, and herding. Allowable districts include wildflower protection districts, forest planting districts and commissions, stream protection districts, and water reclamation districts.

### **Alternative Forms of Government:**

California’s counties may adopt a charter to provide for their own government. A charter commission may be created by either initiative or county board resolution to draft a charter outlining governmental structure as well as county authority. The charter is not valid until approved by a majority of county electors voting in an election and then filed with the Secretary of State. In addition to creating a charter county government, the county may co-author a charter with one or more cities located within its corporate boundaries to form a city-county consolidation.



# Colorado

## **Introduction:**

Colorado's constitution and Titles 29 and 30 of the Colorado Revised Statutes establish the counties in the state and provides for the creation of commissions to serve as legislative and executive bodies. In counties of less than 70,000 people, the commission is composed of three members. In counties with more than that number of residents, the commission may consist of five members. Colorado counties may choose to adopt a home rule charter and exercise greater power to preserve public health and safety, as well as promote county residents' welfare.

## **County Finance:**

The county legislative body has the authority to establish a local budget, levy taxes, contract debt, and make expenditures on public programs. In addition to property taxes, the county may levy sales and use taxes, sales taxes to raise funds for mass transit, sales taxes to raise funds to purchase or adjudicate water rights, sales taxes for public safety purposes, and sales taxes for healthcare and mental health services. The county must deposit sales taxes in a capital improvements fund and pledge their use for public improvements. The commission may additionally vote to levy a tax on hotel rooms and transient lodging for the purpose of funding advertisement of the county's advantages and promoting tourism. The county may collect a rental tax on any rental property not subject to ad valorem tax as well.

No county may become indebted without an irrevocable legislative action which provides for a method to discharge the debt, enumerating the specific purposes for contracting the debt, and levying a tax to discharge the debt. Alternately, county legislatures may issue bonds in anticipation of tax revenues. Counties may not extend credit to individuals or to corporations, public or private, nor may they become joint owners or stockholders of any private corporation.

If the county leases out land for a research station, it may make appropriations to pay for any extension services provided to the county. Additionally, the commission may levy an agricultural research tax and deposit the proceeds from the tax in a fund specifically to discharge money owed to the extension service.

## **Contracts:**

Counties, as bodies politic and corporate, are authorized to enter into any agreement to execute any function the county may lawfully execute. The county commission serves as the contract making body for the county. Counties may cooperate with cities, other counties, and the state and federal government for the execution of county purposes, shared services, or for mutual benefit.

## **Zoning and Land Use:**

As bodies corporate and politic in the State of Colorado, counties may own real and personal property. The county commission is authorized to hold and care for county property. Commissions may acquire property by purchase, lease, or eminent domain and may sell or lease out any property which no longer serves a legitimate public purpose. When the county sells or leases property, it may retain oil, mineral, and natural gas rights if it deems that retaining such rights is in the best interest of the county. The county may lease public land for the purpose of agricultural research as well.

Counties have the authority to acquire, construct, improve, operate, and maintain any project within or without the boundaries of the county; however, counties must acquire, operate, and maintain a courthouse and a jail for use by county courts and for the detainment of criminals and suspected criminals. Pursuant to that authority, counties may provide for the financing of these projects with bonds, warrants in anticipation of taxes, taxes, and general appropriations. If the county enters into a guaranteed contract, then it may equip county buildings to be energy efficient provided such a contract should save the county money.

Counties have zoning authority within their corporate boundaries. This allows the county commission to divide the county into such zones as may be conducive to the execution of the county development plan. The county may establish a planning commission to assist the county in coming up with a comprehensive plan for the development of the unincorporated part of the county, as well as join a regional planning commission to develop a multicounty development plan. Counties may offer

tax credits to commercial and residential property owners who fit their properties with energy efficient or energy conserving fixtures. County development plans may include lots set aside for cluster developments, or tracts of thirty-five acres in which at least two-thirds of the total area is preserved for open space.

The county commission also has the jurisdiction to establish public improvements districts with the authority to provide any public service delineated in the state statute which counties may lawfully provide. The district may only be established upon petition of county electors and approval in a subsequent referendum, after which the county commission shall serve as the governing body. The district may issue bonds, contract indebtedness, levy taxes, and charge reasonable fees for the provision of services.

The county commission may also create local improvements districts and fund the improvements furnished therein by a sales tax or a combination of assessments and sales tax. Public improvements may include any capital project; however, the county must fit such buildings with fixtures to conserve energy.

Counties may either join with other local governments to form a multijurisdictional housing authority or operate a housing authority alone. Housing authorities have the power to levy taxes, contract debt, and provide affordable housing to the county's low- and moderate-income residents. The county legislative body has the authority to appoint commissioners to serve on the board of the housing authority. The authority may additionally provide for housing and business development by providing loans to small businesses and home improvement loans to homeowners.

Counties may establish marketing districts run by appointed boards. In said districts, the county may elect to collect a tax on the rental of transient rooms with the proceeds of the tax going to promote the county's advantages as a tourist destination by whatever medium the county legislative body deems appropriate.

Finally, counties may establish cemetery districts headed by a board of directors which may levy an ad valorem tax not to exceed four mills on property to establish, acquire, construct, operate, maintain, and preserve a cemetery. The county may provide that such a cemetery be a resting place for county veterans.

## **Public Safety, Health, and Sanitation:**

County commissions must maintain public health and safety. Pursuant to that goal, the county may make ordinances which protect and promote public health, safety, and welfare.

The county may create a law enforcement authority after approval from county electors. The county may levy a tax of seven mills to fund its activities, contract with the sheriff's department to provide law enforcement officials, and employ other such clerical and administrative employees as the authority may need. The authority has the power to enforce any county ordinances and regulations within its territorial boundaries. The authority may enforce a county ordinance prohibiting firearm discharges in the unincorporated areas of the county.

The sheriff serves as both fire warden and law enforcement officer. Pursuant to that duty, the sheriff may operate fire protection services, including a wildfire abatement plan to combat wildfires in the county. The comprehensive wildfire abatement plan may include fire protection districts with the power to provide equipment and manpower to halt wildfires. The county commission may adopt a fire code to regulate occupancy maxes, mandate emergency exits, and make rules about fire hazards as another preventative measure. Counties may also enter into cooperative agreements with contiguous counties or regional agreements to provide firefighting services and equipment. The county may purchase firefighting equipment and establish rural firefighting programs in the unincorporated areas of the county. The county may additionally establish a fire planning authority to create a contingency plan for the county's response to wildfires or fire emergency.

The county has the authority to regulate public nuisances and take steps to abate them. Coloradan counties may require that pet owners obtain licenses for their domestic animals as well as provide proof of rabies vaccinations. To enforce this regulation, the county may hire animal control officers to require that pet owners have their licenses, as well as to abate stray animals as public nuisances. Other public nuisances include rubbish and garbage, weeds and brush, ash, and other waste. The county commission has the authority to remove nuisances from public land and to compel the removal of nuisances from private property. If the owner of the private property fails to clean up the property, the county may do it and charge the cost of doing so to the property owner.

The county commission, to preserve public health, may provide ambulance services, purchase equipment, and hire personnel to man the ambulances.

Counties may provide services, including educational, recreational, and transportation services to the county's aged residents. The county may additionally provide general assistance to poor elderly residents, as well as temporary assistance to the county's poor residents in general. The recipient of any such aid must refund the county for the assistance. The county commission must also fund the burial of anyone who dies in the county without the means to pay for it.

Counties may provide water and sewer services to county residents by acquiring, constructing, operating, and maintaining sewerage facilities, sewer mains, waterworks, and water mains. The county commission may exercise eminent domain power, issue bonds, levy taxes, and make appropriations to fund the project. The commission may also establish a schedule of fees and assess them on users of the water and sewer systems. The commission may mandate connection to the sewer system and may charge the connection to the owner of the property.

To protect the environment and public health, the county may operate a landfill or solid waste disposal program to eliminate rubbish and solid waste in the county. The county may designate an exclusive site to house the solid waste disposal system and promulgate rules related to the disposal of waste. A county operating a landfill may take steps to discover and harvest landfill gas. The county may appropriate money and issue bonds to distribute and sell natural gas. The county may issue both general obligation and revenue bonds to fund this activity.

County commissions are authorized to create service authorities to deliver sewer, water, and other services as bodies politic and corporate to provide services to the people living within the authority's jurisdiction. The commission may delineate the powers given to the authority, include the power to tax and issue bonds, as well as charge reasonable service fees, to fund the authority's operations.

Counties may create special service districts to convert aboveground electric wires and television cables to underground lines. The county may create this district on petition of the voters residing within the boundaries of the proposed district and may levy assessments to fund the district's work.

If a county is operating a solid waste disposal facility, it may acquire or construct a solid-waste-to-energy plant to provide energy and reduce trash in the landfill. The county commission may issue bonds to construct such a facility, as well as pay for the bonds by charging reasonable rates for the provision of electricity.

### **Roads, Bridges, and Transportation:**

County commissions may provide for the lighting of public streets within the corporate county boundaries. The commission may fund the lighting by assessing the value of constructing, operating, and maintaining the lights against property which benefits from the streetlights.

The county commission has the authority to operate a mass transit system either alone or jointly with other governmental units. The county may charge reasonable rates for use of the system, provide for the acquisition, maintenance, and development of the system, and to receive contributions and gifts to support the system.

The county commission may acquire land for airstrips and airports, including leasing the land. The county may charge reasonable fees for the use of the airport.

### **Recreation, Leisure, and Culture:**

Counties may acquire, construct, operate, and maintain parkland and recreational facilities. To fund the project, the county commission may issue bonds and levy taxes. In addition, the commission may charge reasonable rates for use of the facilities. The commission, as the rule-making body for parks and recreational facilities, may promulgate such rules and regulations as may be necessary to maintain order in parks. If the county wishes to restrict the park system to a smaller part of the county, it may establish a park and recreation district in which to levy property taxes not to exceed one mill for the acquisition of property, the construction of facilities, and the financing of recreational programs.

Counties may, with the approval of its taxpayers, erect a memorial building to commemorate the service of members of the armed forces from the county. The commissioners may issue bonds to fund the construction of the memorial.

The county commission may consider the preservation of historic structures, monuments, and sites when making zoning ordinances. The

commission may encourage programs and nonprofit organizations to maintain historic structures.

**Alternative Form of Government:**

Counties may adopt a home rule charter by statutory procedure and exercise home rule powers; however, counties must still perform all functions required by law. The county commission may hold an election for three charter commissioners who shall be charged with studying the local government

and authoring a charter which delineates the new government's structure and powers. The charter does not take effect until approved by a referendum of county electors.

County commissions may, by resolution provide for the creation of a county administrator or county manager to administer county agencies, departments, and programs. Such officers shall serve at the pleasure of the county commission.



# Delaware

## **Introduction:**

Delaware is divided into three counties, which are in turn divided into “hundreds,” unincorporated parts of the county which once served as districts for the Delaware legislature. Delaware counties derive their power from the state constitution and Title 9 of the Delaware Code Annotated, which specifically enumerates the powers they may exercise. Of the three, New Castle County has a council with an elected executive, Kent County has a Levy Court Commission with a county administrator, and Sussex County has a county council with a county administrator. County councils are composed of at least three members, one of which is elected president by the council. The county has full jurisdiction in any matter over which the state grants the county authority and may at any time exercise that authority, except as provided by state law. The county may investigate any matter about which it may lawfully make ordinances and may employ bailiffs to compel witnesses and legal counsel for advisory purposes.

Perhaps because of its relatively small number of counties, Delaware maintains separate code outlining the powers of each of its three political subdivisions. Powers listed hereunder should be considered general descriptions of powers all three counties share, though procedure and extent of the authority may differ by county. All counties may exercise any power which statute does not specifically bar from them and about which they have a legitimate local interest in legislating.

## **County Finance:**

The county government has sole authority over the direction, management, and control of the business and finance of the county. The county must make an annual audit of all accounts submitted by the various administrative departments and agencies operating under the county’s budget. All county financial records are open to public scrutiny. New Castle County requires that administrative departments and the executive submit the budget to the council for approval. Kent County has a department of finance which establishes the budget and submits it to the levy court for approval. In Sussex County,

the county administrator prepares the budget and submits it to the county council for approval.

Counties have a variety of avenues available for revenue generation. The county may levy taxes on assessed property, but may at no time levy a tax which would result in a 15% increase in revenue from the previous year. Kent County may not levy taxes in excess of 50 cents per \$100 of assessed property. Certain charitable organizations, religious organizations, nonprofits, and certain individuals over 65 are exempt from property taxes. Organizations which receive income from the property tax exempt land and buildings must pay the county an assessment of no less than 10% of the revenue generated by the property. The county must publish a “rolled-back rate,” i.e. the rate that would produce the same revenue as the previous fiscal year, and then publish the rate the county intends to levy as an accountability measure for residents. Counties may also tax the transfer of real estate at a rate no greater than 1.5% of the value of the property conveyed. Personal property tax is illegal. Any fine or fee which is not otherwise appropriated goes to the county in which the fine or fee was assessed, for example. Kent and Sussex counties may collect capitation taxes for anyone over the age of 21. Counties in Delaware may exempt property from county taxation if such an exemption is in the best interest of the public good.

Counties may contract varying degrees of indebtedness for a variety of purposes. All may contract debt for public improvements and for maintenance of public buildings, and all may establish a sinking fund to pay off public debt in an expedient manner. They may contract debt in anticipation of taxes as well. New Castle County may additionally contract debt for special improvements

Counties may neither appropriate money for nor loan money to any private individual or corporation. They may not become a shareholder in any company either. Kent County, however, may issue bonds secured by single family mortgages on homes to rehabilitate residential areas in the county. This debt may never exceed \$50,000,000.

**Contracts:**

The county may from time to time enter into contracts for the provision of services to the county. No county elected official may vote in favor of a contract which will in all likelihood exceed \$50,000 until competitive bidding has occurred. The county may enter into a contract to provide insurance to county employees and may choose, at any time, to be bound by Delaware's Workmen's Compensation Laws.

**Licensure:**

The county may require that individuals who wish to own dogs as well as private and public animal shelters, pounds, and humane societies obtain a license to do so. Any individual or corporation failing to obtain a license may be fined by the county at least \$50. Pursuant to the enforcement of this code, the county may employ such licensing agents as may be necessary to inspect animal shelters, pounds, and humane societies and

**Zoning and Land Use:**

The county government has the authority to hold real property in the name of the county and to convey said property by ordinance or resolution. Counties must maintain a courthouse for use by the county courts and maintain therein offices and such supplies and utilities as the court may need to discharge its duties effectively.

The Delaware Constitution empowers counties to make laws dividing counties into such zones as may be expedient for establishing building codes and regulations. The county may make ordinances regarding land use, building height, size, and bulk, and percentage of lot space occupied, among many other permitted regulations. Promulgation and enforcement of the building code may be accomplished by a department of land use. The county may establish a planning commission to provide maps and plats of the county, including a planned zoning map and a map of all roads in the county. The county legislative body should use this document when developing a comprehensive plan for county development. Included in this power is the authority to regulate the buildings on farms and agritourism operations, as well as to restrict the number of mobile homes on a farm of less than fifty acres to one and on a farm of more than fifty acres to two.

The county has the responsibility to provide for future growth in unincorporated areas of the

county and to cooperate with other agencies and municipalities for a holistic vision of Delaware's future. To that end, the county may delegate an existing agency a local planning agency, which shall make allowance for future capital improvements, including the projection of costs. The plan must also include the future of roads and bridges, sewer and water systems, recreational areas, conservation districts, residential planning, historic preservation, and economic development in the county. The county legislative body must take this plan into account when zoning and establishing building codes and must use this plan to cooperate with other governments to realize sustainable, economically viable county growth.

Counties may provide low- or moderate-rent public housing for individuals who require assistance locating a place to live. In addition, the county may provide homes suited to handicapped individuals under their zoning laws. New Castle County may create subdivision and land development commissions to oversee the administration of low- and moderate-rent housing. The commission may exercise all rule promulgating authority granted to the county by the state to ensure for the stable and steady growth of the county. No other county may exercise this power. New Castle County may also require certain standards for property to be maintained, including appearance and adherence to building code. Moreover, the Commission of Land Use may abate weeds and other nuisances and eyesores and may charge fees for doing so.

Kent County may create regional planning commissions to execute a similar function as a local planning agency, i.e. projecting the future growth of the county and making capital improvements plans accordingly. Kent County may cooperate with the city of Dover in making and executing a plan which provides for solid, sustainable growth and accounts for future infrastructure, water and sewer, recreational, residential, economic development, and historic preservation needs.

Counties may, upon petition of landowners whose property would about the proposed improvement, fund suburban community improvements through issuance of bonds and assessment of fees on property which benefit from the improvement. Improvements may include sidewalks, streets, signs, drainage, storm sewers, fire hydrants, and water mains. The state department of transportation or an entity contracted by the county shall execute the improvements as laid

out by the division of highways and shall be paid by the county for services rendered. The petition must include a schedule of fees which the council may adopt or amend for the provision of services.

New Castle County may create special improvement districts, which may be any subdivision of New Castle County, and may provide financial support to develop the same. Special improvements may include improvements for industrial, commercial, cultural, or residential areas

### **Public Safety, Health, and Sanitation:**

Counties may provide fire protection and ambulance services to the unincorporated county or to municipalities therein subsequent to the municipality's consent. Counties may appropriate up to \$750 dollars for each fire company in the unincorporated county providing ambulance service. The funds must be used for the provision and maintenance of ambulance service for county residents. If they county has fenced off, locked, or otherwise restricted access to unimproved land, it must provide a key or means of entry for the ambulance service.

County governments may not abridge the right to keep and bear arms, nor may they restrict, regulate, or license the possession, transfer, transportation, or ownership of any firearm. They may regulate the discharge of firearms in certain areas pursuant to justifiable defenses found in Title 11 of Delaware Code.

All counties are authorized to acquire, construct, maintain, operate, and improve sewer collection and treatment facilities. The county legislative body may exercise this power alone, or, to expedite the distribution of services, may create districts which provide these services to residents, managed by a district board which may execute the same functions. The county may issue bonds to construct these improvements, though if it does so it must assess fees on the properties benefitting from the disposal of sewage within the district, with fees to be determined by the assessment procedure laid out by state statute. If a district is established, the county legislative body must approve any bond issuance or revenue generating activity in which the board may engage. Whenever land sits at the confluence of one or more population centers such that the construction of a sewer system and treatment plant should be conducive to public health, or at the behest of the department of public works,

New Castle County may establish a sanitary sewer district governed by a board to maintain the system, preserve public health, and ensure the system is fit for future developments. This includes the board's power to issue bonds and assess fees, as well as require connection to the sanitary sewer district.

Counties may acquire by eminent domain, purchase, or lease, an incinerator plant or another solid waste disposal facility in order to dispose of garbage, rubbish, and other waste in the county. The county legislative body has the authority to operate both the plant and any equipment required to pick up refuse in the county. Residents using the trash pickup service may be assessed fees to be determined on a schedule by the county legislative body. The county may issue bonds to execute their authority under this statute. Sussex County may even provide aid to municipalities which maintain public dumping sites.

Counties may operate a water system capable of purifying and distributing clean water, as well as collecting and treating sewage and wastewater. The system may be paid for by bonds or taxes, though if bonds are used the county must assess fees on residents who benefit from the water in order to pay of contracted indebtedness. The board may also accept assistance from the state or federal government to establish the water system. Counties may require individuals connect property to the water system in the interest of preserving public health, but only a licensed plumber may make the connection. County councils or levy courts may either exercise this power alone or may create a district managed by a board. All bond issuance and revenue generating activity must be approved by the council or levy court prior to authorization.

### **Roads, Bridges, and Transportation:**

Counties may plan, acquire land for, construct, maintain, and improve roads throughout the county. New Castle and Kent Counties may establish separate commissions specifically for highway maintenance and administration, while Sussex County may delegate the same authority to a planning and zoning commission. All counties are empowered to provide street lighting on public roads and may levy a tax to fund street lights. Counties must regulate the duty of individuals and artificial entities to post signs indicated handicapped parking. The county must include enforcement ordinances with penalties for violation of the requirement.

## **Recreation, Historical Societies, and Monuments:**

The county councils of Kent and Sussex may create county park and recreation commissions of five members to develop and maintain county park lands, as well as recreational facilities and programs throughout the county. The board may institute recreational programs in schools in addition to administering playgrounds, parks, and public lands for recreational use. The board may also purchase equipment for the county recreational areas. If 50% of a suburban area petitions the county council, then the county may by resolution ask the commission to study the area and determine whether or not it is well suited for a park. If the proposed park does not exceed 5% of the assessed value of all property in the proposed suburban park area, then the county may proceed. The county council may issue bonds and notes to fund any of the above projects, subsequent to approval either by a majority of the electors who shall receive the benefits of a park or from a vote of the council. To pay off the bond debt, the county may assess a fee on the properties which benefit from the construction of a park.

The county may acquire any lands for a park by eminent domain (if the land is not in an incorporated city of Delaware), by purchase, or by gift; however, the title to such lands reverts to the state. The

county recreation commission has the authority to enter into contracts regarding improvements to park lands, but must seek approval from the county council before entering any contractual obligation. The commission also has responsibility for the maintenance and operation of the parks, both of which represent duties which may be billed to the county government.

New Castle County may alternately establish park districts with the authority to tax and levy assessments without the approval of the county council. The park district boards may additionally construct, maintain, operate, and improve park and recreation facilities, as well as acquire land for the development of the same. Park districts differ from recreational commissions in that park districts are bodies politic and corporate with revenue generating powers.

Counties may establish county library agencies, establish and administer a county library system, expend tax and gift money on furnishing the library with materials, and pass all other resolutions necessary to the function of the library agency. All counties must establish jointly with the library system a county library advisory board to serve in an advisory capacity to the library administrator and county library agency.



# Florida

## **Introduction:**

The Florida State Constitution and Title XI (Chapters 124-164) establish the basic powers of county governments, which are enumerated more specifically by general law. The constitution provides for a five or seven member commission in which is vested legislative and executive power. Counties may establish code enforcement boards to assist them in enforcing all county

## **County Finances:**

The county commission is charged with creating a budget based on information garnered from department heads, projected expenditures, and projected earnings. The commission must hold hearings before it may adopt the budget. Once expenditures meet those outlined in the budget, it is unlawful for the county to spend more money.

The commission may contract debt for certain purposes, including the construction of hard-surface highways, the construction or renovation of a courthouse, jail, or other public building, and to fund the outstanding indebtedness of the county. When the county contracts debt, it may take steps to refund the debt by imposing a tax to pay off interest or to create a sinking fund. Counties may only issue bonds and levy a bond retirement tax following approval by a majority vote of the county electors. The county commission may refund any obligation it contracts in full. The county may establish a special act development commission with the authority to issue bonds to fund economic development programs and initiatives on behalf of the county.

Counties may impose a tax on transient occupancy rooms not to exceed 2% of the charge for the rental of the room. The county must use the funds generated from this tax to promote tourism. To pay for public works and public buildings, the county may levy a tax of 1.5 mills on taxable property within the county. The county may contract debt to pay for any public building or public work by issuing general obligation bonds and revenue bonds, provided the county levies a tax on property in the county to discharge the debt in the most rapid manner possible. Additionally, counties may assess fees and levies on property which benefits from public works

to generate revenues to pay for the project. Counties may levy an option 2 mill tax to fund criminal prosecutions and investigations.

Counties may extend credit to public agencies which need capital. To employ this power, the county must join in an interlocal agreement with three other counties to create a joint entity to extend loans to public agencies.

The county has the authority to make expenditures in the interest of developing the county's economy. This includes the authority to spend money to attract and retain businesses, to develop local industry, and to issue bonds to finance the construction or maintenance of industrial and commercial facilities. The county may not make any rules which impose or have the effect of imposing price controls on lawful businesses.

## **Contracts:**

County commissioners may make and execute any contract to exercise any lawful authority granted by state statute. In addition, Florida's Interlocal Cooperation Act allows counties to coordinate efforts with cities, counties, the state, and the federal government. Counties participating in interlocal agreements may form councils of local officials to discuss issues facing regions and develop coordinated responses to them. Counties may contract either to provide or receive services from municipalities and special districts.

## **Zoning and Land Use:**

The county commission has the authority to hold all public land in the name of the county. That includes the authority to lease land for a public purpose for a period not to exceed thirty years, to sell or lease out county property which no longer serves a public purpose, and to purchase any property which may be deemed necessary for the furtherance of the public good. Counties may acquire land by purchase, lease, or by exercise of the eminent domain power. Commissioners may also expand the boundaries of the county seat beyond the corporate limits of the municipality which serves as the county seat.

The county commission is charged with providing and maintaining public buildings. The commission

has the authority to acquire land by purchase, lease, or eminent domain and to construct, improve, repair, or renovate any public building or project within or without of the county limits. Counties may additionally acquire facilities from municipalities.

County commissions and county planning agencies may divide the county into such zones as are convenient for the administration of county building code and regulation of building type and size. Counties may also make land development regulations, regulate signage, and provide for flood protection using their zoning powers. The county may additionally create redevelopment agencies or the commission may act as a redevelopment agency to promote the growth and rehabilitation of the county. County redevelopment agencies may work to create “safe neighborhoods” as determined by the state as well as neighborhood improvement districts to rehabilitate blighted neighborhoods and slums. The county may appoint a council of local residents to assist in determining county policy regarding the redevelopment of neighborhoods.

The county may make any ordinance or expenditure which promotes the availability of affordable housing in the county. The county is allowed to sell county property which is well disposed to accommodate affordable housing. The state mandated the creation of housing finance authorities in every county, unless the commission votes to abolish the authority. The authority exists to promote and fund affordable housing development, which it may do by issuing bonds, acquiring and developing land, and selling developed land at an affordable rate to low- or moderate-income individuals. The county commission may levy ad valorem taxes to support the industrial development authority.

The county must make an agreement with the state regarding the disposition of forestland in the county. The county, state, and federal government shall develop a plan for the prevention of forest fires and to protect county property from damage in the event of a fire.

Counties may also make ordinances and regulation to protect air quality. The county may not make more stringent regulations than the state or federal government, though county ordinance preempts municipal ordinance in this case.

The state mandated the creation of industrial development authorities in every county, unless the commission votes to abolish the authority. The

authority exists to promote and fund industrial development, which it may do by issuing bonds, acquiring and developing land, and selling developed land for the purpose of creating industry. The county commission may levy ad valorem taxes to support the industrial development authority.

Counties which border the ocean have the power to create a beach and shore preservation authority to protect the dunes and preserve Florida’s beach ecosystems. The authority may also create a comprehensive beach and shore preservation program to facilitate conservation of Florida’s beaches. The county may additionally create beach and shore preservation zones at the recommendation of the authority where the authority may make assessments to fund beach preservation initiatives. The county may cooperate with any governmental entity to preserve the beach. Moreover, the county may establish coastal zones to regulate the type and number of buildings which are placed there, both to ensure that only safe, hurricane-resistant buildings are erected on the coast and also to ensure that permanent damage is not done to the beach ecosystem or dune system.

### **Public Safety, Health, and Sanitation:**

Counties may provide fire protection to county residents; however, counties may not charge any fees for first responder services. Therefore, counties must fund fire departments and fire districts in alternative ways, which includes levying a tax and issuing bonds to generate funds.

Counties may create special districts to be coterminous with the boundaries of the county to provide funding for children’s services. The county commission may levy a tax of a prescribed millage rate and grant the revenue generated by such a tax to nonprofit organizations which provide juvenile services.

Counties, whenever it is expedient to protect public health and safety, may create drainage ditches on lands that are low, wet, or likely to become submerged. Counties may also establish main ditches, canals, and later ditches. The county may also enlarge drains and assess the cost of the construction or enlargement of ditches to the property which benefits from the improvement. County commissioners are charged with overseeing the construction and maintenance of drains and may levy taxes to finance that duty.

Counties may not make any ordinance related to the sale or possession of ammunition.

Counties may cooperate with the state Board of Health to establish county health departments. Such programs shall include services to provide primary care, communicable disease services, and environmental health services. Counties may cooperate with each other to preserve public health as well. The county may not establish a schedule of fees, but must instead abide by the schedule established by the state Board of Health. The county must appoint a board of trustees to oversee the county health department, make all necessary agreements and contracts, and execute the terms of the same. Counties may create special health and mental health districts to provide funding for indigent care by levying an ad valorem tax and appropriating that money to organizations and hospitals which serve the county's indigent population.

Counties may acquire land by purchase, lease, or eminent domain, and may construct county public hospitals on that land. The county must put the construction of a hospital up to a vote before the people of the county. If the measure passes with a majority of votes, then the county commission must appoint a board of trustees to oversee the hospital, hire personnel, and acquire equipment using funds appropriated to them by the county commission. The county may levy taxes and issue bonds to fund the county hospital's construction and operations.

Counties may make ordinances which protect county waters from pollution to abate the public health risk of polluted waters. Counties may also take steps to limit erosion to protect property owners from damage related to floods. Counties may also make ordinances to require "Florida-friendly" landscaping around property which abuts water as a means of protecting the shoreline.

Counties have the authority to acquire land and purchase, construct, improve, expand, maintain, and operate sewerage disposal systems. Counties may pay for improvements by assessing fees on property which benefits from the improvement. Counties may issue general obligation bonds as well as sewer revenue bonds to pay for any of the above activities. Counties may additionally create sewage service districts in the unincorporated areas of the county in which they may provide water supply services and assess a fee within the district for the

use of the sanitary sewage system. Such a district is to be created by election of the county's voters. The county commission may serve as the district board, or they may create a separate board to execute all county functions related to the administration and operation of the district. Counties may assess a user's fee on any property which is connected to and uses the sewer system. To refund debt, the county may issue sewer revenue refunding bonds. Providing free sewer service is prohibited.

Counties have the authority to acquire land and purchase, construct, improve, expand, maintain, and operate water supply systems. Counties may pay for improvements by assessing fees on property which benefits from the improvement. Counties may issue general obligation bonds as well as water supply revenue bonds to pay for any of the above activities. Counties may additionally create water service districts in the unincorporated areas of the county in which they may provide water supply services and assess a fee within the district for the use of the water supply system. Such a district is to be created by election of the county's voters. The county commission may serve as the district board, or they may create a separate board to execute all county functions related to the administration and operation of the district. Counties may assess a user's fee on any property which is connected to and uses the water supply system. To refund debt, the county may issue water revenue refunding bonds. Counties have no jurisdiction over private water supplies, nor may they use them to supply county residents with water. Providing free water service is prohibited.

Counties may not sell or privatize public wastewater facilities without first having a hearing about the effects of the privatization and demonstrating a public interest in a private utility. Counties may, however, grant licenses to individual to construct, remove, repair, and maintain water, sewage, gas, power, and telephone lines along public roads across the county. Such licenses may be granted in perpetuity.

### **Roads, Bridges, and Transportation:**

The county has the authority to lay out, construct, and maintain county roads and to establish and maintain public transportation facilities. The county may levy taxes and contract debt to execute these functions. Counties have the authority to build a bridge over any navigable stream in the state. To do so, they may acquire the necessary property

and issue bonds to fund the construction and maintenance of the bridge.

Counties may create regional transportation compacts to plan and oversee the construction of transportation networks regionally rather than merely in the county. Regional commissions may also develop ways to finance transportation improvements.

**Alternative Forms of Government:**

Florida has two forms of local government, non-charter, the tradition form of government, and a charter form. The non-charter form allows counties

to exercise any authority found in the state code. The charter form allows counties to exercise any authority not specifically prohibited by state code. Counties may adopt a charter form of government by creating a commission to study the operating government, write a chartered form of government, and then put that charter to a vote. Contingent on approval by a majority of county voters, the county may then adopt the charter. Counties and one of the municipalities therein may choose to consolidate by writing a unified government charter, putting the charter to a vote of either the electors in the city and county or by agreement of the city and county governments.



# Georgia

## **Introduction:**

The Georgia Constitution and Title 36 of the Official Code of Georgia Annotated create counties as bodies politic and corporate as well as political subdivisions of the state. The constitution and statutes outline the structure of county government, list county officers, and establishes the duties and powers of county governments. The constitution declares counties bodies politic and corporate in the State of Georgia with all the powers granted to such bodies. The Georgia Constitution grants counties home rule powers to make ordinances relating to its affairs, responsibilities, and property so long as such ordinances are not in conflict with state law. County legislative bodies may vest administrative responsibility in a county manager if they so desire. Georgia is a Dillon's Rule State.

## **County Finance:**

The county legislative authority has the authority to establish a budget by ordinance, including allocation of funds and distribution of county resources. Such a budget must be published in a paper which serves the county commission's constituents. The budget may include anticipation of grants from the state and federal government, including road grants, homeownership grants, and local government efficiency grants.

The county legislative authority may levy ad valorem taxes uniformly on county property, except when it may from time to time grant exemptions on certain property. Exemptions may include exemptions for bona fide agricultural purposes, for homesteads, and for disabled veterans. In enterprise zones created by the county commission, counties may extend tax cuts and benefits to expanding businesses. Though the county is authorized to appropriate money for any legitimate county purpose, the county may never extend its credit nor appropriate its funds to invest in a private corporation or individual or to donate money except for purely charitable purposes. The county may levy certain other taxes as well, including a tax on fortunetelling, a licensing tax on self-service motor vehicle fuel pumps, a recreation tax to fund recreational systems, and a license tax on businesses. In addition, county plans with capital improvements included in them may assess impact fees to mitigate the cost of construction and operation of the improvement.

The county commission has the authority to issue general obligation and revenue bonds for public purposes, as well as contract debt following approval to do so in an election; however, the county may never contract debt in excess of 10% of the assessed valuation of the property in the county. Counties may additionally contract debt and issue bonds on behalf of special districts, though the contracted debt may not cause the county to exceed the above listed limit. The county may acquire temporary loans for governmental purposes, as well as issue notes in anticipation of tax revenue. Whenever the county incurs debt of any kind, it must provide for the retirement of such debt by tax levy within 30 years of contracting it.

Counties may join together to form intergovernmental risk management agencies. The county may pool its general liabilities, vehicle liabilities, and property damage risks with other counties and municipalities, as well as purchase more liabilities and risks in tandem with other local governments.

## **Contracts:**

Counties may make contracts, as they are bodies politic and corporate in Georgia; however, such contracts may only be made by the county commission and must be entered in the county record. In addition, the county commission may enter into interlocal agreements with other governmental subdivision of Georgia to provide services on a regional rather than local basis, as well as to exercise powers jointly rather than singly. One such interlocal agreement empowers county governments to contract with private entities or individuals to provide industrial waste water treatment facilities. In the event of a local emergency, counties adjacent to those experiencing the emergency may provide assistance without entering an interlocal agreement.

Whenever entering into a contract, the county commission may give preference to products and labor from Georgia. The commission must not sacrifice quality to do so, but must at least consider the effect of the purchase on the state's Gross State Product.

## **Zoning and Land Use:**

The county may exercise eminent domain powers to acquire land and facilities for any legitimate public purpose. The legislative body has the authority to execute any purchase, sale, lease, or exercise of eminent domain on behalf of the county, in addition to the power to control any property under the control of the county. On such county property, the county commission must maintain a courthouse and a jail, though it may maintain other public buildings it deems necessary to the function of the government and storage of county documents. The county commission may maintain a law library in the courthouse managed by a board of trustees.

The county commission, as the county's legislative body, has the power to divide the county into such zones as may be convenient to promoting county growth and physical development. Along with holding county zoning authority, the commission has the power to adopt building, plumbing, and electrical codes to maintain safety standards in buildings within the county. Zones may include ordinances restricting the placement and operation of adult movie theatres, bookstores, and media outlets.

Pursuant to the county's zoning authority, the commission may divide the county into such special districts as may be convenient to providing local governmental services, including any of the services enumerated in Article IX, Section II, Paragraph 3 of the Georgia Constitution. Such services include, water, sewage, solid waste disposal management, police and fire protection, public housing and transportation, and street and road construction and maintenance. The county commission may levy taxes, make assessments, and charge service fees within the district to offset the cost of service provision.

The state legislature may also empower counties to create community development districts to provide governmental services and public facilities, including roads, water, sewage, public transportation, dock facilities, and other services that may be provided by law. The county, which serves as the governing body of any such district, may contract debt, cooperate with local governments, and make regulations within community development districts to promote the physical growth of the county.

The county may provide, as part of its power to assist the poor residents of the county, affordable public housing for low- and moderate-income residents and families. To accomplish this, the county may

create a housing authority. In addition, the county is responsible for cooperating with municipalities to provide for urban redevelopment, fueled as much as possible by private enterprise. If public intervention is more in the interest of the county or municipality, then the county may exercise eminent domain, purchase, sell, or lease land as well as enter contracts to spur urban redevelopment projects. Such projects may include the rehabilitation of blighted areas and the demolition of blighted housing. The county may fund its operations by using sinking funds, bond issuance, or loans. Redevelopment powers may also be delegated to a housing authority, if one exists within the county.

Every county and municipality must have a development authority per state statute. Headed by a board of directors, the authority generally has the power to promote physical, commercial, industrial, and residential development within the corporate boundaries of a county. This gives the authority the power generally to purchase, lease, sell, or otherwise acquire land for development projects, charge fees for service, make assessments on properties which benefit from development projects, and to issue bonds. Authorities may also provide for the improvement of public infrastructure, airports, roads, easements, and ports.

In the event a cemetery is abandoned in the county, the commission is empowered to take over the cemetery to maintain and preserve it. Land in cemeteries may not be developed without a permit from the county commission.

## **Public Safety, Health, and Sanitation:**

To preserve public safety, counties may provide police and fire protection. This includes making an ordinance establishing a county police department and appointing members of the same. A county which creates a county police department may subsequently abolish it. Counties may provide fire protection by hiring firefighters or by supporting volunteer firefighters. To enforce county ordinances, the county may create a local code enforcement board. The board has the authority to impose fines and issue orders that have the force of law.

To assist with the war on terrorism, all counties must establish public safety and judicial facilities authorities. These authorities have the power, like other authorities, to acquire land, issue bonds, and borrow money to execute projects to protect public buildings and secure them from acts of terrorism.

Pursuant to the county's power to protect public health, the county may provide health services, including hospitals and ambulance service. This includes the ability to purchase land, erect facilities, hire personnel, and appoint a board to oversee the hospital system. To fund these operations, the county may issue bonds, borrow money, and levy taxes.

The power of public health extends to empower county legislative bodies to oversee the care of paupers when no relative of the pauper may be found to provide help. In the event an indigent person dies, the county commission is charged with providing for burial.

In addition, counties may exercise authority to regulate and abate public nuisances by operating animal control offices. In tandem with the animal control office, the county may regulate air quality. Junked cars also constitute public nuisances, and the county commission may remove them by serving notice to the owner of the property on which the junk car is located.

In the interest of public sanitation, the county may provide garbage collection and disposal services, as well as sewage collection and treatment facilities, water collection, purification, and distribution systems, and storm water collection systems. Such services may be provided by the government or by a private entity operation on a government contract. Local governments may not, however, require that properties connect to any water or sewer system unless in the interest of public health.

Finally, counties must establish resource recovery development authorities to recover and utilize the resources lost in sewage waste, sludge, solid waste, the generation of electrical power, and other forms of energy from water. Though every county has one such authority, adjacent counties may consolidate their authorities with neighboring political subdivisions. The authority may acquire land and expend funds to promote, create, implement, or maintain any program related to the recovery of resources to promote trade, industry, and economic development.

### **Roads, Bridges, and Transportation:**

County commissions are charged with laying out, constructing, maintaining, and vacating public roads, as well as installing curbs, sidewalks, street lights, parking facilities, and devices to control the flow of traffic. Pursuant to that power, commissions may use county personnel and inmates to construct

roads, purchase equipment, and hire engineers to plan for the county's road system. The county may also delegate any of these powers to a private entity in a contract, if necessary. If a navigable stream is wholly within the boundaries of a county, the commission may construct a bridge across it. Along with public streets, the county may provide public transportation to county residents. The county may receive grants from the state legislature to fund the execution of these responsibilities.

Counties which border the ocean or have within them navigable rivers or streams may construct port and dock facilities.

### **Recreation, Leisure, and Culture:**

The county commission may provide parks, recreational services, and recreational facilities to county residents. This includes the authority to set aside any public land or building for use as a park or recreational facility. Counties may hire individuals to serve to create a supervised system of recreational services. The system and facilities include in county recreational service provision may be the sole responsibility of the county commission or operated in tandem with an adjacent political subdivision. To oversee the facilities and administer to recreational programs, the county may create a recreation board, which may exercise authority in lieu of the county commission.

To promote public education and culture, the county may operate museums, libraries, archives, and arts and sciences facilities. In the interest of archiving, the county must maintain a historical container labeled as such. In the container, the commission must place documents and artifacts of historical interest to the county for preservation.

### **Alternative Forms of County Governments:**

The Georgia Constitutions provides a procedure for the consolidation of municipal and county governments into one governmental unit. The county and municipality must create a commission to review the governmental structure and author a charter. Upon adoption of the charter by the people of the county and approval by the state legislature, the county and municipality may execute governmental functions as one body.

# Hawaii

## **Introduction:**

Hawaii county governments derive their power from the Constitution of the State of Hawaii and Title 6 of the Hawaii Revised Statutes enacted by the Hawaii legislature, though counties may provide for home-rule charters under general law without legislative approval. The state reserves the right to the reallocation of power; however, the state specifically allows county governments to enact ordinances deemed necessary to protect life, health, and property so long as such ordinances do not conflict with state law. Hawaii has one unique county, Kalawao, which is under the administration of the county government of Maui.

## **County Finance:**

The state of Hawaii reserves all powers related to taxation except such powers as may be delegated by the state. In the case of real property, however, counties have the exclusive authority to levy and collect tax. Commissions may additionally provide for a system to administer all service fees and charges when not in conflict with state law, including charges for water service. Moreover, counties may levy assessments by ordinance for the improvement or maintenance of special service districts in the county. Revenues generated from toll roads must be spent on the construction or maintenance of highways.

Hawaiian counties may levy a surcharge on state taxes following referendum by the county electors not to exceed .5% of the proceeds from state general and excise taxes. In a county with a population in excess of 500,000 people must use the tax to provide a locally preferred alternative to a mass transit project or to comply with the Americans with Disabilities Act. Smaller counties may use the surcharge to fund the operating expenses or startup costs of a mass transit project or to comply with the Americans with Disabilities Act.

Commissions may not extend county funds as loans or grants to any private organization or individual, either directly or indirectly, unless the loan or grant directly serves public interest.

Any county mayor or administrator may, pursuant to state code and local ordinance, exempt donors,

provider agencies, and homeless facilities from real property tax, water and sewer development fees, and any other county charges, taxes, or fees.

## **Contracts:**

Counties have the power to enter into such contracts as are necessary to carry out the functions and exercise the powers vested in a county officer. Without such a contract and a public interest in the provision of the contracted service, counties may not compensate private corporations or individuals. Commissions, planning commissions, and county departments are specifically authorized to enter into agreements with the federal government, including the right to expend, appropriate, or accept such funds as may be necessary to complete the project.

## **Zoning and Land Use:**

State code specifically grants to counties the right to exercise eminent domain to acquire land for promotion of public interest by condemnation of land. Counties may additionally purchase, lease, and sell land within the boundaries of the county according to the county commission's resolution. Counties may not, however, sell land bordering the ocean or sell school property without the consent of the superintendent. Additionally, proceeds from the sale of park land must be used for the acquisition of more land for park or recreational purposes.

Land within the political boundaries of the counties of Hawaii, Maui, and Kauai may be subdivided into zones of such shape and size as may be convenient for the development of a long-term plan for county growth. County legislative bodies may create a zoning commission to assist with the development of this plan and subsequently with zoning regulations. In counties with less than 100,000 people, the legislative body may create a county planning commission. County commissions may regulate zones in which forestry, agriculture, trade, industry, and business may be conducted, as well as zones in which residence may be regulated or prohibited. Commissions may legislate within zones about land use, density, percentage of lot occupied, the location of roads and schools, maximum and minimum lot sizes, and may make other regulations as befit a comprehensive land use plan. In the



case of residential subdivisions of the county, the commission may make ordinances which regulate renting, leasing, subletting property. Mayors of the respective counties may also, with the approval of the commission, designate certain tracts of land for experimental or developmental housing for the purposes of research designed to decrease housing costs in the state. In agreeing to the designation, the county commission agrees to cede its right to legislate in said area. Commissions may provide ordinances to mark or light such buildings as would prove hazardous to aerial navigation to safeguard public safety.

The county may, so long as it does not oblige the state of any of the obtained in exercising this power, make ordinances to provide moderate- and low-income housing in the county, including the power to acquire property and to construct dwellings. In making such homes available to the elderly, persons with low- or moderate-income, or displaced persons, the county may issue bonds and obtain subsidies from the State of Hawaii or the United States governments, as well as contract with bidders to construct the housing. If the commission opts not to engage in such a contract or designate property for low- and moderate-income housing, they may offer loans secured by a mortgage or contract private lending agencies to do the same. The commission may float bonds or take out loans to administer the program, and may designate a state or national bank to serve as the trustee of such a fund.

Restrictions to the commission's power include the inability to prohibit two single-family dwellings on the same lot, the inability to prohibit care facilities for the mentally disabled, and inability to restrict employee housing on plantations. Additionally, commissions must have information meetings in the affected community before licensure of "clean and sober homes," or facilities established for the care and treatment of adults with substance abuse issues.

Counties have a duty to the preservation of public safety to create sound building codes, to inspect buildings to ensure they meet codes, and to regulate the condemnation of unsafe structures, plumbing, sewers, dairies, and morgues. However, counties, when zoning areas and establishing building codes, must allow permits for indigenous architecture, including rock or wood wall and frames and thatch roofs. Unless buildings belong to the United States government, are grandfathered in, or have special historical significance, counties must require that

buildings meet energy conservation standards developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers. In addition to meeting said standards, buildings must have showers with individual temperature and pressure controls to conserve water and electricity. Buildings that meet high standards of energy conservation must be given priority processing for their building permit.

To protect county property, specifically convention centers and resort property, the county commissions or else the convention center service district commission may apply for flood insurance. They may additionally make such provision as may be necessary to maintain flood insurance.

In the case of private development, developers must either demonstrate public access to the new development or must provide land in the form of easements or cession of right-of-way for roads or pedestrian access. The developer must also pay the cost of construction of the access. Following the completion of the development, the county takes on full responsibility for the maintenance and improvement of the access.

Counties may enact and enforce ordinances which provide for the cleanup of overgrown lots and public lands to maintain both public health and an aesthetic community. If residents fail to abide by the commission's ordinances, the commission may place a lien on their real property to pay for the cleanup service.

When rehabilitation becomes necessary, counties may either delegate their power to an urban renewal board set up by the state, or they may exercise the renewal authorities at the county level. If such an agency already exists, the county may abolish it. Alternately, if no such agency exists, the county may endow itself with the agency's powers through ordinance. The county may borrow loans and advances on the anticipation of taxes or may issue bonds in order to exercise the powers granted for urban renewal. Counties may enter into development agreements with private entities or public corporations to ensure the timely completion of the project, be it residential, commercial, or industrial. To that end, the state requires that only ordinances and regulations in existence at the time of the agreement's approval apply to the development project throughout the contract's obligations.

## **Public Health, Safety, and Sanitation:**

To ensure the preservation of public health, counties may enact and enforce ordinances governing the cleanup of public nuisances and refuse from public land and unoccupied lots. Moreover, if a private resident fails to comply with these ordinances, the county may place a lien on the real estate to pay for the service. Counties may operate drainage systems, both natural and artificial, including those which flow to the ocean, and may remove from them such debris as might prove a hazard to public health and may provide for the collection of garbage and rubbish.

To ensure the abatement of public nuisances and preservation of public health pursuant to the goals outlined above, counties may make and pass any ordinance regarding matters of sanitation. Nuisances may include animals, and counties may create pounds and hire officers to administer said pounds. Moreover, nuisances may include rubbish and seaweed on public and private beaches; counties in Hawaii must comply with state code requiring the abatement of public nuisance on the beach. Other public nuisances which the county may regulate include noise, dust, smoke, vibration, or odors. The power to regulate these nuisances does not extend to agricultural burning approved by the department of natural resources nor any noise rule adopted by the department of health. The commission may appoint a physician or county sanitation officer to enforce the provision of such ordinances.

Hawaii code provides for county's ability to legislate about all local police matters to ensure public safety, including the right to charter punishments and fines for crimes and misdemeanors following state approval. The county may additionally create volunteer firefighter services with volunteers selected by the fire chief on a non-compensatory basis. In establishing volunteer firefighters, the county must provide such equipment and support as may be necessary for the volunteer firefighters to combat fire. In addition to a police force and volunteer firefighter corps, the county may preserve public safety by establishing and maintaining public lifeguard services with the approval of the state department of natural resources.

Counties retain the right to administer civil fines and punishments for the violation of a county ordinance, provided the county makes an allowance for due process of law and appeals. Such fines may include negligence in maintaining property or

failure to pay electricity or water bills or for violation of another county ordinance. Counties may levy a fine not to exceed \$1,000 for defacement of public buildings by graffiti or other means.

Counties may exercise their power to acquire, buy, lease, and sell land to acquire, manage, maintain, or dispose of public buildings in the interest of the residents of the county, including sewers and sewer systems, pumping stations, waterworks, reservoirs, pipelines, wells, lighting plants, and the apparatus for lighting streets and public buildings. Moreover, the commission may acquire and control any appliance necessary to the distribution of water, heat, light, power, telephone, and other telecommunications services.

In addition to their right to purchase or acquire water purification and distribution systems, counties may construct such systems and maintain them. Counties may also take over state-run water systems. Whenever expedient to the administration of water service, the county may install water meters. Counties have near unlimited power to regulate and administer sewage and water treatment plants.

Counties may levy fines whenever a resident fails to pay for water, power, sewer, or any other county-provided service. The fine may, after application of due process of law, constitute a lien on the real estate of the resident in question.

Counties may additionally issue bonds to provide for the construction of a facility for the disposal of solid waste or the construction of an energy producing facility or both. In addition, counties may lease existing facilities or sell existing facilities, so long as lease or sale will not preclude delivery of the service to the county's residents and so long as lease or sale will result in cost reduction for the county.

In an effort to reduce Hawaiian dependency on unclean energy, county governments may establish efforts, either public or with a private joint-contractor, to provide alternative energy sources to consumers. Alternative sources include geothermal, solar, wind, and ocean power. Agencies must provide priority handling for projects involving alternative energy sources.

## **Roads and Bridges:**

The local county government has the power to maintain county highways, including construction, operation, and maintenance of said highways. In creating a county development plan, the county



may set aside land for existing roads or for a future transportation infrastructure. Counties may generate some of the funds for this development by charging tolls on said highways to raise money to maintain and construct the county transportation infrastructure. In disputes between the State of Hawaii and the county as to the ownership of a road, the county may continue to impose traffic laws and maintain said road. Private roads which are often used by the public or private roads the county intends to dedicate to public use are also open to regulation and maintenance by the county government.

Regulation of traffic extends to the regulation of bicycle tours on county roads, including limiting the number of bikes per tour, the number of tours per day, setting minimum safety requirements, and requiring licensing of the driver or guide.

In counties with less than 100,000 people, the legislative body may establish a county traffic commission to serve as in an advisory capacity in making traffic laws. County commissions retain the authority to create rules governing the operation of common carrier passenger vehicles so long as the public utilities commission does not have

jurisdiction. Counties may additionally regulate public transportation, including the rates of public passenger vehicle service, the establishments of stands operated by a public passenger vehicle service, and entry of new corporations into the public passenger service. In the case of violation of county road or parking ordinances, the county may make ordinances related to towing vehicles, including rates, equipment standards, and hours of operation.

### **Recreation, Leisure, and Culture:**

To preserve culturally or historically significant buildings, commissions may exempt certain buildings from building code standards at the request of the historical society to allow for preservation of significant edifices.

Counties may make appropriations from any treasury money for public celebrations, the entertainment of distinguished visitors, public officials, and to render civic tribute to deserving individuals. Such performances may include the county band, if the county has a band. In addition, the county may expend funds to send the band abroad for the purpose of creating goodwill.

# Idaho

## **Introduction:**

The Idaho State Constitution and Title 31 of the Idaho Code Annotated give the legislature the power to establish county governments governed by three member commissions which hold legislative and supervisory power. The county officers must perform all duties prescribed by law, though they have many additional powers granted under Idaho statute. Idaho counties have the power to consolidate with contiguous counties following a petition of the voters in the county and a subsequent election. Counties are considered bodies politic and incorporate in the state of Idaho. Though the county may not create advisory boards, it may present advisory questions to the citizens of the county on any general ballot or primary. The county may also perform investigations, including summoning witnesses, into any matter within the commission's jurisdiction. The commission must supervise all elections in the county. The Idaho legislature added a provision to the county code that allows counties to perform any other action necessary to the proper functioning of a county government.

## **County Finances:**

The county commission has sole authority over the county budget. Following submission of the budget by a county budget officer, based on the recommendations of all department heads in the county, the commission must vote to adopt it. Any expenditure listed in the budget constitutes an appropriation. Any cash leftover at the end of the fiscal year may be transferred to the next year's budget to allow the county to operate on a cash basis. The county commission may at any time request to see the books of any county official to audit his or her accounts, including the county treasurer. All county charges must be provided to the county commission as well.

The county may contract indebtedness for public purposes, including expenditure for which the county lacks cash on hand. The county must hold an election for bond issuance and must receive approval from a majority of the electors voting in such an election to issue the bond. The commission may also issue funding and refunding bonds to pay off contracted debt. The county may additionally,

with approval from two-thirds of the electors voting in a bond election, issue bonds for the improvement of public buildings, from courthouses to airports, and the acquisition of land for new public buildings.

The county may annually levy property taxes which do not exceed the legal limit on property tax. The county may also levy any other lawful tax, provided for by local statute or ordinance. A .1% ad valorem tax may be used to fund charitable purposes of the medically indigent. The county may levy a .04% property tax to fund district court operations if it creates a district court operating fund for the court's operations budget and a county court facilities fund to be used to expand court facilities. The county may also, following approval by a majority in an election, levy a .06% property tax to raise money for all public buildings. The county may also set aside funds in a justice fund to serve as the operating budget of the sheriff and to provide improvements to county jails. The county may receive funds from the state for the conduction of elections. All money received for this purpose must be kept separate from other funds. In lieu of ad valorem taxes to fund services, the county may assess fees so long as the fee does not exceed the cost of the service rendered.

Counties may not extend lines of credit to any individual, association, or corporation unless specifically allowed to do so by Idaho law.

The county commission has the sole authority to discharge claims against the county following scrutiny. Individuals making claims against the county must present receipts to the commission before the legislative body may discharge the debt.

## **Contracts:**

Counties and cities may enter into agreements for a variety of public purposes, notably to jointly operate public buildings. The county and city may each contract debt to construct the building and may, as stipulated in the terms of the agreement, share the cost.

The commissioners may enter into any agreement to provide fire service in the unincorporated areas of the county and may cooperate with the federal government to provide housing for migratory workers. The county commission may cooperate

in agreements with the state extension service as well as the US Department of Agriculture to promote agriculture in the counties. The county may appropriate funds for extension services to complement these agreements.

### **Zoning and Land Use:**

The county commissioners may purchase, lease, convey, receive by gift, or exercise eminent domain to acquire land for public purpose, though an assessor must appraise the property prior to purchase if the land's value likely exceeds \$5,000. The county commissioners may take care and conserve any land under their control; the commissioners may lease any land under county control which for a term not to exceed five years. The county may sell any land or personal property which no longer serves the public interest at an auction; county officers are allowed to sell departmental property with the consent of the county commission. The county may insure any property against loss by fire or other damages.

The county must maintain certain public buildings, including a courthouse and jail, as well as a law library in the courthouse. It may, however, construct any public buildings it finds necessary to preservation of public good. If the county constructs any public building, it must appropriate funds to adequately furnish it. The county may contract debt in the form of bonds to pay for public buildings.

The county commission may divide the county into any special districts as may be convenient for the administration of county functions, including election, road, and other required special districts. Other lawful districts include school districts and herd districts. The county may lease any land intended for an industrial park in conjunction with economic development services for a period not to exceed thirty years. The county may create a computerized mapping system to record district boundaries and may additionally charge a fee for any user of the system.

Any county commission may create a public housing authority that shall not constitute an administrative division of the commission. Rather, the housing authority shall have the power to operate independently to provide low- and moderate-income housing to county residents. The authority may generate revenue through bond elections and through taxation, though the county may donate or loan money to the authority from time to time. The

commission must ensure that the authority sets the lowest possible rent rates for the housing.

The county may operate a pollution control facility within the county and may acquire land to construct, maintain, and operate such a facility. This includes hiring employees and purchasing the equipment necessary to operate the facility. The commission may choose to contract indebtedness or to contract out the operation of a pollution control facility to another entity. The county may operate the pollution control facility jointly with another county governing body.

### **Public Safety, Health, and Sanitation:**

The board may levy a tax of .04% on taxable property in the county to fund district boards of health. Funds generated by this tax may not be used for any other purpose. The county may hold an election to issue bonds for the purpose of establishing, creating, operating, or maintaining public hospitals, nursing homes, medical clinics, and other public buildings vital to the maintenance of public health.

A county may acquire and establish a county hospital. If the commission chooses not to exercise direct administrative authority, it may opt instead to create a county hospital board. The board shall have complete administrative control over the hospital, including the power to promulgate rules about the hospitals operations, as well as procurement and contract powers. The hospital board is granted broad powers by the state to make any action necessary to maintain hospital operations. The county commission may levy a tax not to exceed .06% and may contract debt to fund the hospital's operations, though the hospital board may issue bonds and warrants in anticipation of taxes to fund the hospital. The county commission may jointly operate a hospital with another county or with a municipality contained within the county. The agreement may include cost-sharing and service distribution between the two counties in question.

The county may establish an ambulance service and may levy taxes not to exceed .02% to fund the service. The commission may determine how and where the service shall operate or may contract the service out to another entity. Upon petition, the commission may create an ambulance district and levy a tax of .04% within said district to provide ambulance services.

The board may lease land used for county hospitals in a private lease without public auction for a period not to exceed twenty years. The county may sell or lease a hospital for 99 years to a nonprofit organization in the State of Idaho. The county may lease land to a nonprofit organization for housing individuals who have been sexually abused for a period not to exceed twenty years. The commission may enter into a contract with any nonprofit organization to provide services to the county's aged residents, including support and educational programs.

The county may promulgate policies and procedures for assisting indigent county residents with no alternative avenues of assistance. This includes the provision of all nonmedical services, from shelters to food kitchens. The county may contract these services out from a nonprofit organization if such a move promises greater efficiency. The county may also provide indigent care facilities for individuals without the resources to pay for healthcare. The county may pay up to \$11,000 per claim for indigent individuals, contract patient services to other entities, and appropriate funds to county and public hospitals for expansion of treatment of indigent care services. The county commission alone has the authority to extend medical care to indigent residents. The county commission must provide for the burial of any indigent individual who dies in the county.

The county commission may, upon petition of 25 freeholders with 1,000 acres of land worth at least \$500,000 and subject to approval by a majority vote of the proposed district's electors, create a fire service district in the interest of preserving public safety. The commission shall provide for an election of three individuals to a fire protection board, charged with providing fire protection to county residents residing within the fire protection district. The board may levy a tax not to exceed .24% on property in the fire protection district to acquire land, facilities, equipment, and employees to abate fires in the district.

The commission must provide misdemeanor probation services to juveniles convicted of misdemeanor crimes. The county must provide supervisory services as well as rehabilitation, but it need not provide services in excess of the fees it collects from juveniles convicted of a misdemeanor. County sheriffs may take appropriations from the county commission to provide self-perpetuating youth programs for

at-risk youth in the county, including creating mentoring programs and fostering good health. The county may also establish, construct, maintain, and operate solid waste disposal sites which are convenient to the county's residents. The county commission is charged with maintaining the disposal site, including hiring all employees and purchasing all equipment necessary to the efficient operation of such a site. The commission may levy a .04% tax and assess use fees on residents to fund the disposal site. Operation of a disposal site may be performed jointly with another county.

Two or more counties may create regional compacts to establish solid waste disposal districts. Such a district, managed by a board of directors who provide solid waste disposal services to county residents in multiple counties, may not levy taxes. Any participating county may not operate its own solid waste disposal facility.

The county commissioners may establish, create, develop, own, maintain, and operate for the maintenance of energy facilities. Such facilities may include geothermal energy units for heating and for the benefit of county residents, as well as a facility not to exceed 25 megawatt capacity which consumes only landfill generated gas, wood waste, or another sustainable biomass fuel for energy.

The county may also operate water services, which includes the power to acquire land and facilities, as well as construct, enlarge, and maintain water services and water distribution networks. The county may only provide services in unincorporated parts of the county. The commission may assess fees for use of the system.

### **Roads, Bridges, and Transportation:**

The board shall lay out, establish, maintain, and manage public roads, turnpikes, ferries, and bridges within the county. The county need not perform these duties in highway districts established by the state. To fund their initiatives as they relate to infrastructure, the county may levy a tax. The county may hire inmates of the county jail to work on county roads.

The county commissioners, if they believe it to be in the public interest, may operate a public transportation system, including fixed transit routes, shuttles between cities and counties, and paratransit for the elderly and disabled. The county may accept state and federal grants to fund the project.

### **Recreation, Leisure, and Culture:**

The county may obtain land for parks by purchase, gift, lease, or eminent domain. The county may put any such land to use for public purposes related to the operation of county recreational use. The county may additionally acquire land for fairgrounds and may subsequently establish and maintain the facilities for fairgrounds. The county may levy a .01% tax on assessable property in the county in order to fund the fairgrounds and a .02% tax on assessable property to fund permanent exhibitions of county agricultural products on the fairgrounds, but it may not use such funds for any other reason.

Following the petition of county residents, the commission may hold an election for the establishment of a recreational district. The district may provide recreational services, from public pools to sports fields, to county residents. The commission may levy a .06% tax and also hold bond elections and subsequently contract debt to fund the district's work.

The county commission may create a county museum board and appoint members to serve on it. The county may appropriate funds to create a county museum and may charge the board with

maintaining the museum and preserving the county's cultural and physical history. No tax levied for the museum may exceed .03%.

The county may support historical societies which are considered nonprofit organizations in Idaho. The county may levy a property tax of .012% to fund the society, provided that the organization gives the county a proposed budget.

### **Alternative Forms of Government:**

Though no county has adopted an optional form of government, counties have the power to increase their commission sizes from three to five or seven, to appoint row officers, to adopt a charter, and to adopt elected executive/commission with executive veto power and appointed manager/commission forms. Upon petition of the county electors or resolution of the county commission, the optional form of government may be put to a vote. Following an affirmative vote of a majority of electors voting in the election, the county may adopt an optional form of government. Prior to placement on the ballot, the county must appoint a study commission to examine the changes that would occur as a result of transition.



# Illinois

## **Introduction:**

The Illinois State Constitution and Chapter 50 of the Illinois Compiled Statutes Annotated establish the legislature's power to set county boundaries and provide for county government. Illinois leaves the power to set the size of the county legislative body up to the electors in each county. The constitution and statutes lay out county powers and responsibilities save for counties which achieve home rule status by creating an elected executive position. All counties have the authority to alter their governmental structure by referendum. Illinois allows governments to participate in regional councils, wherein elected officials come together to discuss and study issues facing governments regionally rather than locally and promote intergovernmental cooperation to face those problems.

## **County Finance:**

The county's governing body has the authority to develop a budget, including tax levies and expenditures, based on the recommendation of county department heads. Until the county legislative body adopts the budget, it does not become law and no appropriations can be made. The tax levy may not exceed the constitutional limit of seventy cents on every hundred dollars of assessable property in the county unless the county electors vote by referendum to raise the ceiling. When financing a public improvement, counties may make special assessments on the property which benefits from the improvement to offset the cost. The county may additionally hold election to make special assessments above and beyond those permitted by the constitution to offset rising costs of operations and public improvements.

Counties may contract debt up to 2.85% of the assessed valuation of property in the county, provided such debt will mature in 40 years and that the county has the funds to discharge the debt. However, the county may contract debt in excess of this amount for the construction of necessary public buildings, including courthouses and jails. To increase a county's credit, the legislative body may enter into agreements to provide additional security or liquidity for bonds and may additionally provide for the defeasance of county debt. From time to

time, counties who have revenue coming in for the fiscal year may issue notes in anticipation of such revenue. The county may issue bonds for a variety of lawful purposes, including construction of public buildings, and may issue industrial revenue bonds for the revitalization of industry and the reduction of unemployment in counties.

If a fiscal emergency, defined in Illinois statute as a default on a debt for more than 180 days or the inability to pay 20% of the county staff, then the governing body of the county may, by a vote of a two-thirds majority of the legislative body, ask the governor to establish financial planning and supervision commission. The state appointed commission shall take action to restore sustainability to county finance.

## **Contracts:**

County commissions have the authority to enter into contracts to exercise any lawful authority or to execute any lawful function delegated to county governments by the state. Counties may exercise the power to make local improvements jointly with cities and other municipalities located within the county's corporate boundaries. In addition, counties may contract for professional legal, engineering, or architectural services when such services are required for public buildings or improvements. The county may additionally require that contractors providing services to counties be permitted or licensed by the county.

## **Zoning and Land Use:**

County legislative bodies have complete control over county lands and public buildings, and may exercise that authority in the county's corporate name. County commissions may cede unused property to municipalities or lease unused space in courthouses to public and private entities. Counties additionally have control over the air rights above public buildings, though they may sell or lease air rights to private developers to construct private buildings atop public ones if the scarcity or expense of land hampers economic development. Counties may enter into contract to refit public buildings to be energy efficient if such renovations will save money in reduced energy costs, though historic structures



are protected from the terms of the act. The contract to refit public buildings must be guaranteed to provide savings.

Counties have the authority to plan and make zoning ordinances within the corporate limits of the county, including the development of a comprehensive county development plan and the ability to make zoning ordinances to effect that plan; however, no zoning ordinance may contain rent controls. Zoning ordinances may include in them a building code which establishes a standard for building materials, safety precautions, and other building characteristics in certain zones of the county. Counties may additionally reserve the right to require that buildings be resistant to flood damage, runoff, and melting snow by permitting such buildings. Though counties may regulate any building construction, they are specifically empowered to investigate and permit bed and breakfasts, dance halls, and road houses to ensure public safety and health. Counties which make an effort in their development plan to preserve natural resources, open spaces, and forest lands, among other things, are eligible to receive grants from the state. Counties and other governments may join together in a regional planning commission to make use of information from multiple levels of government. The regional commission must create a development plan for the area and promote cooperative development among counties, cities, and municipalities involved in the regional planning commission.

In counties where outmoded or inadequate public facilities exist, the county legislative body may hold an election to create a public buildings commission. The public buildings commission shall be charged with constructing, acquiring, enlarging, improving, repairing, or replacing a specific public building or improvement or class of public buildings, such as waterworks. The commission, as a body corporate and politic, may enter contracts, contract debt, and receive money from the county to execute its purposes.

Counties facing economic distress may request to be certified as economically distressed communities by the state. Upon certification, the county may create a community revitalization board to increase the county's human resources and revitalize local businesses. The board is eligible for state aid in attempting to revitalize. The county may additionally create economic development areas by ordinance and, in those areas, issue bonds and

levy taxes to fund the execution of an economic development plan.

Due to recent shifts in the housing market, the county government has the authority to acquire mortgages by contract or purchase, either singly or jointly with another government, and to refinance the same to provide affordable housing to county residents. Counties also have the authority to create STAR bond districts, in which the legislative body may issue bonds to finance the revitalization of tourism, retail, and commerce. The legislative body must retain the authority to approve any project which receives STAR bonds funds.

The county commission may cede the administration of county cemeteries to boards of trustees consisting of three members who shall maintain the cemetery in a respectable condition. A county containing a cemetery which is un-owned by any public or private entity may take over the cemetery and cede administrative responsibility to the county government. The county may levy a tax to provide for the maintenance and upkeep of the cemetery. The county may appropriate any funds for neglected graves to put them in a more respectable condition. To provide for deceased veterans in the county, the commission may appoint an individual to have charge of the veterans' bodies and may additionally pay for burial in a county cemetery.

### **Public Safety, Health, and Sanitation:**

Counties may establish a safety council to provide educational and safety programs which promote the protection and conservation of life and property, as well as prevent accidents in the county. If unorganized townships in the county lack police service, the county may contract with the sheriff's department to extend service over the township. Counties may appropriate up to \$10,000 to the county sheriff to maintain junior deputy program for children aged 10-16.

Counties may establish boards of health to coordinate with all county health agencies to provide comprehensive health programs. In addition, the board may promulgate rules and regulations which the county commission may enforce related to public safety and health in public places, including restaurants. The board may additionally study and abate contagious disease outbreaks. The county may additionally operate county nursing homes for elderly county residents upon approval by referendum.

Counties with populations less than 200,000 may incur debt, levy taxes, and make appropriations to acquire land for and construct, maintain, improve, and operate healthcare facilities; however, any contracted debt must be approved by referendum. The county legislative body shall have administrative and supervisory power, including the power to acquire equipment and hire necessary personnel and doctors, over the hospital or healthcare facility unless delegated to another public or private entity under the supervision of the county legislative body.

Any county may issue revenue bonds to provide medical service facilities following a majority vote in a referendum of the county electors. Bonds issued in this manner shall constitute a lien on county revenue until discharged. Counties are also responsible for certain supplemental care services. Counties must care for individuals with mental, emotional, or physical handicaps and developmental disabilities. To do so, they may levy a tax or issue bonds, as well as direct healthcare facilities receiving county funds to accept such residents as patients. In addition, board may operate tuberculosis sanitarium and provide funds to assist county residents with cancer or cancerous tumors.

The legislature mandates that counties establish Children's Advocacy Advisory Boards to advocate in court on behalf of at-risk, foster, orphaned, and delinquent children in the county, as well as to advise the county commission regarding children's issues. The county may additionally establish by resolution a Children's Advocacy Center to coordinate the activities of various departments providing child services in the county. The county commissioners may establish a separate holding facility for juvenile delinquents to keep them separate from adult prisoners, provided the facility meets the minimum standards issued by the Department of Justice.

Counties may operate garbage disposal service by resolution, enabling the county commission to acquire, construct, improve, operate, and maintain garbage disposal facilities. The county may issue bonds and levy a tax to fund the construction, in addition to charging service fees on residents who make use of the garbage disposal service.

County commissions are authorized to acquire, construct, maintain, and operate sanitation facilities and sewerage facilities. Counties may levy taxes and contract debt to construct the facilities, as well as charge user fees for use of the sewage services.

Sanitation districts created under Illinois law may contract with counties to provide sewerage service to the county's residents.

Any county is authorized to acquire, construct, establish, maintain, and operate a plant for processing coal for the preparation and treatment of coal mined in the county. Counties may issue revenue bonds for the execution of this authority, as well as sell any coal processed in the plant to other governmental subdivision of the State of Illinois.

Counties may also operate, either singly or jointly, wind farms to furnish electricity to public buildings so long as the farm directly or indirectly lowers county operations costs. The county may seek assistance from any state or federal agency to fund the project.

Counties may establish a department of public works to acquire, construct, operate, and maintain waterworks and water distribution facilities. The department may charge for the provision of water service, as well as receive tax levies from the county commission.

### **Roads, Bridges, and Transportation:**

Counties have control over public roads, bridges, easements, and other rights-of-way located within their corporate boundaries. This extends to allow county commissioners to lay out, construct, maintain, and operate public roads and bridges, as well as parking facilities.

### **Recreation, Leisure, and Culture:**

The county commission may employ any real property it holds or may acquire additional property for the construction of public parks and recreational facilities.

Counties having more than 100,000 residents but less than 500,000 may establish exhibition councils as bodies politic and corporate in the State of Illinois. Exhibition councils have the authority to put on expositions, theatrical productions, concerts, recitals, and cinematic productions, as well as industrial, trade, scientific, cultural, and educational exhibits. The six commissioners of the council may acquire land for public facilities in which to put on these exhibitions, including stadiums, public auditoriums, and civic centers. The council may receive funds from the county commission, borrow money, and charge reasonable admission to events to fund its activities.

To preserve sites and artifacts of historical interest to the county, the county legislative body may appoint a historian to oversee preservation activities. The historian may also cooperate with local civic and patriotic organizations to execute any activity related to local history or the publication of local histories. The county is empowered to encourage historical research in the county by publishing historical documents independent of the historian. Counties may additionally cede historic documents or articles to any of a number of libraries and archives for preservation.

To display the county's historical artifacts, the commission may hold an election to create museum district. If the referendum passes, then the county may acquire land for and construct a museum in which to display county artifacts and educate the public about county history. The county museum district must be administered by a county museum board.

Counties must establish public library services free of charge to the public. Such libraries must be administered by a library board which shall provide all necessary personnel and equipment to operate the library, unless the county contracts with a municipality or other library district to

furnish library services to the county. The county commission must fund library services by the levy of a tax.

The county may include in any zoning ordinances provision designed to preserve historic sites and buildings, and protect the same from alteration or destruction. If the county has funds available, it may acquire historic sites for the restoration and rehabilitation of the site.

Counties may hold a referendum, contingent upon approval, construct or erect memorials in honor of soldiers and sailors from the county who died in any United States war. Once constructed, the county must provide for the maintenance of the monument.

### **Alternative Forms of Government:**

Any county which opts to have an elected executive is considered a home rule unit. The county may establish an elected executive by resolution of the county commission, which must then be put to a vote before the county's electors. The executive shall take all administrative and appointive responsibility from the county legislative body. In addition, the executive has veto authority on all county ordinances.

# Indiana

## **Introduction:**

The Indiana State Constitution and Title 36 of the Indiana Statutes Annotated establish the governing structure of Indiana's counties and powers granted to county governments. In 1980, the state legislature granted all counties home rule powers. With that statute, counties received the authority to take any action not specifically denied by either the constitution or state law. The state legislature specifically withholds the power to impose excessive fees, regulate any activity already being regulated by a state agency, impose excessive fines for violation of an ordinance, invest money, or hold an election not specifically described in state statute.

## **County Finance:**

Commissions have the authority to establish budgets and make appropriations. Counties may also establish cash change funds and petty cash funds to provide depositories for county officers who collect cash on a daily basis, as well as a means of withdrawing petty cash for minor expenditures. To aid the county in times of economic distress, the commission may establish a rainy day fund whose assets may not exceed ten percent of the county's annual budget. Whenever the county receives matching funds from the state government, the county must place such funds in a special account. The county may also transfer money between funds for the purposes of steady cash flow if the county would otherwise be forced to borrow money to maintain cash flow. Counties may establish funds for the deposit of special taxes and may withdraw money from a special fund to discharge the purpose for which the fund was created. If there remains an unencumbered balance in a special fund following completion of the project for which the money was originally raised, the county may transfer the money to a general fund or rainy day fund.

While a county may borrow money and contract debt on the credit of the local government, no county may contract debt in excess of 2% of the value of taxable property within the county. Counties may exceed the limitation on indebtedness if they receive a petition of county electors to exceed it. Counties may take steps to discharge debts as well. Any debt in excess of the maximum legal limit

is void. Counties may compromise claims they hold against other entities, as well as collect money owed to the unit.

Counties may establish a cost saving incentive program where the governments awards bonuses to employees who demonstrate a commitment to cutting government costs. The county may appropriate money to fund such awards to individual employees or to groups of employees who cooperate to initiate cost saving measures.

Counties may donate the proceeds from grants, gifts, donations, endowments, bequests, trusts, or riverboat gaming revenue to a charitable nonprofit community foundation. The county may attach conditions to the use of the money.

## **Contracts:**

Counties as bodies corporate and politic have the authority to enter into contracts and agreements for the exercise of county authority and the execution of county functions. Counties may enter into interlocal agreements with other governmental subdivisions of the state, as well as the state and federal governments, to exercise any power jointly with the other governmental entity or to exercise any power on behalf of another entity. Counties may appropriate money and employ personnel to execute the terms of any contract.

## **Zoning and Land Use:**

Counties may hold property in their corporate name and may acquire land by purchase, lease, gift, or eminent domain. When a county's interest in property no longer exists, the county may sell or lease such land to dispose of its interest, provided the rate of the lease is within five percent of the average rate charged per square foot of land within the county. The county may appropriate money and levy taxes to lease property to be used for a public interest.

Counties may construct public buildings and public works which contribute to the public good and may levy taxes and appropriate money to fund construction projects. Counties may establish courthouse building funds to be supplied with capital by a tax levy for the construction, improvement,



and maintenance of a courthouse. Counties may establish a county buildings office with building inspectors and a building commissioner to oversee public buildings. The county may either use its own resources and employees to complete the project or may contract with other public and private entities to complete it. Counties may establish multi-county juvenile detention centers in conjunction with contiguous counties.

Counties may contract to provide energy conservation measures for any public building or work, provided the county commission finds that engaging in such a contract would save money by cutting energy costs. The board of commissioners may also consider using energy efficient technology as defined by the state legislature to save on operations costs of public works.

Any county with a building office may establish minimum standards for plumbing, electricity, and sanitation, as well as minimum standards for affordable housing projects within the county. Counties may also establish building authorities, governed by a board of trustees, to construct government buildings and systems and lease them to eligible entities.

Counties have the authority to plan for the use, maintenance, and improvement of real property located within the county, including the authority to plat and subdivide the county into such zones as may be convenient to exercise planning powers. The county planning authority is intended to plan highway systems, grow communities with adequate public utilities, health, education, and recreational facilities, serve the needs of agriculture, forestry, and business, and promote the economic use of public funds in growing an economically stable county. To that end, counties may establish a planning commission to assist in developing a county development plan, which the county may enforce by issuing zoning ordinances. The county may additionally join a regional planning commission which considers the development plans of a contiguous region of counties to coordinate efforts and zones to provide for regional growth. The regional planning commission has similar authority to a county planning commission in that it may use maps and plats to draw up a development plan, though its role is more advisory with respect to the county development plan.

When issuing zoning ordinances, the county must also establish a board of zoning appeals, which shall hear grievances related to county zoning ordinances and attempt to resolve them. Regional planning commissions may also have boards of zoning appeals to redress grievances at the regional zoning level. The county may also hire building inspectors to inspect buildings and enforce whatever regulation counties may make regarding the construction, maintenance, and improvement of buildings. Counties must adhere to the building code promulgated by state agencies, though they may make more stringent regulations. Counties may vote to charge an impact fee on improvements to public and private buildings and use the fee to provide infrastructural improvements. While counties may issue reasonable regulations about the placement of manufactured homes, they must issue zoning ordinances which reasonably accommodate amateur radio antennae.

Counties may join multi-county special plan commissions for reservoir areas. The commission has advisory authority regarding the use and maintenance of the reservoir for the member counties, though the commission is subject to all laws governing interlocal agreements. Planning and zoning commissions may not exercise authority in the multi-county commission's jurisdiction.

Counties may create economic development commissions to create or retain opportunities for gainful employment, create business opportunities, provide reliable water services, prevent or abate pollution, and serve any other purpose that will benefit the economic health of the county. The commission may be funded by a special tax levy and may additionally issue bonds to acquire land and facilities to achieve its purposes. The county commission may assess fees in economic development districts to fund economic development projects, provided such fees go back into funding economic development.

Counties may also create economic redevelopment areas and redevelopment departments to re-plan and rehabilitate county property and thereby increase public health, safety, and wellbeing. To that end, the county may levy a tax and appropriate money, as well as issue bonds, to fund the commission's projects and goals. The commission may enter into contracts to reconstruct or rehabilitate blighted areas of the county. Redevelopment departments

may also accept money appropriated by the county to make home redevelopment loans to individuals seeking to improve their home. The county commission retains the authority to approve any plan the commission may make. Counties with a redevelopment department may also create redevelopment authorities which may exercise all of the same powers as the commission and additionally, as a body corporate and politic, levy its own taxes and issue its own bonds. Counties may also enter joint redevelopment agreements in which it cooperates with municipalities and contiguous counties to redevelop blighted areas.

Counties with economic redevelopment areas may establish certified technology parks, where the economic redevelopment commission or authority may expend some of its funds to provide the necessary infrastructure and facilities for the development of high-technology activities.

Counties may establish housing authorities to be headed by a commission with the power to acquire property by purchase, lease, or eminent domain and to establish affordable housing for low-income county residents on that property. The authority may dispose of property and enter into contracts to execute these functions. The housing authority may assess rent charges on affordable housing to fund its activities. In addition, the county commission may appropriate funds in aid of public housing authorities.

Counties may additionally institute an urban homesteading program in which an agency conveys property for one to four families to an individual or family. The individual or family who receives the property may keep it on the condition that the property be rehabilitated.

### **Public Safety, Health, and Sanitation:**

Counties are authorized to operate fire safety and prevention departments. Counties may establish fire districts governed by a board of trustees and therein may provide services for preventing and protecting life and property from fires. The county commission may issue bonds and levy taxes to fund the operation and management of such a district. Fire departments may additionally assess a fee for handling dangerous or hazardous materials. Such a district may be single- or multi-county. Counties may denote certain areas which are congested with buildings as restricted fire limits, and may regulate

the type, number, material, height, and other characteristics of buildings located within those limits to prevent the spread of fire. Counties may contract to provide firefighting and law enforcement services or may contract for the provision of firefighting and law enforcement services.

Counties may operate public safety departments or police departments and may regulate dangerous activity taking place within the county. Counties may additionally regulate public gatherings, though they may not abridge the right of individuals to peaceably assemble.

Counties may make ordinances related to public nuisances, including noise, odors, and rank weeds and vegetation. The county has the authority to define the nature of rank weeds and vegetation, as well as permissible height of the rank weed and vegetation. Dangerous animals also constitute public nuisances, and the county may take steps to regulate and control dangerous animals by destroying them or by placing them in shelters. In the event that a nuisance on private property is not abated by the owner of the property after having been served noticed by the county commission, then the commission may enter onto the property and take action to abate the nuisance. The county may charge the cost of nuisance abatement to the owner of the property, and the charge may constitute a lien on the real estate. Counties may not make any forestry operation a nuisance, nor may it abate forestry activities within the county.

Counties may establish, operate, and maintain hospitals for the benefit of the county's residents. Counties may appropriate money for medical clinics and healthcare facilities that provide healthcare services at no cost to county residents. Funding may be used to purchase malpractice insurance and as compensation for required surcharges. The grant of money does not render the county liable for any action against the facility.

Counties may regulate the handling and disposal of sanitary sewage, including the creation and operation of sewerage disposal system and disposal facilities. The county may additionally construct portions of the sewer system on private land if the property owner agrees to the improvement. The county may assess fees for use of the sewage system. Counties may additionally establish sewage service districts governed by the county legislative body. The district shall provide sewer services to county



residents residing within the district, for which provision the county commission may assess fees.

Counties may additionally create facilities for the disposal of solid and semisolid waste which is not sewage. The county commission may fund such a project by issuing revenue bonds and has complete authority to operate any facility and hire any personnel or equipment which may be necessary to provide solid waste disposal services. The county may operate these facilities alone or jointly with a municipality.

A county may purify the water in a watercourse and use public reservoirs and watercourses to provide water service to county residents. A county may establish and operate waterworks.

### **Roads, Bridges, and Transportation:**

Counties may appropriate money and levy taxes for the construction, improvement, enlargement, and maintenance of county roads, bridges, alleys, or other transportation related public works projects. For the purposes of Indiana statute, airports are considered public works. Counties may widen, dredge, or alter the course of channels in public waterways to build bridges. The county may use either its own employees and equipment or may contract for the completion of the project. Counties may issue bonds and otherwise contract debt to complete any road- or bridge-building project. The county and a municipality may enter into an agreement regarding county and municipal roads, to last no longer than four years, in which the county agrees to provide maintenance or construction services to municipalities in exchange for a service or funds from the municipality. Counties are obligated to assist municipalities in furnishing street lights if the county owns property in the municipality.

Counties may additionally operate public transportation units, including railroad terminals, bus depots, airports, wharves, and other transportation facilities. Counties may regulate public transportation with such rules as may protect public interest and safety, including the power to regulate the price of taxis. Counties may additionally create regional transportation authorities to govern transportation over multiple counties. The authority has the same power as single counties in controlling public transportation, but its governing board may exercise power across the designated region.

Counties may establish multi-county infrastructure authorities governed by boards. The board shall create a long-term infrastructure development plan for the establishment of infrastructure, including roads, bridges, and public transportation. The authority may fund the execution of the plan by receiving money from counties, as well as issuing bonds and levying assessments on improvement areas.

### **Recreation, Leisure, and Culture:**

Counties have the authority to operate recreational and cultural facilities for county residents, including public parks, playgrounds, libraries, museums, community centers, civic centers, auditoriums, arenas, and stadiums. To oversee public parks, counties may create recreation boards charged with acquiring, constructing, and maintaining public parks as well as other recreational and cultural facilities. The board may promulgate such rules concerning park use as may be necessary to maintain the public facilities. The county may establish park districts in which the county may levy a tax to fund parks and other recreational purposes.

Counties with a professional sports franchise, an airport, a museum, a zoo, a performing arts venue, or a facility used to attract individuals to an area of national significance, may establish professional sports development areas in which they may finance special improvements for the sports facilities and levy special taxes for the same.

Counties may create historical commissions devoted to the preservation and restoration of significant historic sites and buildings located within the county. The commission has the authority to establish historic districts and therein to make stringent zoning ordinances which require the maintenance of historic buildings. The historical commission may additionally review and permit all changes and renovations which may be made to a historic building or site, as well as new construction within a historic district. Counties may also create historic hotel commission to oversee the preservation and restoration of historic hotels within the county.

Counties may display personal property belonging to the county which has had a significant historical impact on the development of the county, the State of Indiana, or the United States. The county may

additionally display the Ten Commandments, so long as such a display is not ostentatious and does not draw attention away from other significant documents.

**Alternative Forms of Government:**

The city of Indianapolis and the county of Marion consolidated under act of the Indiana State Legislature to form UniGov; however, no process for consolidation exists in the state constitution or state. Any county seeking to consolidate with a municipality located therein must apply to the legislature for the consolidation of government.

# Iowa

## **Introduction:**

The Iowa State Constitution and Title IX of the Iowa Statutes establish the powers and responsibilities of county governments. Counties may, under Iowa statute, legislate about any matter they deem necessary to preserve the rights, privileges, and property of the county or its residents so long as county ordinance is not inconsistent with state law. Counties may enact ordinances more stringent than state law. Counties may not, however, legislate about civil relationships unless pursuant to a power only counties may exercise. State laws always preempt municipal laws; however, no repeal or grant of power from the State of Iowa limits home rule. In cases of apparent conflict between a state law and a local ordinance where a resolution is possible, both laws continue to operate. If no resolution is possible, then only the parts of the local ordinance which are specifically forbidden by the state law are rendered void.

## **County Finances:**

Commissions must annually establish a budget which sets aside funds for the administration of juvenile justice and for the operation of county detention facilities, allocates money for flood control project funds and for secondary road and farm-to-market road construction, and provides for any other operational expenses which the county may lawfully incur. The county auditor must produce an annual financial report which details the county's financial status. Pursuant to that duty, the officer may examine any financial records held by the county or its officers to ascertain the legality of expenditure.

Counties may levy and collect taxes as prescribed by law; however, counties may provide tax exemption on homestead claimants, military service exemptions, agricultural land tax credit, and for individuals receiving federal or state supplemental security payments. Taxes not to exceed \$3.50 per \$1,000 of taxable property for general county services may be levied on all taxable property in the county, whereas taxes not to exceed \$3.95 per \$1,000 of taxable property for rural service may only be levied in the unincorporated areas of the county. Taxes for debt service may be collected on all taxable property in the county. Counties are explicitly empowered to collect a hotel and transient room tax. They may

collect supplemental levies in order to administer election, provide for joint city-county building authorities, and provide tort liability insurance for the county, among other purposes.

To secure debt and obligations on the county's funds, the board may establish a debt service fund. Such a fund may be maintained by general county revenue to pay off general obligation bonds or other loans. Payment out of said fund may only be authorized by a resolution by the county commission.

All taxes and revenues, unless otherwise provided under Iowa statute, enter the general fund, including business license fees. Appropriations from the same fund may be made to pay the expenses of a joint emergency management commission, establish a memorial or monument, to purchase voting systems, to pay for a county conservation board, to pay expenses related to county fairs, to maintain a juvenile detention home, the relief of veterans, the care and support of the poor, the operation and management of a health center, to pay for a nonprofit historical society, and to provide any county service. Any fund necessary to the efficient operation of the county government may be established by the county commission, so long as such a fund aligns with generally accepted accounting principles. Commissions may not authorize transfers of funds between any of these funds except transfers between the secondary road fund and the rural services fund by resolution.

All taxes and revenues collected as rural service fees must go into a rural service fund for provision of services to the rural, unincorporated areas of the county. Services falling into this category include road clearing and weed eradication, maintenance of a county library, emergency services, and sanitary disposal projects.

To fund essential county projects, ranging in purpose from optional scan voting systems to sanitary disposal projects to county buildings to general projects necessary to the welfare of the county's residents, commissions may issue general obligation bonds. Commissions may take out loans for public purposes provided they do not have outstanding loans and interest which exceeds 10% of the county's annual operating budget. Moreover,

the maximum principal of the loan may not exceed a ceiling established on the basis of population—the larger the county, the greater the initial principal.

Counties must approve a written investment policy to safeguard invested public funds.

Counties are required by law to act upon applications for cigarette tax permits, liquor control licenses, and retail beer permits. Counties may not, however, issue licenses or collect licensing fees from food or drink vending machines or hotels.

County finance committees must create a fund for the administration of the mandate to provide mental health services to residents in need of them. Such a fund may be established by revenues generated from pre-existing taxes.

### **Contracts:**

County commissions may, in the course of constructing public improvements, contract out work and materials to private corporations. In each case, the county shall give preference to Iowa products and labor. In the case of a contract in excess of \$25,000, the county must require bond.

When considered politically or economically expedient, cities and counties may enter into a joint agreement for the operation and maintenance of public buildings, including public schools. In so doing, counties and cities must create an authority to exercise control over joint property, including acquisition of property, construction of buildings, and maintenance of the same.

### **Zoning and Land Use:**

Counties may acquire land by purchase, lease, or eminent domain pursuant to any public purpose. They must provide courthouses, jails, and hospitals, although they may use the land for a variety of other functions, including the operation of parks and lime quarries for agricultural lime.

Counties must divide the unincorporated region of the political subdivision into such precincts, districts, and townships as may be convenient to the operation of the government, including for the administration of voting, for which counties may levy a supplemental tax. Counties may exercise their jurisdiction over the entirety of the political subdivision, except for incorporated cities, and also on bodies of water which serve as boundaries between counties. To aid in dividing the land into

such tracts as may be convenient for zoning purposes, counties may establish a county zoning board to present proposed zones to the county commission

County commissions may establish and use as an advisory board a county land use commission. The land use commission devises a plan which preserves agricultural lands, preserves recreational forests and wetlands, provides for residential, commercial, industrial, and transportation needs, promotes efficient use of energy, and promotes the creation and preservation of wildlife habitats. A conservation board, also established by the county commission, may purchase in the name of the county parkland, recreation areas, and county forests and wildlife areas. The county commission may establish a fund to provide resources to pay for conservation board capital improvement projects and land acquisition. Similarly, a county resource enhancement committee, established by the state legislature in every county, serves to promote the sound and conservative use of resources in counties by coordinating the efforts of state conservation agencies and county land use commissions and conservation boards. Any or all of these commissions and boards may cooperate with the state and federal governments to accomplish their goals.

Commissions may sell land no longer needed for the public good and place the proceeds in the county general fund; however, they may not dispose of public land by gift except for a public purpose. Counties may enter into leases with other parties with similar provisions as leases between private individuals or corporations, including agreement to pay for operational expenses of the facility. They may additionally lease land with mineral or gas deposits for mining purposes by a private corporation. However, the total expenses on all lease obligations the county has may not exceed 10% of the general budget. The allowable amount of any single lease is limited by the population of the county in question.

Counties may not make any ordinance regulating the use of land occupied in agricultural production, including animal feeding or care operations, unless specifically permissible by state law. The board may, however, receive copies of applications for construction permits for confined feeding facilities or may accept applications for such permits on behalf of the State of Iowa. Anyone wishing to establish an area devoted to agricultural purpose in the State of Iowa must first submit a request to the county commission for review and approval.

Commissions may establish by majority vote a county enterprise commission, imbued with all the powers granted the county commission to promote industrial, agricultural, and commercial development in the county. County enterprise commissions may exercise all authority granted to them by the county commission, but may not certify taxes to be levied, issue general obligation bonds, or pass or amend any kind of county legislation. If a commission designates any part of land in the county an “enterprise zone,” they may establish an enterprise zone commission to evaluate businesses which apply to operate inside the zone. The commission shall also disburse incentives or assistance to businesses in such a zone, as well as certify tax exemption. Moreover, the commission may establish a certain standard the business must meet before attaining eligibility for a tax exemption.

When, in the interest of the residents of a county, it becomes necessary to rehabilitate an area in the unincorporated area of the county, the county commission may establish an urban renewal plan. The plan, to be administered by the county, may include the power to designate an urban renewal area and subsequently acquire slums, demolish buildings, construct or reconstruct parks and other public facilities as the board may believe to be necessary, dispose of public property, and reconstruct and renovate buildings. All these obligations may be met either by the sale of bonds or appropriations out of the general fund.

Counties may specifically make ordinances requiring the construction of storm shelters at manufactured home or mobile home properties. The commission may subsequently establish codes pertaining to the shelter, including requirements that it contain a restroom and that it be located in close proximity to the furthest home.

Commissions may seize “pioneer cemeteries,” or those with fewer than 12-15 burials in the past 50 years, and by ordinance administer them. They may fund the restoration of said cemeteries out of the general fund and may additionally appoint a cemetery commission invested with all powers the commission retains with respect to cemetery administration.

## **Public Safety, Health, and Sanitation:**

Counties may supply emergency services, including ambulance, medical, and fire protection services, to the unincorporated areas of the county and unincorporated townships by resolution. Counties must pay for these services out of an emergency services fund, assume all debt previously held by any unincorporated township, and contract to provide emergency services. County commissions must also establish a local emergency management commission, empowered by state code to enact and enforce emergency preparedness, to cooperate with state and federal agencies during times of crisis. The emergency management commission may receive funds from appropriations out of the county’s general fund or from a countywide levy authorized by the county commission.

In addition to county emergency services, counties may levy supplemental taxes to pay for the cost of outpatient or inpatient substance abuse care at the alcoholic treatment center in Oakdale, a state mental health hospital or institute, care of children admitted to the state hospital in Toledo, or for transportation and services provided to individuals attending the Iowa state school for the blind or deaf. Additionally, counties may levy taxes to provide foster care services and may establish services to mitigate the problems associated with the county’s mentally disabled, mentally handicapped, and homeless population, as well as provide county substance abuse centers, county care centers, and county mental health institutes.

County commissions must provide office space in county buildings for a county commission of veterans affairs empowered to assist veterans living in the county, to inform them of local laws enacted for their benefit, and to assist them to obtain any hospitalization, compensation, pension, insurance, or education offered them by law. County commissions must additionally provide for the housing, food, clothing, medical benefits, and burial of indigent veterans.

Weed commissioners may, at the behest of the county commission, make provisions for the abatement and control of noxious weeds found along roadways, in cemeteries, and on other public property. The board has the power to enforce weed control on all private property pursuant to maintenance of public health and safety if the owner fails to do so. Commissions may make assessments on the cost



of weed abatement and penalize the owner of the property in the assessed amount. While counties may not offer bounties on any animal, including wolves other than coyotes, crows, rattlesnakes, and foxes, they may provide rescue and care for displaced or neglected animals. They also have a duty to residents to impound and seize stray dogs.

Counties may operate sanitary solid waste disposal sites, but must register such a site with the director of the Iowa Department of Natural Resources as either a sanitary landfill or as a transfer station to another sanitary landfill in another political subdivision of Iowa or another state. Any private entity or agency seeking to establish a sanitary landfill for solid waste must first obtain the approval of the county governing board.

The county board of health, established by the commission, may make regulations about water quality and service provided in the county to ensure public health. Counties may require the establishment of appropriate drainage facilities, including facilities on private property, for the same purpose.

Counties may establish departments of public works to administer and assist the county and special districts within the county to establish and maintain physical infrastructure. The department may be headed either by the county engineer or any person the board appoints to such a position.

### **Roads, Bridges, and Transportation:**

The board may establish, construct, and maintain all secondary roads (i.e. county roads) by establishing a secondary road fund, contracting out construction and assessment of secondary roads, and abatement of weeds along such roads. They may also enter into agreements with the department of transportation, grant easements and right of ways for the construction of gas and water lines, cattleways, or sidewalks. Commissions retain the power to regulate traffic and administer laws on all secondary roads and are granted jurisdiction over all secondary roads by the State of Iowa. In addition, the board may purchase land to create airports.

Counties may enter into regional transit agreements with contiguous counties, cities, and townships. Subsequent to the creation of a regional transit area, the county must create a regional transit authority to administer the area and provide public transportation coordinated across the regional

transit area. Property held by the county and used for the operation of the district is ceded to the regional authority.

### **Recreation, Leisure, and Culture:**

Counties may empower their land use commission to establish, operate, regulate, and improve parks and recreational services in the county. In addition, the same commission may create memorials to commemorate the service of veteran's of United States wars.

By vote, the people of the county may request the establishment of library services. In the case of an affirmative vote, the commission must create a board of library trustees to construct, maintain, operate, and improve a county library.

The county commission may additionally appoint a state fair board to operate a state fair on county property. The county may appropriate funds to display county goods and resources at said fair.

### **Alternative Forms of Government:**

Counties and city-county consolidated governments have home-rule power to make any local law which does not conflict with any law of the Iowa General Assembly. Home-rule authority does not extend to the power to tax unless specifically authorized to do so by the Iowa General Assembly. No law in Iowa prohibits exercising only those powers expressly granted by the state legislative body; however, Iowa reserves the right to provide for lawful forms of county government and to legislate about taxes.

County commissions may, by resolution, increase their membership from three members to five members. They may subsequently reduce their membership by resolution. They are required to keep records of their meetings and government proceedings in a site agreed upon by a majority of the commission and to provide offices to county officers and court facilities to members of the judiciary. Any resolution made by the county must be published in an official newspaper selected by the commission.

County commissions may establish a board of commissioners to examine the change to an alternative form of county government either by request of the electors of the county. These alternative forms include a board and elected executive form, a board-manager form, charter government form, multicounty consolidation form, and a community commonwealth form.

In the elected executive form, the electors of the county elect an executive who may veto ordinances and resolutions of the commission. The commission may in turn override the veto with a 2/3 majority. If administrative offices are appointive, the board shall have at least five members.

In the board-manager form, an elected board appoints a professional city manager and assigns him such administrative duties as the board may afford

him by ordinance or resolution. If administrative offices are appointive, the board must have at least five members.

In a charter government, a charter commission writes a charter which establishes an elected legislative branch and an administrative and legislative structure. Subject to limitations established by the State of Iowa, the charter establishes the powers and procedures of the new government.

# Kansas

## **Introduction:**

The Kansas Constitution and Chapter 19 of the Kansas Annotated Statutes allow the legislature to establish county governments and grant them authority over local administration of services. The legislature vests legislative power in a county commission made up of three, five, or seven members, and may also establish county offices and county governmental structures. By statute, counties are considered bodies politic and corporate in the State of Kansas; additionally, statute extends counties home rule power to determine their own local government and exercise any authority not specifically denied by the state. Despite extending home rule power, the legislature expressly limits county authority to contract debt, the kind of taxes the county legislative body may levy, and the power of county ordinance to conflict with state statute.

Kansas has a great deal of local legislation which deals only with specific counties. Due to the sheer volume of local legislation, such statute is beyond the scope of this report and so was omitted. However, the report notes when there is substantial local legislation related to a specific topic.

## **County Finance:**

The county legislative body serves as the budget-making authority for the county, with the power to levy taxes, contract debt, issue bonds, appropriate funds, and make expenditures. The commission must cause to be published an annual financial statement for the review of the county's residents. County commissioners may levy property tax on personal and real property to raise funds for public purposes. The constitution establishes legal tax rates for all taxable property and gives the commission the right to exempt property from taxation.

The county commission may contract debt by the procedure laid down in state statute. Whenever contracting debt, the county must be sure to levy a tax sufficient to discharge any debt in the manner provided by the terms of the bond issuance or laid down by law. The county commission is the sole authority which may receive and hear claims against the county and subsequently discharge such claims by monetary payment or by challenging them in a competent court.

County commissions may establish a variety of funds to finance county purposes. Commissions may establish equipment funds to finance the repair and purchase of new county equipment. Counties may transfer money into such a fund from any lawful revenue source, including charging use fees on county equipment. In addition, commissions with a multi-year county capital improvements plan may establish a capital improvements fund to finance the construction or repair of infrastructure and public buildings or any other public improvement described in the plan. To gain money for the fund, the county commission may levy an ad valorem tax. To provide motor vehicles to county agencies, the county may create a central motor pool and fund purchases and repairs by establishing a motor pool revolving fund.

## **Contracts:**

The county, as a body politic and corporate, may enter into contracts and other agreements for the execution of any lawful function or exercise of any lawful power. The county legislative body shall serve as the contract-making body for the county.

## **Zoning and Land Use:**

Counties are authorized to hold and care for personal and real property. The county legislative body is responsible for executing these tasks by acquiring land by purchase, lease, gift, or eminent domain. County land containing mineral or other natural resources, including oil and natural gas, may be leased to companies for the extraction of the natural resource for a term not to exceed five years. If a county chooses to lease public land with natural resources, then it must contract to receive one-eighth of the royalties accrued by the company extracting the natural resource.

The county legislative body must provide a courthouse with fireproof offices and a suitable jail, though they may provide other public county buildings they believe necessary to the proper administration of the county government. The commission may acquire land and buildings by purchase, lease, gift, conveyance, or eminent domain. In addition, the commission may sell or lease county-owned buildings when there is no more public need for the office building. Counties

may additionally operate public buildings jointly with municipalities located wholly or partly within the county. If the county is in need of additional office space and there is an abandoned post office in the county, the commission may purchase it for county use. The county commission may establish a public works department to keep public buildings in good repair. At the request of any incorporated city, the public works department may additionally undertake the upkeep of city buildings.

The county commission retains zoning authority within the corporate boundaries of the county. The commission may divide the county into such zones as may be expedient to regulating business and encouraging growth within the county; however, because Kansas' statute divides counties by population and other characteristics, essentially every county has different authority with regard to zoning. A few common characteristics include the power to regulate buildings inside certain zones and the adoption of a master plan for county growth and development. The extent to which commissions may exercise these powers varies as population. Counties which have or soon will have a plan for county development may fund economic development programs by appropriating money from a general operating fund or levying a tax on the county's residents. The program may be advised by a group of county residents on an advisory board. The county may either execute the program solely or in conjunction with another county.

The county commission has the authority to establish townships upon petition of the residents of the proposed township. The county must cause to be published an announcement of the creation of the township, as well as provide for the creating election districts within the new township.

The county commission, pursuant to its power to divide the county into zones, may create special service districts, which shall include water districts, sewage districts, fire districts, improvement districts, industrial districts, and drainage districts to provide any of the above services to county residents. The county commission must approve all district creation and provide for the manner in which services will be provided. For all districts, the county commission holds elections to the three-member board of directors, who have administrative and supervisory authority over the district. In the case of service districts, the board of directors must provide services; in the case of improvement districts, the

board of directors must provide for the construction of public improvements. All district boards may levy taxes, contract debt, and assess fees following approval by referendum.

Any county may establish an industrial district which may levy taxes to pay off any debt the district contracts in the execution of its functions. The district may construct any infrastructure which may be useful or necessary to industrial development, as well as exercise eminent domain and contract with other public and private entities to execute its service. The district shall be headed by a board of five directors.

The county commission is responsible for managing drought emergencies. If the commission declares an emergency by resolution, it may appropriate funds to purchase pumps to raise water out of the ground, dig wells, and make water conservation ordinances to preserve water resources. Conversely, in times of flood the county may cooperate with the federal and state governments to build flood abatement structures, as well as contract with engineers to maintain such structures. The commission may levy and collect a tax to fund drought and flood abatement programs.

The county commission may care for cemeteries located within the county received either by gift from a city or town or by eminent domain or purchase. The county may make an annual levy to fund the cemetery's operations and preserve the grave monuments therein. The county may additionally take over a cemetery which has been neglected to honor the dead buried there.

### **Public Safety, Health, and Sanitation:**

To protect public safety, the county commission may establish fire protection districts in any part of the unincorporated county, as well as fire protection taxing districts unincorporated towns and villages upon petition of 51% of the electors residing in the proposed district. The commission may appoint the board of trustees of a fire district. The commission may levy whatever tax the petitioners propose when they receive the petition to fund fire protection programs, purchase equipment, and hire personnel. The county commission, which sets the budget for fire protection districts and fire protection taxing districts, may issue bonds in fire protection districts to fund operations. If the county wishes, it may contract for fire service with a city or townships

providing fire protection. Alternately, the county may create a district jointly with an adjacent county.

Counties may establish or participate in weather modification programs by appropriating money from the general fund, from federal or state grants, or from any tax levied for a public purpose. Weather modification may include precipitation and hail alteration, as well as abatement of fog or mist and alteration of wind direction and velocity.

County commissions may abate public nuisances which pose a threat to the county resident's safety or health. Public nuisances include open wells, mines, or other excavations, as well as untrimmed hedges, trees, shrubs, and noxious weeds. The county may take action on public or private land to abate nuisances, though when taking action on private land the county may charge the cost of the abatement to the owner of the property.

County commissions are responsible for preserving public health and welfare, and for contracting for necessary services pursuant to that duty. With that goal in mind, county commissions may establish county hospitals within the corporate boundaries of the county and levy taxes and issue bonds to fund such a project. The commission may cede management responsibility to a board of trustees who shall create a budget and hire an administrator for the hospital. In addition, the board of trustees may promulgate rules and regulations about the use of the hospital and its operation.

The county commission may levy a tax of two mills on tangible property and issue bonds to establish, acquire, build, operate, and maintain a county home for the aged, county infirmary, or county farm. To establish a county home for the aged, county infirmary, or county farm, the commission must hold an election and seek approval for the contraction of debt and the levying of tax from the county's residents. Upon petition of 25% of the county's electors, the commission may hold an election to sell the county home for the aged, county infirmary, or county farm. The county may also fund nutrition, transportation, recreational, and other programs to the county's aged residents and may pay for such programs out of the general fund.

If a county contains only one incorporated city, then it may provide a youth center to administer programs targeted at county youth. The county may levy taxes following approval in an election to fund

programs recommended by an advisory council of fifteen young people in the county.

To provide services to handicapped residents, the county commission may levy a one-half mill tax on tangible property. If the tax receives approval from the county's electors, the commission may collect it and use it to refit buildings to be handicapped accessible as well as provide services to residents with visual and hearing impairments. In addition, the county may join with an adjacent county to provide community facilities for mentally or physically handicapped individuals. Such centers may provide recreational and health services to the counties' mentally disabled residents, and shall be governed by a board. The county commission may levy a collect a tax as well as contract debt for the purpose of funding the center.

Any county may establish a local health department and fund the same for the purpose of enforcing any sanitary code which the county commission may adopt. The sanitary code may provide for licenses and fees for violation of any part of the code, as well as regulate septic tank hauling and cleaning.

All counties in Kansas are authorized to grant franchises to corporations seeking to operate a solid waste management system to remove and dispose of refuse and rubbish. When granting the franchise, the county commission reserves the right to establish a schedule of maximum fees which the corporation may charge for providing solid waste disposal.

Kansas counties have the authority to establish, acquire, construct, operate, and maintain sewerage facilities and sewage mains to collect sewage for treatment, as well as waterworks and water mains for water service. The county commission may issue bonds, levy taxes, and assess usage and impact fees to fund the operation. The county may additionally establish sewer districts in which to levy additional taxes or charge different fees for the provision of sewerage service. The commission has the same power with regard to water districts. The county may operate a district solely or jointly with an adjacent county.

### **Roads, Bridges, and Transportation:**

Counties must maintain a county highway system for expedient transportation through the county; the county commission is charged with laying out, constructing, altering, maintaining, and operating county roads. The commission may additionally enter contracts for the maintenance and construction of



underpasses, bridges, and drainageways. The county commission may establish public works department to oversee the county's highways, including repairing and maintaining all roads. At the request of any incorporated city, the public works department may take over city road maintenance as well.

Counties have the authority to light streets outside of incorporated municipalities, either by entering a contract for the supply of electricity to streetlights or by creating a street light taxing district by petition of 51% of the residents of unincorporated towns or villages. If entering a contract, the county may charge assessments on property which benefits from the light. If creating a taxing district, then the county may tax the residents of the town or village at a rate sufficient to supply streetlights.

The county may grant easements along public highways to petitioners seeking to make some private improvement. Whenever any corporation requests the right to lay water mains along or under public highways, the county commission may grant the corporation that right if the corporation intends to supply water to the county's residents.

The county commission may acquire and operate an airport. Such power includes the authority to levy taxes, issue bonds, establish a governing body, and operate the facility.

## **Recreation, Leisure, and Culture:**

The county may establish and maintain public parks, museums, and recreation grounds and make additions to the same. The county may additionally operate city, town, or village parks, museums, and recreation grounds. To fund the establishment of recreational facilities, the county commission may levy and collect a tax, as well as issue bonds, following approval of each measure by referendum. The county commission, as the governing body of the park, museum, or recreation ground, may promulgate rules and regulations about the use of the facilities and contract with the sheriff to provide law and rule enforcement in the county's recreational areas. When two adjacent counties both wish to operate a park, museum, or recreational area, the counties may join together and share costs and responsibility for administration.

Whenever the county owns courthouse property which is no longer in use, the county commission may exchange the site for other real property and buildings to be used as fairgrounds. The county may levy taxes to provide free fairs on grounds acquired by such an exchange. In addition to the fairgrounds, the county commission may make a levy of one mill on tangible property for the purpose of building and operating 4-H buildings, livestock show buildings, and other agricultural civic activities. Many other public buildings are permitted related to civic centers, coliseums, and agricultural buildings; however, such buildings are limited to certain counties and so are omitted from this report.

# Kentucky

## **Introduction:**

Kentucky's counties derive their authority from the Kentucky Constitution and Chapter 67 of the Kentucky Revised Statutes, which outlines county government authority. The county government is based on a Fiscal Court system which combines three elected commissioners with the judge of the county court to form a governing body. There are two forms of the fiscal court: a magistrate with an elected executive and a commission with an elected executive. The magistrate form elects Justices of the Peace, whereas the commission form elects commissioners. Neither type of government allows these elected officials any judicial power. Both types allow for the election of a judge or county executive to head up the commission and serve as the county administrative head. To determine which system the county shall use, the question must be put to the electors of the county during a general election. The county has the authority to extend its powers beyond the state code to exercise functions expressly attributed to counties, though it may not extend its powers to undertake any endeavor not explicitly mentioned in the code. That is, because counties have the authority to establish a budget, they may undertake any action related to establishing a budget. As regulation of marriage is never mentioned in the county code, fiscal courts may not regulate them in any way.

Kentucky treats counties which have no unincorporated areas or which are considered urban-counties differently based on the number of people they must serve. In those cases, the county governments have special powers related to services and revenue generation. Counties which meet these standards are not discussed below as they are special cases, but may be found in the state code.

## **County Finance:**

The county legislative body is charged with establishing a budget and uniform budget practices for the county. The fiscal court must adopt a budget in which expenditures do not exceed revenues. The county may appropriate money for any lawful expenditure, however any expenditure in excess of revenue is illegal. Counties may expressly levy taxes to generate revenue for county functions. Counties

may not levy more than fifty cents on every hundred dollars of taxable property in the county. However, counties may also levy a special ad valorem tax not to exceed fifty cents on every hundred dollars of taxable property in the county for a special purpose or capital improvement subject to approval by a referendum of the county's electors. The county may not, however, expend these funds on anything other than the special project. When the special project is completed, excess funds may be transferred to the general fund. The county may also levy a tax equal to or less than the county's prevailing rate of tangible personal property on business inventory. The county may also levy any tax which is not in conflict with the state constitution or laws.

The county may establish a county building fund and set aside money into the same in order to acquire land and construct buildings for the county use. At any time when the fiscal court raises levies, the board may decide to set aside a portion of the levy for the building fund. The court may access these funds whenever it seeks to acquire land or construct a building. The county fiscal court may transfer money between funds in cases of emergency or large upswings in demand.

Lawful appropriations include appropriations to cities within the county. The county may also accept appropriations from the city for special services. Counties may additionally donate money to nonprofit charitable community foundations if the foundation intends to use the money to construct a public building.

Counties are expressly authorized to contract indebtedness not to exceed two percent of the value of taxable property within the county unless public health and safety demand increasing the county debt. If the county chooses to contract debt, it must provide a tax that will pay of the debt within forty years. Counties may not issue a single bond which exceeds one-half of a percent of the value of taxable property within the county. The county may surrender its sinking funds and any money received as part of a special tax to retire debt to the state to control the money and retire the debt on the county's behalf. In extreme cases, counties may seek the approval of the state to file for bankruptcy.

Counties must pay for any purchase made within 30 days of receipt of the purchased good.

### **Contracts:**

Counties may enter into contracts and agreements in order to provide for public health, safety, and welfare. Any powers granted to any public agency may be exercised jointly with any other public agency, including local agencies and governments, state agencies and governments, federal agencies, and the federal government. Counties may also cooperate across a large region for revenue sharing, the distribution of revenues to be determined by the interlocal agreement. Counties may also enter into a service payment agreement to periodically pay for the provision of service, as well as purchasing program compacts to purchase certain equipment for two or more governmental subdivisions simultaneously. If in violation of a service agreement, such a violation constitutes a lien on county real estate. When exercising powers jointly as above, the county and other party may agree to issue revenue bonds to fund any construction associated with the joint exercise of power. Counties may enter in to contracts which are expressly permitted by law; however, if a county enters an illegal contract, it may not pay off any claim charged against the county by the other party or parties of the contract.

The county has the authority to license the sale of alcoholic beverages, adult entertainers, and other commercial enterprises. The county may additionally give licenses or franchises for the supply of cable television within the county.

The county may license an off-site waste management and disposal site and facility located within the county. The license may be a tax of up to 2% on gross receipts of the facility. The proceeds from this licensure shall be used to defray county government expenses related to providing infrastructure and emergency services to such a facility.

### **Zoning and Land Use:**

The county legislative body has control and care of county property, including the ability to acquire by lease, sale, or purchase and the right to sell or lease any property which is no longer beneficial to the public good. Counties must provide for the construction of all necessary county buildings, including courthouses and jails, among others. The county must also provide juvenile detention and holding facilities.

The county may divide the county in such zones and districts as may be convenient to the administration of county building code and zoning law, including service districts and tax districts. This includes laws to conserve natural resources and wildlife, control floods, facilitate the purchase of new housing or redevelopment of old housing, the preservation of historic structures, provision of cemetery preservation and memorials, and the regulation of adult entertainment venues and activities. The fiscal court may also adopt a building code to set minimum standards of safety for buildings constructed within the county. The county fiscal court may hire building inspectors to enforce the code by civil action.

The fiscal court may delegate the financing and supervision of land acquisition and construction to a county buildings commission, which shall consist of three members appointed by the county fiscal court. The commission may exercise the power to enter into contracts, to construct and remodel county buildings, to borrow money and issue bonds, and to create special fund to pay off said bonds in the interest of constructing buildings for the county's use.

Counties may, upon petition of county electors, create a taxing district to provide a special service in a certain area. The tax in question, if agreed to by a majority of electors residing in the district, shall be used to pay for a special project or capital improvement. Counties may also create special non-taxing districts following a petition from county residents. Non-taxing districts may be used for administrative purposes or for the provision of a kind of service; however, no additional taxes may be levied in the district. The county may not create a district or zone or at any time place a rent control on property in the county, as the Kentucky Assembly retains that power.

County legislative bodies may create authorities to establish, maintain, operate, and expand river port and river navigation facilities as well as industrial park land which will directly or indirectly attract river-related industries. The riverport authority may also attract commercial and industrial operations to industrial parks near the river and riverport facilities. The authority may make contracts, acquire any land and facilities as may be necessary to carrying out its goal, and may additionally fix and assess fees for use of riverport facilities. The authority must be managed by a board appointed by the county commission.

The county may establish a housing authority either alone or jointly with a city contained within the county to acquire property for low- and moderate-income housing for county residents without the means to afford other housing. The authority may exercise eminent domain, contract debt, and accept appropriations to fund its operations. The housing authority may also be created regionally to provide housing across a large number of counties.

The county may create cemetery board to provide funds to nonprofit cemeteries for preservation. The board shall receive funds from the state for executing this purpose.

Counties may establish development areas in which they may issue increment bonds, establish funds for the retirement of such bonds, and impose assessments, all to fund economic development projects. The county may assess a fee on any individual who receives a job in the development area as a result of a development project. The county may not cause the value of taxable property within the development area to exceed 20% of the total value of taxable property in the county. The county may exercise its power without restriction if the land is undeveloped. If the county finds that the area meets at least two conditions, including substantial loss or abandonment of commercial, residential, and industrial buildings, contamination of the land, deterioration of over fifty percent of the buildings in the area, or inadequate public infrastructure, then the county may create development area for reinvestment and rehabilitation. All development areas must have a development plan, which may be proposed by an individual or public agency, and approved by the county legislative body. The county may fund the development plan by using up to one-hundred percent of incremental tax revenue, un-appropriated revenue in the general budget, and by levy of a special assessment to support bond issuance. If the county uses increment bonds for any project, it must establish a fund to retire the same bonds.

Economic development districts may levy additional taxes to provide higher levels of service to county residents. Such districts may be considered industrial taxing districts. Any ad valorem tax levied may not exceed ten cents on every hundred dollars of taxable property. Every such district which levies these taxes must be administered by a board of trustees appointed by the county legislative body.

All counties are considered air pollution control districts, provided the county legislative body agrees

such a district is necessary. Headed by boards with members appointed by the county legislative body, these districts aim to mitigate the damaging effects of air pollution in the county. The board may also establish rules regarding emissions within the county.

Upon approval of the fiscal courts of both counties involved, the two governments may create a special district to provide any service the counties may both lawfully provide over a larger area. The counties must establish a governing board with the membership to come from each county in proportion to the population of the county that resides within the special district.

Counties may cooperate on an interlocal level to create land bank authorities with the power to seize tax delinquent property and turn it from non-tax producing, non-productive land into productive, taxable land. The county must establish a board to oversee the seizure of land and to administer all the interlocal land bank authorities' duties.

### **Public Safety, Health, and Sanitation:**

Counties may provide police and fire services to preserve public health. In addition, the county may establish a merit system to provide for the promotion of policemen and firefighters. The county may assess a subscriber's fee or membership charge to individuals who benefit from fire protection services on top of property taxes to fund a fire department. The county also has the authority to create a county police department or an auxiliary police department whose jurisdiction shall be coterminous with the boundaries of the county. The county legislative body shall appoint all members of the police department for one year terms and also empowers the officers to enforce local ordinance and code.

Counties may, in the interest of public safety, fire safety, and emergency medical service provision, establish fire protection or volunteer fire department districts and ambulance service districts within the county. The county may fund these districts with ad valorem taxes to provide facilities, emergency medical services, equipment, and employees. These districts may alternately contract for services. Counties may partition the county into fire protection sub-districts, to be run by a board of trustees who may impose ad valorem taxes to improve facilities and equipment for the fire district. All districts may assess fees for the benefits of fire protection and emergency medical services.



Counties with a county-wide fire district which provide fire services to the county's largest city may establish a single county emergency board to merge all ambulance, fire, and rescue squad districts. The board shall have all authority exercised by the smaller boards, including taxing and service fee assessment powers, and the power to oversee all emergency services in the county. The board may keep in place any ad valorem taxes which exist at the time of its creation; however, the board's new levy of ad valorem tax may not exceed ten cents per hundred dollars of taxable property within its jurisdiction. The county emergency board may also merge with adjacent county emergency boards to provide services over a larger area and participate in revenue sharing. The board, whether single- or multi-county, shall consist of a number of individuals to be set and appointed by the county legislative body. If the board decides to provide services through a county agency, then the levy of ad valorem taxes may be levied by the county fiscal court above and beyond other tax limits.

County legislative bodies may not make ordinances prohibiting the purchase or ownership of firearms, nor the purchase of metal or metal containing products, including ammunition. The county may sell firearms belonging to the sheriff's office provided the proceeds are used to purchase body armor for county public safety officials. The county may not bring suit against any firearms manufacturer, trader, or dealer for possessing, selling, making, or transporting any type of firearm or ammunition.

To preserve public health, the county has the authority to control wildlife and abate public nuisances, as well as to eliminate disease-carrying vectors. Counties also have the authority to acquire, construct, operate, and maintain county hospitals and clinics, as well as other programs for juvenile and senior health. The county may also provide sewerage service and solid waste disposal services to protect public health.

Counties have the authority to hold inherently dangerous wildlife which represents a threat to public safety. A full list of species which may be lawfully detained may be found in the code. Counties may also declare an area of the county to be an epidemic area and may therein abate wildlife which carries a disease that might be harmful to humans.

The county may establish a code enforcement board with the authority to issue remedial orders and impose

civil fines as a means of enforcing civil code. The county legislative body may classify any violation of county ordinance as a violation of civil code with a maximum and minimum monetary penalty for the purposes of enforcement.

Upon petition to the Public Service Commission of at least five landowners in the area seeking to be serviced with water, the Public Service Commission may create water service district to exercise all necessary power to provide water and sewerage services. The district may also acquire and operate a natural gas provision and distribution system. The district shall be administered by a board with members appointed by the county legislative body. The county fiscal court may pay part of the cost of operating the water service district, including expansion of the water distribution system.

Counties may designate public service programs as new or newly expanded organizations which provide services to the county residents. The county may levy an ad valorem tax not to exceed ten cents on every hundred dollars of taxable property, as well as a one-half percent occupational license tax to fund new expansions of county services. Designation as a public service program, as well as levy of taxes, requires elector approval.

### **Roads, Bridges, and Transportation:**

Counties are required to maintain a stable infrastructure in the county in the form of roads, bridges, and other rights-of-way. The county may borrow money from the state government to provide roads, so long as the credit extended does not exceed five percent of the value of taxable property in the county. The county may vote to incur additional indebtedness, as well as levy a twenty cent tax on every hundred dollars of taxable property to pay off indebtedness and establish a sinking fund for the same purpose. The county may grant franchises to public utilities seeking to construct public roads.

The county may create public transportation systems, including buses, subways, port facilities, and airport facilities. The county may regulate traffic on these streets, as well as taxis and other transportation units for hire.

The county has complete authority to lay out, establish, and construct sidewalks, curbs, and gutters, provided that any sidewalk contiguous with a highway and zoned for at least fifty percent residential, commercial, or industrial use must supply wheelchair ramps.



Counties may not regulate the use of mobile phones while operating motor vehicles.

### **Recreation, Leisure, and Culture:**

The county may own and display any historical religious and nonreligious artifact, monument, or symbol, as well as any historical text, including religious text, in public buildings. Counties may also preserve land as county park land when it has some aesthetic value for the public or may be used in the future for county development. Certain counties, notably urban-counties, may create parks and recreational facilities.

### **Alternative Forms of Government:**

Counties are permitted by the legislature to consolidate services or and exercise greater power by writing a charter. The charter commission to study and draft the charter may be initiated either by the fiscal court or by a petition of voters. The final

charter must be approved by a majority of voters in the county, must describe the structure of the new government, and must specifically lay out all of its duties. Charter governments have home-rule powers, meaning that they may exercise powers which the state does not specifically deny them. The state has a separate section of code which discusses the powers and prohibitions extended to charter governments.

Counties may also choose to unify governments or services with one or more city governments located within the county. This form of government, known as a unified city-county, may exercise functions of both a city and a county simultaneously to streamline service provision and make for a more efficient government. The unification is subject to approval by both the city and county legislative body and the electors residing in the county and city. The state has a separate section of code regarding unified governments and outlines their powers and responsibilities.

# Louisiana

## **Introduction:**

The Louisiana Constitution and Title 33 of the Louisiana Revised Statutes imbue parishes with local governmental authority. Vesting legislative power in police juries, the Louisianan equivalent of county commissions, the statutes and constitution enumerate the local government's powers. Police juries may redistrict the parish into up to twelve wards, each of which may elect a police juror to serve on the parish legislative body. Police juries are empowered to hire parish managers to oversee daily administrative functions.

## **County Finance:**

The police jury has ultimate authority over the parish budget, including the power to levy taxes, contract debt, impose reasonable charges for service provision, establish county employee salaries, and appropriate funds for parish expenditures. A financial report on the state of the county must be included with the budget. Parishes may levy an ad valorem tax up to four mills on every hundred dollars of taxable property in the county and an occupational licensing tax not to exceed the state licensing tax limit. Certain parishes may levy a sales tax and/or a sales and use tax. Parishes may additionally levy special taxes to fund public improvements, subject to approval in an election. Finally, to promote tourism and advertise the advantages of the parish, police juries may levy hotel occupancy taxes, at least 30% of the revenue of which must go to municipalities for the same purpose. Many parishes have alternative hotel occupancy taxes which they may levy for the purpose of promoting tourism to a greater or lesser extent than others. Some revenue must be apportioned for the use of the sheriff's department and deposited in a special fund for that purpose.

The parish police jury has the authority to contract debt on behalf of the county not to exceed a cap on debt established by the local government, except that governments which intend to contract debt to acquire a revenue raising facility may do so. The parish police jury may issue general obligation bonds, revenue bonds, and notes in anticipation of tax revenue for lawful purposes.

The budget must contain provisions to fund any agency or department which the parish created pursuant to its own authority or state statute. The police jury has the authority to set the budget for each department and agency, or abolish any department or agency not required by state statute for purposes of maintaining fiscal austerity or maintaining an efficient government.

## **Contracts:**

The parish police jury serves as the chief contract making body of the parish, with the authority to enter into any legal agreement to execute any function or exercise any power granted to the parish by the constitution, state statute, or home-rule charter. This includes intergovernmental cooperation to provide services or construct and operate public buildings, as well as the authority to contract with private entities. Intergovernmental cooperation may extend to all manner of public utilities and service, as well as public buildings, with permissible joint service provision including electricity, water, sewerage, roads, recreational facilities, and flood control. If the parish does not wish to jointly provide a service, it may contract with another governmental unit to provide the service instead.

## **Zoning and Land Use:**

As a body politic and corporate, parishes have the authority hold, acquire by purchase, lease, gift, or eminent domain, and care for real and personal property. Such property may be used for any public interest or for any public benefit which the parish may lawfully execute under state statute. Whenever the parish no longer requires public land or buildings for any public interest or purpose, it may sell or lease such property to a private or public entity. Parishes must provide courthouses and jails which are in good repair and have space for all county business and detention of criminals, though the requirement that they maintain these buildings does not limit their ability to construct other public buildings.

Parishes may adopt development plans to foster economic growth. In addition, the parish may divide the county into such special districts and zones which shall make the execution of the development plan expedient. Special districts may

include districts providing a service or districts related to public health and safety. To assist in the development of the plan and zoning ordinances, parishes may establish either planning commissions or parish development boards and appropriate money for the one the parish chooses to create. The plan may include future projections of water mains, roads, parks, public utilities, and county resources. If the parish is operating or wishes to operate a cemetery, then it may impose a tax of one mill to fund cemetery operation and preservation.

In addition to their power to divide the parish into zones, most police juries retain the power to regulate the size, height, bulk, type, and other characteristics of buildings, and all police juries have the authority to adopt the Southern Building Code, Southern Gas Code, National Electrical Code, or other nationally or regionally recognized standards. Special code may be adopted for flood prone areas to prevent damage to life and property. Again, Louisiana statute treats some parishes differently than others, so the extent to which police juries may exercise this power varies. Moreover, the specific types of buildings the police jury may regulate varies based on the parish. The regulation may vary depending the district in which a building is to be constructed; however, regulations must be uniform for any special district a parish may create. All parishes are given the authority to regulate houses of entertainment.

To encourage industrial development in the parish, police juries may establish industrial areas, construct and furnish industrial plants or industrial parks, operate ports, and provide movable or immovable property to pollution control organizations and public ports or harbors. To fund these activities, the county may levy a tax and issue both general obligation bonds and revenue bonds. In addition, the county legislative body may create industrial areas in which it may provide infrastructure tailored to enticing industrial organizations to locate in the county as well as to making existing industrial facilities more productive.

Louisiana statute contains the authority for each county to establish economic development authority as well; however, the legislature treats each county or region's authority differently. A few common characteristics unite them, including their power to levy taxes and issue general obligation and revenue bonds after putting the question to county electors, to acquire and lease property, to make contracts, and to regulate commerce within its jurisdiction.

The extent to which authorities may exercise these powers varies based on the statute related to each specific authority.

In addition to economic development districts and industrial areas, parishes may create business improvement districts to manage commercial affairs in parishes. The police jury may appoint a board of commissioners to oversee the district which may contract debt, levy taxes, make assessments, and appoint a superintendent to oversee the district. In addition, the board may promote development activities in the district upon approval of the police jury.

### **Public Safety, Health, and Sanitation:**

The parish police jury may establish fire districts organized around fire departments to provide for fire protection services. The police jury may appropriate money for the operation of a fire district, including payment of personnel and insurance and purchase of equipment. Whenever hazardous material is removed by a firefighter or within a fire district, the parish may bear the cost of that removal.

In the interest of preserving public health, most parishes may create hospital districts and appoint boards of trustees to oversee the hospital. The boards may contract debt, levy taxes, and issue bonds in most cases, as well as hire personnel and purchase equipment to operate the hospital facilities. However, all parishes do not have uniform authority in the case of hospitals, and so the extent to which each individuals parish may contract debt or operate hospital facilities varies.

In certain parishes, the police jury may operate an ambulance service on its own, jointly, or by contracting with parishes or municipalities that have ambulance services, and may pay for the same. However, once again Louisiana statute treats each ambulance district differently. Nevertheless, most parishes may levy taxes and contract debt to fund either the ambulance service personnel and equipment or to pay off the contract. Whenever private ambulance services exist, the parish may make regulations to ensure provision of ambulance service to all residents and protect residents from unreasonable charges and fees.

The parish police jury has a duty to its citizens to prevent the spread of contagious diseases within the parish's corporate boundaries. To that end, it may adopt public health codes to enforce quarantine, as

well as basic standards of health for county residents. Parishes are specifically empowered to create mosquito abatement districts for the abatement of mosquitoes and the public health threat that they cause. In the interest of preserving public health on public and private land, parishes may regulate and abate public nuisances, including wandering cattle, overgrown grass and vegetation, and levee repair. Parish police juries may establish larger lists of public nuisances, so long as such lists are not in conflict with state statute. Whenever the parish serves notice to a private property owner and the property owner fails to abate the nuisance, the parish may abate the nuisance at cost to the property owner.

If the parish provides or wishes to acquire, construct, or improve a parish home for aged county residents, then the police jury may levy a tax of three mills to fund the home. Only Louisiana residents over 60 are eligible to enter the home.

Parishes have varying authority to provide juvenile and child services to at-risk children, orphans, foster children, and juvenile delinquents; however, the power is not uniform across parishes. The parish may impose a curfew on juveniles under the age of eighteen.

The police jury may divide the parish into such sewerage districts as may be convenient to provide sanitary disposal of sewage for parish residents. The police jury may cede the authority to operate such districts to boards of commissioners, who may acquire, construct, and operate sewage disposal and collection facilities. To fund their activities, the commissioners may levy taxes, issue bonds, and charge reasonable rates for use of the service. The governing body of the parish may require that properties connect to the sewerage system in order to protect public health.

Parishes may provide solid waste collection and disposal service by acquiring and operating solid waste collection equipment and disposal facilities. The police jury may issue bonds and levy taxes, as well as charge reasonable rates for the provision of this service; however, if the police jury does not wish to operate the service itself, it may grant franchises or contract the service from other public or private entities.

The police jury may divide the parish into such waterworks districts as may be convenient to provide water service to parish residents. The police jury may cede the authority to operate such districts to boards

of commissioners, who may acquire, construct, and operate water treatment and distribution facilities. To fund their activities, the commissioners may levy taxes, issue bonds, and charge reasonable rates for use of the water service.

The police jury is additionally allowed to make contracts related to natural gas extraction and distribution facilities. The parish may provide natural gas to its residents as well as to public buildings for the provision of heat. Contracts may include the rate charged for the provision of gas, the length of the contract, and the parish's role in acquiring and operating facilities. The police jury may divide the parish into gas service districts operated by boards of commissioners if the police jury does not wish to provide natural gas itself.

### **Roads, Bridges, and Transportation:**

The parish police jury or legislative body is charged with the construction, laying out, improvement, charging of tolls, parking meters, and maintenance of parish roads. The police jury may lay out such roads when adopting the county development plan. The parish may also assist municipalities in laying out, constructing, and repairing roads if they receive a request to do so from the municipality. In addition, police juries may lay out, construct, and improve sidewalks along public highways, assessing the cost of sidewalks to the properties which benefit from them. The parish may grant franchises for the use of public roads outside of incorporated municipalities.

In addition to streets and roads, parishes may operate public transportation, including buses and rails, or may grant franchises to private entities to operate buses and other forms of public transport. The franchise must include provisions which protect individuals from unreasonable rates.

One or more parishes may jointly create a railroad development district with the power to levy taxes, issue anticipation and revenue bonds, issue general obligation bonds, and exercise other powers granted for economic development purposes. Specifically, the district may acquire property and equipment for the operation and maintenance of a railroad. The parish police jury may appoint members of the board of commissioners of the railroad development district to oversee its programs.

## **Recreation, Leisure, and Culture:**

Parishes may establish recreation systems within their corporate boundaries and may hire any personnel necessary to administer and facilitate recreational programs. To oversee the personnel, as well as the acquisition and establishment of public parks, playgrounds, and recreational facilities, the parish may create a recreation board. Alternately, the parish may create recreation districts governed by boards which are not contiguous with the boundaries of the parish. In such districts, or in the entire parish if operating a parish-wide recreation board, the police jury may levy taxes, issue bonds, and assess reasonable fees for use of recreational facilities to fund recreational programs.

Parishes may appropriate funds up to \$50,000 yearly to provide money for any annual parish celebration or festival, including Mardi Gras. Parishes which will shortly celebrate their bicentennial anniversary may appropriate such funds and create such authorities as may be necessary to celebrate the historic founding of the parish.

When making their zoning ordinances, parishes may consider historic structures differently than regular buildings, imposing on historic edifices greater standards of preservation and commitment to historical accuracy.

The police jury is authorized, contingent upon a vote of the majority of electors in the parish, to establish a war memorial civic center in honor of servicemen and women who lost their lives during United States wars. The police jury must additionally hold an election to authorize the issuance of bonds pursuant to the construction of the memorial. The parish may levy a tax on parish residents for the upkeep of the memorial civic center.

In addition the civic center, any parish may create an authority to acquire, construct, operate, and maintain agricultural arena facilities. The authority must hold an election before levying a tax or issuing a bond to fund the arena.

## **Alternative Forms of County Government:**

Louisiana provides parishes with the option to take on home rule authority by ratifying a charter. The parish may elect a charter commission to study the local government and draft a new governing document. Subject to approval by popular vote, the parish may exercise home rule powers. Charters may provide for the consolidation of one or more local governments located within a parish.

The Louisiana legislature allows parishes to adopt a commission form of government by election of the parish electors; however, no parish has yet opted to go to a three-member commission form of government. Aside from the size of the commission, this form of local government does not differ considerably from the police jury form in terms of its powers.



# Maine

## **Introduction:**

Maine's counties derive their authority from Title 30 of Maine Revised Statutes, which provides for county commissions and their powers. County commissions have final authority over all departments, agencies, and officials created, appointed, or established by the commission. Counties may receive advice from advisory agencies so long as they meet requirements established by the State of Maine. Maine is a Dillon's Rule state.

## **County Finance:**

Commissioners are invested with the authority to create and amend a county budget, including the authority to estimate taxes and assessments on municipalities. Commissioners additionally are the sole authority charged with the responsibility to examine, allow, and settle the county accounts. Counties may be advised by a budgetary advisory committee or may cede authority to create a budget to a budgetary committee as provided for by state law. If the county makes insufficient appropriations, it may transfer funds from another source or may use a contingency fund to pay off the debt. The commission may establish bank accounts for the deposit of county funds and may establish funds, including capital reserve accounts, for any special purpose the commission may lawfully execute. Funds may not be expended for any purpose other than those for which the fund was created.

The county may apply for and accept federal and state grants to fund earmarked projects or general county operations and capital improvements. Anticipation of state and federal funds must be noted in the county budget. The county may make assessments on municipalities and individuals for the provision of services; however, increases in these assessments are subject to a cap based on previously collected assessments. Excessive revenue from assessments outside of that placed in reserve by the county must be placed in a county relief fund, to be used to limit the increase in assessments in subsequent years. Surplus funds from other sources besides assessments must be used to offset future tax increases, to restore a contingency fund, or to fund future capital improvements.

Commissioners may make appropriations, borrow money, and make expenditures for any purpose related to economic or community development, including development of sites for manufacturing, financing construction of new industrial buildings, matching funds on state or federal transport projects, or creating and funding an office of county economic development to provide a unified plan for the development of the county. Contracting indebtedness for any of these purposes must be approved by a majority vote of the county budget advisory committee, and the contracted indebtedness for these purposes must not exceed 2% of most recent tax valuation in the county.

Counties may borrow money in anticipation of tax revenue, though they may not borrow more than 80% of the previous fiscal year's total budget. Moreover, they may sell notes and securities in anticipation of revenue to generate funds immediately. The county may take out loans without an election if the amount of the loan is less than one-fifth of 1% of the assessed value of the county. Loans of greater value than one-fifth of 1% of the assessed value of the county or greater than \$10,000 require public approval. To pay contracted debt, counties may seize property from residents or public lands, which the owner may seek to reclaim under Maine statute.

## **Contracts:**

Counties may contract with a municipality for provision of any service a municipality may lawfully perform and vice versa. The contract must include provisions about fee assessments and the procedure for administration of the service. This allows the county to pay an assessment to the city in order to receive services including waterworks, sewer systems, hospitals, and other capital improvements. The county and city must establish an agreement that specifies duration and cost of the service provision.

Counties may engage in interlocal cooperative with other counties, municipalities, and school administrative units. When acting in cooperation with another governmental unit or political subdivision of the State of Maine, a county may exercise any of that political subdivision's authority. Counties may additionally join in regional cooperation with other political subdivisions

to exercise powers jointly across a region rather than in conjunction with another county. This interlocal and regional cooperation act effectively empowers counties to operate waterworks, sewer systems, hospitals, and parks, among other capital improvements. In addition, the county may create planning commissions, conservations commissions, and other public agencies and boards in conjunction with another political subdivision empowered to create any of those agencies or boards.

### **Zoning and Land Use:**

Commissioners have the duty to care and manage county real and personal property acquired either by condemnation or by purchase, lease, or rent. Included in that duty is the authority to construct, maintain, operate, and improve a county jail, courthouse, law library, and any other building as may be needed by the county. These buildings must be maintained in the county seat, unless by referendum the county residents elect to place them elsewhere. Alternately, the two or more counties may come together to operate a joint jail at the expense of both counties. The county must erect and maintain a solid meridian line away from electrical disturbances and convenient to the public, as well as a public standard of length. The county surveyor must use both of these to ensure the accuracy of his or her equipment.

Counties may contract with public or private entities to design, install, operate, and maintain energy saving measures in county buildings and facilities to save money and conserve energy.

In addition to their power to plan for community development, counties may elect to join a regional planning commission made up of local governments seeking to create a unified and sustainable development plan. The county commission may use the regional planning commission's findings when establishing a plan for future county growth.

### **Public Safety, Health, and Sanitation:**

Sheriffs, deputy sheriffs, and constables fall under the authority of the county commission. They must follow any lawful directive issued to them by the county commission. The commission may contract out sheriff's services to municipalities for law enforcement provision; however, the commission does not have to require the sheriff to patrol the entire county for law enforcement purposes. The county may direct the sheriff to provide rescue services and juvenile services as well. As an extension

of their law-enforcing responsibility, the county may mandate that the sheriff's office establish a witness and victim support program. While the sheriff must administer the jail, ensuring humane and ethical treatment of prisoners, the county commission may contract out the use of prisoners for labor purposes.

Counties working with other counties or jointly with the state department of corrections may establish a local criminal justice planning committee. The committee shall work to educate, update, and increase the use of evidence-based community corrections practices. This includes formulating and implementing new programs, monitoring outcomes, and determining what community corrections programs best meet the needs of the community.

Counties may provide ambulance services throughout the unincorporated county, as well as in municipalities who wish to be included in the service. The contract between the two governmental bodies shall provide for a method of payment for ambulance service. The county may exercise any acquisition, hiring, and firing power to execute its ability to provide ambulance service.

The county may establish a communications center separate from the sheriff communications centers to facilitate information sharing between ambulance services, fire protection services, sheriffs, and other emergency services. The commission may contract out the use of the center to any municipality as well. In addition the communication service, the county may provide law enforcement support to emergency services by providing investigative, laboratory, administrative, record-keeping, and intelligence services.

Communities with less than 200 residents and no I-95 exits are eligible for the state to pay for protective services, including police and fire protection and ambulance service.

Counties may operate solid waste disposal and collection systems to provide that service to their constituents. Moreover, they may contract with other governmental units for trash collection service or enter into an agreement to provide regional trash collection. All users of the system must be assessed a fee to pay for the cost of trash collection and disposal.

Counties may appropriate and expend funds in support of a social services program to abuse victims, juveniles, and individuals on welfare. County commissions may establish a food stamp or donation program to provide assistance to individuals in

need of groceries. The county may expend funds to support a program in conformity with the USDA's regulations for food stamp programs.

Counties may establish an electricity agency to serve the county's residents in the provision of power. The agency may aggregate electricity users in the county and assess on them a fee to pay a private electricity-producing company for services rendered. The money to pay for the agency must come from the county budget. No electricity consumer must be served by the county, but may instead receive electricity from a private source.

### **Roads, Bridges, and Transportation:**

Commissioners must lay out, alter, and discontinue county ways to ensure ease of travel and transit through the county. They may provide parking, both on- and off-street, around county buildings to facilitate county business.

The county has the authority to promulgate and enforce parking regulations, from handicapped regulations to illegal parking violations. To enforce the ordinance, the county may establish a volunteer parking enforcement program to be operated by the sheriff. Municipalities may contract with the sheriff's department to make use the same services.

### **Alternative Forms of Government:**

The county commission or county electors may initiate a charter commission to study the current form of county government and write a charter for an alternative government. Subject to approval by a majority of voters, the charter form of government enables counties to exercise any power specifically granted by the charter. Exercise of any additional power requires an amendment to the charter. The county may not statutorily empower itself to collect revenue in any alternative or additional manner.

# Maryland

## **Introduction:**

Maryland's counties derive their authority from the Maryland State Constitution and Articles 24, 25, and 25A of the Maryland Annotated Code. Their county governments are called commissioner counties. There are also two forms of home rule counties: code home rule, which means the citizens of the county elected to give the county home rule power, and charter counties, which establish an independent charter commission to write a charter establishing home rule. The general powers outlined in the state code are intended to supplement or supply county authority, and should not be construed to limit a local law in effect. Local law establishes the size of the commission. The powers listed below apply to both commissioner counties and home rule counties; however, home rule counties may exercise much broader power with respect to the authority granted below and may additionally legislate about issues not specifically mentioned in the county code. Maryland is a Dillon's Rule state.

## **County Finance:**

County governments have the sole authority over the county budget, including making appropriations, authorizing expenditure, and keeping records. Counties which contracted indebtedness must submit a report to the state listing total debt and assessed value of county property. The county must publish these records for the public at least once a year. Counties may make purchases through a purchasing bureau in the department of general services if they so choose. The county legislative body may levy all needful taxes on all assessable property within the county necessary to the function of public buildings, including the courthouse. A portion of these taxes coming from banks and financial institutions must be paid to incorporated municipalities. The county has the authority as a corporation to hold in trust all gifts, money, or property of whatever description may be bestowed on the county.

To provide county residents with food, shelter, supplies, necessities, and other relief, or to put county residents to work under a state, federal, or local program, the county may levy a tax not to exceed 3.2 cents on every \$100 of assessable real property in the county or 8 cents on every \$100 of assessable

personal property and real operating property. Maryland's counties may contract debt to pay for programs operating using this tax's funds as well.

Counties may levy a tax on transient rooms located within the county. The amount assessed varies based on the type of county government structure in the county, but rates vary between 3% and 8%. Home rule counties may set the taxes as high as their charters or legislative bodies will allow. The county may also levy a tax not to exceed 3% on the rental, leasing, or use of any space for a recreational vehicle or camping shelter in a trailer park. The county may put revenue generated as a result of the tax in the county's general fund.

Counties in which coal mining takes place may levy a tax of 30 cents on every ton of coal raised to the surface. Any land used for coal mining and owned by a person subject to this tax shall be exempt from property tax. The county may surrender 5 cents of every 30 cents collected to municipalities for the construction, maintenance, and improvement of coal haul roads.

Counties which may levy sales taxes may not levy taxes on advertisers or advertising transactions at a rate in excess of the rate imposed on other businesses. Counties may not impose gross receipts taxes on advertising space in newspapers, periodicals, programs, or other publications or on billboards or airborne devices.

Counties may create special taxing districts, levy special ad valorem taxes, as well as issue bond and other obligations. These revenues are specifically to be used for the acquisition, construction, maintenance, operation, improvement, or enlargement of myriad public improvements. Such public improvements include water and sewer systems, streets, sidewalks, lighting, parks and recreational facilities, and many other public works.

Counties may appropriate funds for use by cooperative extension services, including educational demonstrations and boys' and girls' clubs.

It should be noted that some counties in Maryland may not exercise a power without specific approval from the state legislature—known as local legislation. This list applies to all counties

in Maryland; however, certain counties may levy additional taxes or levy at different rates than those presented here based on the county's particular form of government.

### **Contracts:**

The county may enter into any contract or agreement with the United States requiring the county to acquire, construct, maintain, or operate any public building to be used by the federal government. The county may also cooperate with the federal government in constructing, financing, maintaining, or improving any federal project which includes flood control projects or other federal river and harbor improvement projects. The county may participate in any federal low- or moderate-income housing program as well. The county may levy and appropriate the necessary money to pay their part of the contract, though they may also accept money from the federal government pursuant to execution of the agreement.

The county may enter into contracts for construction and provision of other services and may additionally enter into a contract with other political subdivision of the State of Maryland for joint exercise of municipal or county authority. When a dispute may arise due to a contract in excess of \$10,000, the county may establish in the terms of the contract the neutral third party which will arbitrate the dispute, be it another county's commissioners, a court of competent jurisdiction, or a neutral person or entity. When entering into a contract for any provision of service, the county may provide to any firm in Maryland any competitive advantage afforded a firm outside of Maryland competing for a contract.

The county commissions may grant franchises within the county for cable television providers using public rights-of-way, among others. Code counties and home rule counties have broader authority to grant franchises on all manner of things.

A collection of governments may enter into a regional agreement or compact to study a problem of mutual government interest. Such governments may include municipalities, counties, and other political subdivisions both of Maryland and of other states. Problems of concern may include zoning, infrastructure, utilities, recreation, parks, ports, and many other pressing issues. The council which

shall be the governing body of a regional coalition may make recommendations to local governments about future courses of action and may facilitate cooperation between governments.

### **Zoning and Land Use:**

The county commission has charge and control over all public lands and county property. The county has the authority to limit competition in concessions and leases on public property to lower cost for county residents. To provide government services and satisfy public interest at the lowest possible cost, the county may take pains to protect residents from unscrupulous business practices on public land.

The county may divide the county into such zones as may seem expedient to administering a building code, through which counties may regulate the size, number, type, bulk, height, density, and number of stories of buildings. The code shall also set minimum standards of light, heat, ventilation, electrical safety, plumbing, and building material as well. Codes may apply to commercial, industrial, residential and other buildings. The county may make ordinances to provide for the enforcement of the code it promulgates. Certain counties, including those abutting water, may make regulations about the mooring and docking of floating homes.

Certain counties may require a permit prior to the establishment of public dance halls, boxing or wrestling rings, amusements parks, or tourist camps with cabins for hire outside the municipal limits of cities and incorporated towns. If the county commission does not accept the permit, it may choose to reject application for such a permit on reasonable grounds of public morals or safety and may revoke such a permit at a later date following a public hearing.

Counties may appropriate funds to create a Clean Energy Loan Program, which will provide funds to residential areas for energy conservation and renewable energy projects and to commercial property owners for the financing of energy efficiency projects and renewable energy projects with an electricity generating capacity of not more than 100 kW. The loan shall be paid through a surcharge on tax bills. The county may fund such a program by issuing bonds.

Certain counties in the DC-Baltimore metropolitan area may enter agreements to buy development rights regardless of any laws limited contracting



debt or limits on county spending. The county may subsequently use those rights to develop land according to public interest and county purpose. All counties, including those not allowed to enter into development agreements, may employ state and federal financial assistance to make funds available for commercial and industrial development projects and for residential housing areas.

To provide affordable housing for individuals with low or moderate income, counties may establish trust funds or appropriate funds, waive building permits and impact fees not mandated under state law, and enact ordinances which restrict costs and retail prices on homes rehabilitated under this authority. They may require the homeowner to participate in the rehabilitation and may additionally support payment in lieu of taxes (PILT) programs to encourage the construction of affordable housing.

Counties may establish commercial district management authorities to promote, market, and provide security, maintenance, and amenities for a commercial district located within its geographic boundaries. The county may establish such a district as a special taxing district and appoint board members that will promote the county's interest in encouraging commerce.

Counties may construct, operate, and maintain any project aimed at flood abatement or the conservation, utilization, and disposal of water in watershed or sub-watershed areas. Pursuant to this goal, the county may borrow money from the United States and private lending institutions and to accept aid and assistance from the US government.

The county may erect two stone pillars, one of which shall have a needle point atop it, 100 feet apart and marking the location of a north-south meridian. Such pillars may be used by any county engineer or surveying in the course of his or her work.

### **Public Safety, Health, and Sanitation:**

Counties have the authority to provide for the public health, to prevent and remove nuisances, to prevent the introduction of contagious disease into the county, and to give prior approval to all businesses which might have a negative impact on the sanitary conditions in the county. To maintain public health, the county may operate community and social services for the preservation and promotion of health, recreation, and welfare in the county's residents.

County commissions may cooperate with other agencies in providing up to one-third of the cost of a hospital or related facilities. The county may appropriate funds from the county's general fund or may borrow and secure the necessary money to make a contribution to the project. The county may also establish a citizens' nursing home board to govern, establish, and operate nursing homes for county residents who are aged, convalescent, or chronically ill. Nursing homes must provide adequate standards of care and provide for the mental, physical, recreational, and cultural health of residents.

Counties may require, regulate and maintain rubbish and garbage disposal by requiring residents to participate in a trash pickup and disposal program. To establish a disposal plant, the county may acquire land through purchase, lease, or eminent domain, and then may construct, improve, and maintain a disposal facility. The county may license refuse collectors and ban all other commercial and private operations from collecting trash in the county. The county may assess fees for trash pickup or may subsidize them with county funds, hire personnel to do so, and may provide for collection equipment. The county may also contract out this work to a private firm or may accept a contract from a municipality.

The power to license and regulate junkyard and dump sites as public health hazards rests with Maryland's county commissions. The commission may establish rules to protect and preserve the public health and protect the public from unwholesome condition, as well as to preserve public beauty.

Counties in Maryland may require that dog-owners obtain a license with a licensing fee to be established by the county commission in some cases, in other cases with the fee determined by the state legislature. If the dog can be proven to be a guide dog, then the county may not assess a fee on the individual seeking a license. The license fees shall be kept in a fund and used to pay damages inflicted on livestock or property by dogs, though if the fund exceeds \$1,000 then the county legislative body may appropriate excess funds for whatever public purpose it sees fit. The county commission may make any and all rules about the issuance of dog licenses and to enlist the sheriff's office in enforcing said rules. As with other sections, there are many local legislation exceptions, though all counties have the powers listed above.

Maryland counties may provide one or more franchises on the provision of water services to a single company to prevent excessive or inconsistent rates, to prevent duplication of services, and to preserve public health and protect from disease. The county may also take this measure to prevent excessive use of limited natural water resources. The county may enter into contracts, promulgate rules and regulations, set a schedule of fees, and establish licensing requirements for the franchise. If the county may exercise the power itself, it may do so without negating any anticompetitive effect.

### **Roads and Bridges:**

The county commissioners have the authority to appoint road supervisors and have charge and care of county roads and bridges, including the power to open, alter, and close public roads. The county has the authority to employ engineers in grading and constructing, as well as repairing, public roads and bridges. The county shall make rules governing the repairing, cleaning, mending, and perfecting of public roads in the unincorporated areas of a county. The county may also order the construction of sidewalks, promulgate rules about parking on public highways, and regulate the construction or establishment of trailer camps. The county's authority over public roads extends over unincorporated towns and villages. The public may petition for the repair of roads and bridges, as well as the opening, closing, and altering of existing roads. Expenses related to the construction of roads may be levied upon the county's assessable property.

Counties may make regulations about the state of roads in the county. Lawful ordinances may include the maximum weight of motor vehicles, trucks, and tractors on the road. Counties may also install and regulate traffic control devices, such as stop signs and traffic lights. Before the state may construct a toll facility, the county must approve.

County legislative bodies may grant exclusive or nonexclusive franchises on public transportation in the county. They must exercise this power to avoid excessive or inconsistent fines and duplication of services which arise in competitive environments. The county may promulgate rules governing the franchise, including the establishment of fees, regulations, and licensing requirements. The county may additionally grant franchises to a ferry company and may exercise similar powers over it as it may a franchise on public transportation on land.

Counties who deem a municipal road project to be of interest to the residents of the county may appropriate funds to provide to the municipality.

Along with authority over roads, the county commission shall have the authority to establish drainage associations to acquire, construct, maintain, and improve drainage facilities, including ditches, drains and canals. The drainage association, which shall be reported to the Maryland secretary of agriculture, shall heed the petition of residents whose property abuts a drainage problem to provide relief from the nuisance. In the case of soil erosion, the county may establish a conservation district under management of the drainage association to abate the problem. The cost of the drainage system is to be paid by all whose property benefits from the system. The county commission may dissolve the association at the behest of a large petition of voters.

The county may provide for the electric lighting of all streets and sidewalks in the unincorporated areas of the county. The county may request in writing for an electric company to sell some of its street lights to county and the electric company shall be compelled to do so. The county must pay fair market value and must additionally maintain the lighting system. The cost of operating lights shall be paid by an ad valorem tax on the area served by the lights.

### **Recreation, Monuments, and Historical Societies:**

The county may provide for the creation of parks, gardens, playgrounds, and other facilities and programs which promote the cultural and physical health of the county's residents. The county legislative bodies maintain the authority exercise appropriations powers in a reasonable manner for providing recreational facilities to the county. The governing body of any county may set aside such land, buildings, and water as may be suitable for the establishment of parks. The governing body of the county may establish a board to govern the recreational facilities in the county. The recreation board may enter into agreements and cooperate with other local governments and may also accept gifts for use by the park service.

### **Alternative Forms of Governments:**

Counties may adopt a charter written by a local charter commission and adopted by the county. The county may exercise any power listed above

and may additionally exercise other powers granted by section 4 of Article 25A. The code should not be taken as a limit, however, as the county may make local legislation about any issue in which the legislative body has a legitimate interest. Alternately,

the county may adopt home rule through the state code by a two-thirds majority vote of the county commission. The county then has all the power of charter home rule counties, but without the adoption of a charter.

# Massachusetts

## **Introduction:**

Massachusetts abolished eight county governments from 1997 to 2000, leaving only six functioning governments. The remaining governments derive their authority from Chapters 34, 34B, and 35 of the Annotated Law of Massachusetts. These governments have only limited power, with most authority delegated to municipal corporations. Counties may hold public meetings regarding county business and may punish disrupters of these meetings for contempt. Massachusetts is not a Dillon's rule state, so this report only reflects the explicit powers granted to counties in the law. Counties may exercise other power as they see fit.

## **County Finance:**

A county budget advisory board, with votes distributed among municipal governments proportional to the value of county assessments against the municipality, shall consist of the city administrator and city councilmen or town aldermen. This advisory board may increase or decrease the proposed budget and appropriate funds to present to the county treasurer. In the case of Capital Improvements Funds, the advisory board may appropriate an amount not to exceed ten percent raised in the preceding fiscal year by assessment on towns and cities for capital improvements. Counties may levy taxes to cover any cost which assessments and other sources of revenue will not cover, including debt and interest on debt which will mature in the fiscal year. County taxes must be approved by the budget advisory board. Taxes may be apportioned among the cities and towns based on the most recent equalization reported by the state commissioner of revenue. In case of need for emergency expenditure, the county commission may seek reprieve for emergency funds to be paid off in two years from a state board created for that purpose.

The county may receive gifts, by devise or bequest, from private donors and may hold those gifts in trust or security under the administration of the county treasurer. Similarly for federal grants, any county administrative unit may accept a federal grant for the execution of its duties and may give up such a grant into the custody of the county treasurer.

## **Zoning and Land Use:**

The county commission has the care and management of county property. Counties in Massachusetts are required to provide certain public buildings, including courthouses, jails, houses of correction, and fireproof offices. The commissioners may provide for the erection and maintenance of jails and other public buildings, but no appropriations may be made in excess of those specifically authorized by the county commission. They may also sell, lease, or otherwise convey public lands which are not being used for any other public purpose. Sale of jails or houses of correction must be used to fund the construction of new jails or houses of correction or to reimburse loans made to fund county operations.

The county may acquire property by purchase, lease, or exercise of eminent domain for public purpose or to improve, protect, and properly utilize open spaces. Such acquisition must be approved by town or city conservation committees and the state department of environmental management if it lies within a town or city. Land used for agricultural purposes may not be taken under eminent domain.

## **Public Health, Safety, and Sanitation:**

County commissioners may appoint a senior citizen to serve as assistant commissioner for affairs concerning the elderly. This position, which shall not have legislative power, shall serve as an ombudsman for the elderly and an advisor to the county commission. Similarly, the county commission may appoint an assistant commissioner for handicapped affairs to serve as an advisor to the commission on affairs related to handicapped people but who shall hold no power in the government.

The county may appropriate funds to construct, maintain, improve, expand, and operate a county hospital. This includes equipment purchases, personnel expenses, and operating expenses of the hospital.

The county commissioners, subject to approval by the department of corrections, may acquire a county industrial farm not to exceed 500 acres. The county may subsequently reclaim the land using prison labor and may sell the land after reclamation if the commission deems that to be in public interest.

### **Roads, Bridges, and Transportation:**

County commissions have jurisdiction over all roads, bridges, and public ways within the political boundaries of their subdivision. This includes acquiring land, and constructing, maintaining, and improving public ways. Commissions also have the sole authority to discontinue public ways if use falls of so significantly as maintaining the road is no longer in the public interest. Commissioners may assess the land which benefits from the construction or improvement of a highway a proportion of the cost, the rest of which must be paid by the county.

### **Alternative Forms of County Government:**

All counties, excluding Barnstable, have the authority to adopt and amend a charter. The county commission, advisory board on county expenditures, or a petition of voters in the county may initiate a charter commission to study the current governmental structure of a county and propose an alternative home-rule charter. The charter

commission may make use of all clerical, financial, and legal services necessary to make its report to the county commission. The commission may put the charter to a referendum. Majority approval of electors in the county shall be sufficient to institute a new charter government. Counties can either choose an elected executive with a set term limit or a county manager to be appointed indefinitely to serve at the pleasure of the elected commissioners. Alternately, they may choose a board chairperson to wield executive power for a one year term.

Charter governments have the power to regulate internal affairs, including the establishment, consolidation, and abolishment of public offices, adopt and enforce ordinances, construct and maintain public improvements, exercise eminent domain powers, exercise all powers of county government as the county commission may determine, and enter into contracts. Town and cities' ordinances retain the power to supersede conflicting county ordinances.



# Michigan

## **Introduction:**

Michigan's counties derive their authority from Article VII of the Michigan Constitution and Chapters 45 and 46 of the Michigan Compiled Laws, which classifies counties as bodies politic and corporate in the State of Michigan. The constitution vests all legislative and executive power in a board of commissioners with membership based on the number of townships and cities in the county. Membership of the boards ranges from five to twenty-six members. The constitution insists that all statute and constitutional powers of counties be construed in their favor when exercising enumerated powers; however, the county may not take action which is not specifically permitted by state law or by the constitution. Thus, Michigan is a Dillon's Rule state.

## **County Finance:**

County commissions have budgetary authority in Michigan. Counties may levy property taxes to fund county operations. Counties may levy taxes in conjunction with other political subdivisions; however, the aggregate tax levied by all combined must not exceed eighteen mills, unless the county electors choose to increase that limit. Electors may increase the limit up to fifty mills on the dollar for a period no longer than twenty years. Counties also receive fifteen percent of all sales tax revenues collected within the state, to be apportioned based on population.

Per constitutional limitation, no county may go into debt to exceed ten percent of the assessed valuation of the property within the county's corporate limits.

Counties must appoint purchasing agents to provide county departments with such supplies as they made need to execute their official duties. The county departments must keep the purchasing agents apprised of their supply needs.

County commissions may create compensation commissions to determine the salary of all nonjudicial county officers. The county commission may reject the compensation commission's salary by a vote of a two-thirds majority on the board.

## **Contracts:**

The county may enter into an agreement with another county, a municipality, or an organized township to allow the joint exercise of any county authority or the joint execution of any county purpose.

## **Zoning and Land Use:**

The county commissioners may hold and have care of county lands in the county's corporate name. Any land conveyed to or acquired by the county, whether by purchase, lease, gift, or eminent domain, shall be deemed county property. County commissioners may sell any county land not donated for a special purpose provided such land no longer serves the public interest. Counties may, by a majority vote, purchase revisionary interest in any real estate which may have been transferred or conveyed to the county.

Counties must maintain certain public buildings, including courthouses and jails, and are authorized to borrow money for the purpose erected and repairing such buildings. The county must construct the courthouse in the county seat of government, though it may construct the jail anywhere within the corporate limits of the county. The county commission may levy a tax to provide funds to construct, repair, and renovate public buildings. County commissioners may provide by resolution for energy conservation improvements to be made to county buildings and may pay for such improvements from the county general fund or from the savings that result from such improvements. Counties may designate new townships or may consolidate old ones with the assistance of a coordinating committee.

Counties may provide funds to nonprofit corporations organized for the purpose of providing loans to spur economic development. The county may not expend money derived from an ad valorem tax for economic development approved by county electors for this purpose.

If there exists within the county a conservation district, then the county may levy an ad valorem tax and remit the profits derived from the tax to the district.

The county commission may, by vote, establish flea markets and farmers markets in the county to provide a place for county residents to sell household goods and farmers a place to sell their agricultural products. The county commission which creates the flea or farmers market has the authority to regulate its activity.

### **Public Safety, Health, and Sanitation:**

Any county which has unincorporated areas with no fire protection service may, by vote of a two-thirds majority of its legislative body, extend fire protection service to that area. The county has the authority to purchase fire extinguishing equipment, to provide for the housing of such equipment, to contract for fire protection with another governmental unit, to carry on an educational campaign for fire prevention in the area, and to appropriate money to fund any of these purposes.

The county may, by majority vote of its governing board, become a juvenile agency. Counties which take this step must follow federal regulation of juvenile agencies, however. Juvenile agencies must provide adequate care of juveniles committed to the county juvenile agency, provide appropriate services including halfway houses, youth camps, treatment facilities, and group homes, and provide adequate juvenile justice services.

Counties may establish public hospitals by referendum and may appoint a board of trustees to oversee the hiring of employees and purchasing of equipment for the hospital. Trustees may additionally run county nursing homes for elderly county residents. County commissions may make an annual appropriation to fund county hospitals. Counties may fund ambulance activity in the county when the ambulance picks up an indigent or elderly resident who may not otherwise have the means to pay for ambulance service.

Counties may establish a solid waste management department by resolution, approve the department's budget, and appoint an executive to operate the department. The county may subsequently acquire, construct, improve, expand, operate, and maintain solid waste disposal facilities in one or more areas of the county, including facilities outside of the boundaries of the county. Counties may provide service in the unincorporated areas of the county only; without consent of a municipality, the county may not provide services within its corporate

boundaries. The county may finance the solid waste system by issuing revenue bonds, by issuing bonds in anticipation of payments, and through money advanced under agreement with another entity.

Counties may vote to acquire, construct, operate, and maintain sewerage facilities and sewer mains in the corporate limits of the county. The county may, by agreements with other governmental units, connect municipalities and townships to the sewerage system. The county may assess fees and charges for the provision of sewer service. The county may otherwise issue bonds and levy taxes to fund the sewage service.

County legislative bodies may vote to establish a waterworks, water treatment system, and any water mains which may be necessary to deliver water service to the county's residents. The county may, by agreements with other governmental units, connect municipalities and townships to the water system. The county may assess fees and charges for the provision of water service. The county may otherwise issue bonds and levy taxes to fund the water service.

County legislative bodies have the authority to intervene or enter into any dispute regarding the provision of services and charging of rates or fees for those services of any privately owned utility providing services to county residents.

### **Roads, Bridges, and Transportation:**

The county may lay out, construct, improve, and maintain highways, bridges, culverts, and airports. The legislature provides that counties may take control of any highway system within its corporate limits. If there are any navigable streams within the county, then the commission may construct a bridge over them. Counties may collect an ad valorem tax for road purposes, but such a tax may not exceed 1.5% of the assessed valuation of the tax for the preceding fiscal year.

Counties may establish, construct, and maintain parking facilities in the county and near county buildings. The county commission may promulgate any rules related to the parking lot as may be necessary to maintain public safety.

### **Recreation, Leisure, and Culture:**

Counties may establish recreational boards by a two-thirds vote of the county legislative body's membership. The board may establish rules and

regulations for county parks, acquire land and equipment to construct county parks, and receive appropriations from the county commission to execute these purposes. Alternately, the county may join a regional recreation commission and appropriate money to that body. The county commission may issue bonds to provide revenue to the recreation boards. The regional commission may similarly acquire land and equipment for public parks, but may do so on a multi-county scale rather than only in the corporate limits of a single county. These commissions may maintain and operate county parks, employ necessary personnel, and provide infrastructure to them, including providing roads and parking facilities to access public parks. The commissions may charge reasonable fees for the use of public park facilities.

Counties may purchase land held in trust by agricultural societies in order to operate county fairs on said lands. County commissions may manage the fair if they own the title to the fairgrounds, or they may establish a fair board to oversee the administration and operation of the fairgrounds. The county which holds such lands in trust may additionally mortgage them on behalf of the agricultural society to provide funds for the fair. Counties may additionally make appropriations out of the general fund to construct buildings, fences, and other necessary facilities on the fairgrounds. Counties may generate additional funds for fair purposes by levying a tax not to exceed one-tenth of a mill and charging admission to the fairgrounds. Counties may levy an additional ad valorem tax to

be determined by the county commission to fund the exhibition of county agricultural and industrial products at fairgrounds.

Counties may appropriate funds to mark historical sites located within the county. Additionally, counties may appropriate funds to establish any program or activity that will advance any historical interest the county may have.

### **Alternative Forms of Government:**

Counties may frame, adopt, amend, and repeal a county charter. The county must elect a charter commission to frame a home-rule charter and must receive the approval of county electors before it may be considered lawful. The charter may provide for any form of government, as well as different limits on indebtedness and tax rates; however, all counties governments are considered corporate bodies regardless of charter status. Only one county in Michigan, Wayne County, has a charter form of government. The charter must be approved by the governor before the provisions of the charter may take effect.

Counties which do not have a standing charter commission or a charter form of government may adopt an optional unified form of government which provides for an appointed manager or an elected executive. The motion to move to an optional form of government may begin with a resolution of the county board, but the motion to change to a unified government must have approval from the electors in the county.

# Minnesota

## **Introduction:**

The Minnesota Constitution and Chapters 270-403 of the Minnesota Annotated Statutes empower the legislature to provide for the establishment and structure of local governments, as well as all lawful functions which said governments may exercise. Minnesota statute declares counties to be bodies politic and corporate, with all the corporate powers granted to those bodies. County legislative bodies are composed of boards of three to five members, though a county with a population in excess of 100,000 may adopt a seven member board. The board must elect a chair and vice chair at its first meeting. Minnesota is a Dillon's Rule state.

## **County Finance:**

County commissions are the ultimate budget-making authority in the county, with the power to make a budget based on recommendations from department heads and to adopt the same. County commissioners may levy taxes, issue capital notes to acquire equipment for the county, and issue notes in anticipation of taxes. County commissioners may also set and charge fees for the filing of any paperwork or service provided by any county employee. Upon petition of a county resident and subject to certain conditions, the county board may abate or reduce property taxes for individuals.

County commissions have the authority to issue bonds to fund county purposes; however, counties may not become indebted more than five percent of the most recent assessment of property in the county to aid in the construction or equipment of railroads. The county commission may review claims against the county served to them by the auditor. The commission has the final authority to discharge the claim.

Counties may establish purchasing departments to take advantage of volume buying. The county may create a new department or may charge an existing department with the duty of purchasing county equipment.

Counties may establish a license bureau to administer all licensing taxes and make all licensures the county board may require. The county may additionally issue state licenses at its license bureau.

Economically distressed counties may seek to abate the situation by establishing a county emergency jobs program. The program shall take county funds and expend them for public works programs or job training programs for county residents to seek to lower unemployment rates and inject capital into the county residents' pockets. In addition, during droughts or due to hail, flood, or fire, counties may extend money to farmers for the purpose of purchasing seed and feed, though doing so constitutes a lien on the crops for the county.

## **Contracts:**

The county legislative body serves as the contract making body for the county, with the authority to enter any lawful contract to exercise any authority or execute any function which the county may exercise or execute.

## **Zoning and Land Use:**

As the legislative arm of corporate bodies, county commissions may hold and care for county property, acquire new property by purchase, lease, or eminent domain, and sell or lease out property if in the public interest. County boards are also allowed to accept conveyances of property on behalf of the county. Any proceeds, subject to a few exemptions, from the sale of land must be placed in an environmental trust fund. The interest of that trust fund must be expended on preserving natural resources, but the principal may not be spent.

Counties are required to maintain certain buildings in the county seat, including a courthouse and a jail in addition to all other necessary buildings. Such buildings may be maintained jointly with a municipality if the municipality and county boards agree. The county commission may provide a county building fund to construct, repair, or renovate county buildings by levying a tax on county property. Counties may additionally adopt capital improvements plans, to last no longer than five years, which specify the purpose of the capital improvement project and lays out a method for financing the project. Once the capital improvement plan is adopted, the county commission may issue capital improvements bonds to fund it.



The county commission has the authority to adopt a comprehensive development plan for the county, as well as to adopt zoning ordinances to effectuate the county development plan. Pursuant to that goal, the county may create a planning commission to advise the county commission about what ordinances to adopt with respect to regulating building type, use, size, bulk, height, and other characteristics. Counties are authorized to cooperate with municipalities to create a development plan.

To provide and finance additional services to county residents, the county board may create special service districts. County boards may pass a resolution or they may receive a petition from residents living the proposed service district to put to a vote its creation. If the referendum to establish the district succeeds, the county may establish it and provide a budget and issue bonds to provide whatever service the district was created to provide.

The county commission may, singly or jointly with another county, enter into an agreement for the provision of electricity to county buildings. Alternately, the county may purchase or lease a facility which produces electricity to power county buildings; however, the county may not sell the electricity or engage in any retail activity related to the electrical facility.

Twenty-five legal voters may petition to the county to establish a township. Following a public hearing, the board may vote to do so. The county commission must establish boundaries and apportion taxes to the town.

### **Public Safety, Health, and Sanitation:**

The county may appropriate its own funds or state and federal funds to provide grants to cities and towns providing fire protection service.

Counties or contiguous counties with a population in excess of 30,000 may participate in the community corrections act to be eligible to receive grant money from the state for the purpose of rehabilitating and detaining criminals. Participating counties must create a county corrections board to oversee corrections programs and implement programs to lower the crime rate in the county. Counties may appropriate funds to provide legal services to individuals who would otherwise be unable to afford it. The county's appropriation may not exceed .00604% of the assessed value of the county's taxable property and must go to a nonprofit

legal assistance corporation. Contiguous counties may combine appropriations to provide to one legal assistance corporation.

County commissions may acquire land by purchase, lease, or eminent domain and construct, expand, improve, operate, and maintain county hospitals other than for persons who are mentally ill. A county hospital may extend to mean hospitals buildings constructed across the county. Before the county may levy a tax or issue bonds to fund construction, the hospital must be put to a referendum. The county's ability to provide hospital services depends on that referendum. In addition to hospitals, counties may establish nursing homes to provide care for elderly residents. The county may delegate operation of the hospital or nursing home to an administrative committee. Counties may erect a memorial hospital as a tribute for armed service men and women who served during wartime and fund it as a memorial building as well.

The state mandates the creation of public social services organizations in every county. The organization, managed by a board, must provide child welfare programs to at-risk youth, provide public welfare to county residents in need, administer Social Security to county residents, and operate volunteer program to limit the cost of providing such services. The organization may additionally administer a food stamp program, but they may not provide any type of abortion services.

The county may create a service delivery authority alone or jointly with other counties to provide essential human and health services within its jurisdiction. A steering committee composed of specified county residents and officers shall divide the county into districts and base the type of essential service provided on a combination of geographic and socioeconomic interests. The authority may contract to provide services outside its jurisdiction and provide funds to private sector stakeholder agencies providing essential services.

The county may take action to abate public nuisances, including rust producing bushes and wild hemp. After issuing a notice to the owner of private property, the county may take action if the owner fails to do so. Such action shall constitute a lien on the real estate until the owner has paid for the abatement of the nuisance.

The county has the authority to operate solid waste management services for county residents. To ensure



best use of county resources, the commission may establish service areas in which to provide solid waste management services. Charging fees for provision of solid waste management is lawful. The county may also levy property tax and issue revenue bonds as startup capital to acquire or construct solid waste management facilities. The county commission may establish rules and regulations related to solid waste management.

### **Roads, Bridges, and Transportation:**

Counties may maintain the county state-aid highway system in a manner provided by law, including providing for the construction, improvement, and maintenance of all county highways. The county must also maintain roads in municipalities of less than 5,000 residents. Counties all receive a portion of the county state-aid highway fund to aid in their execution of this duty.

The county may operate parking facilities within its corporate limits. The commission has the power to regulate parking in the county, including determining what types of vehicles may park in which spaces. The commission may levy a reasonable charge for using county parking facilities.

By resolution of one or more county governments, the county may join a regional railroad authority to facilitate the rapid transit of goods and people. The authority may acquire, construct, develop, improve, expand, operate, and maintain railroads within its corporate boundaries, as well as raise funds by taxation and issuing bonds. The authority may not contribute more than 10% of the cost of a private company constructing a rail, however.

### **Recreation, Leisure, and Culture:**

The county board, to advertise the county's advantages, may appropriate up to \$1,000 to display county products at the state fair, provided premiums and prizes won by county products are paid back into the county general fund. Counties may appropriate \$500 to a registered poultry association provided the association uses the appropriation to hold or attend an exhibition. In fact, the county may appropriate funds to any agricultural society or other organization which the county feels is best suited to advertising and developing the agricultural and economic resources of the county.

Any county may create neighborhood parks and playgrounds governed by a park commission and

funded by tax levies and bonds. However, the state legislature created single- and multi-county park districts and left it up to counties activate them if the county wishing to activate the district meets the population requirement of 350,000. Each district is governed by a board of seven commissioners charged with the duty of creating and maintaining large parks, wildlife sanctuaries, and forest management areas. The commissioners may fund the parks with a tax levy and by issuing bonds. The district commission must elect a superintendent to oversee all parks created pursuant to this code.

Counties may pledge their support and issue bonds for the construction of an indoor ice arena for youth enjoyment if the county has entered into an agreement with a city, nonprofit, or school district for the joint operation and maintenance of such a facility.

County commissions may reserve the right to license itinerant shows, carnivals, circuses, and other transient exhibitions. The commission may charge a reasonable fee for the issuance of the license.

To honor the county's servicemen and women, the county commission may provide a plot in a cemetery for the burial of soldiers, called a "soldiers' rest." Counties may appropriate funds not to exceed \$250,000 to erect a building as a memorial to soldiers who served in the United States armed forces during a war. Additionally, county commission may appropriate up to \$3,500 for a county Memorial Day celebration and \$300 to military service organizations for Memorial Day exercises.

### **Alternative Forms of Government:**

The legislature may authorize political subdivisions of the state to adopt home rule charters and shall provide for the election of charter commissions. Charter commissions must study the local government and write a charter which provides for the structure and powers of the new government and submit it to a vote of the county's residents. The charter may additionally provide for the consolidation of city and county governments, though such a charter must be approved by the both the city and the county.

Other alternative forms of government include the elected executive plan, the at-large chair plan, the county manager plan, the county administrator plan, and the auditor-administrator plan. The elected executive plan creates a strong executive

with administrative and veto powers. The at-large chair plan allows county voters to choose the chair of the board. The county manager and administrator plans both provide for appointed positions with administrative powers. The auditor-administrator plan combines the offices of auditor

and administrator and allows county residents to elect the auditor-administrator. In addition to the appointment or election of an administrative official, county boards may consolidate certain county offices.

# Mississippi

## **Introduction:**

The Mississippi Constitution and Title 17 and 19 of the Mississippi Code Annotated establish required county officers, the procedure for creating new counties, and the five member legislative body that governs the county; however, the legislature established Home Rule in 1989, which allows county governments to take any action which is not specifically barred by law. This includes levying new taxes, issuing bonds, donating to private groups, changing practices or procedures of county elections, or altering rental rates of private property with not county interest. Mississippi is not a Dillon's Rule state.

## **County Finance:**

County commissions are charged with keeping the county budget in order, including making expenditures, accounting for county revenue, and approving the final budget. The county commissioners may contract debt in the name of the county to accomplish any lawful purpose, pay the costs incurred during a natural disaster, and to purchase motor vehicles for public safety. The county may also issue bonds to fund public buildings, construction, and land acquisition. The county may borrow in anticipation of revenue or grant money. At no time may the debt contracted exceed 15% of the assessed value of the property in the county. The county may levy a property tax on all assessable property within the county to fund county operations. The county may also levy a tax not to exceed four mills to provide funds to service districts located within the county.

The county may choose to exempt nonprofit organizations devoted to economic and industrial development and certain business districts from ad valorem taxes which are not related to public schools.

The county may create a human resource agency alone or jointly with other counties for the administration of county personnel, the disbursement of benefits, and the management of county salaries. Such an agency is to be governed by a board.

## **Contracts:**

The county commission serves as the county's contract authority, with the power to enter into contracts for the execution and administration of any lawful county purpose. Commissioners may contract for professional services of any nature related to the effective administration of the county. Counties are allowed to cooperate with any local government, the State of Mississippi, and the federal government to use any power or execute any function jointly. Such a compact must enumerate the duration and purpose of the agreement, as well as divide the costs of any project.

Whenever entering into an interlocal agreement, the county may establish a cooperative service district in which they may jointly provide services with other counties or municipalities. The cooperative district may issue revenue bonds and levy tax to fund any service provision they might undertake.

## **Zoning and Land Use:**

County boards have control over all county real and personal property and have care of the same in the name of the county. Commissioners may accept gifts, exercise eminent domain, purchase, or lease land on behalf of the county to keep for public purposes. When land no longer serves any public purpose, the county commission may sell or otherwise convey the property to another entity. This includes the authority to lend or lease county personal property. Counties with mineral resources have the authority to lease county land which has minerals on it.

County commissions must provide adequate space for court and for holding prisoners. To that end, counties are responsible for the acquisition, construction, maintenance, and operation of a courthouse and a jail. Counties may contract debt and exercise eminent domain to provide for the project. Counties may cooperate with municipalities for the joint acquisition, construction, and operation of a jail, provided that the municipality does not bear over half of the cost of the jail.

Counties may regulate the number, type, height, bulk, and number of stories of buildings within the county and may enforce those measures to provide

a comprehensive plan for the county's development. Counties are specifically empowered to regulate the placement of mobile homes. To accomplish this, the county board may divide the county into any number of districts as may be useful to enforce or regulate buildings. To help with developing zoning regulations, the county board may create a planning commission charged with creating a development plan for the county board to adopt, as well as with making recommendations about zoning ordinance. Counties may also regulate the placement and planning of subdivisions within the county. In the interest of public safety, counties may also adopt building codes which must meet minimum standards set for by the Mississippi Building Codes Council, though county codes may be more stringent. Counties may enforce building codes by hiring building inspectors; however, the county may not enforce codes on agricultural structures.

The county may also join a regional planning commission, which shall have the authority to create a plan for regional development. The county may take the regional commission's recommendations into account when formulating a development plan; however, the regional commission's recommendations are not binding county ordinance.

Counties may build dams and low-water control structures to protect public safety and property by preventing flooding. The county may contract debt and levy taxes to construct said structures, as well as cooperate with state and federal agencies to receive input about where to construct said structures. The county may receive federal assistance for this purpose. Counties may also take steps to prevent flooding by abating erosion, changing the course of streams, and dredging river channels.

Counties may create a variety of special districts in which they may levy special taxes or perform special functions. Such districts may be incorporated as water, sewer, and fire districts for the provision of those services. The power of such a district is vested in a board of commissioners, who shall have the authority to oversee the district. The board may acquire and operate whatever service utility the district was created to provide, contract debt, levy taxes and assess fees on the improved property, and exercise eminent domain. Among others, counties may create entertainment districts, in which they may provide additional services for entertainment establishments, including stadiums, and may additionally levy a different tax rate. Counties may

also create economic development districts and may appropriate funds to any planning or development district created within the county. Finally, counties may create public improvement districts. Such districts shall have the authority to acquire property for public use, borrow money, and raise funds by charging user fees.

Counties must establish extension offices to cooperate with Mississippi State University's school of agriculture to promote excellence in livestock and crop raising, as well as to provide research services and education to county residents. Pursuant to ensuring the county extension office's efficacy, the county may support research stations. The county may also establish a department of animal husbandry jointly with another county, provided both counties have incorporated livestock associations. The county is also empowered to appropriate funds to construct buildings for junior beef and dairy boys and girls.

### **Public Safety, Health, and Sanitation:**

County commissioners may appoint a county fire coordinator and keep all real property owned by a fire district in the care of the county to provide fire protection service to the areas of the county which would not otherwise receive it. The county may appropriate \$250 to support any fire department within the county and may additionally purchase fire trucks and other firefighting equipment for county fire departments. The county may levy an ad valorem tax to fund this initiative.

County commissions have police power within the county, and may make certain ordinances to preserve public safety and morals. Commissions may purchase hounds for the use of the sheriff and may also place bounties on beavers, nutria, and bobcats when the animals pose a threat to county residents or make tree preservation difficult. Counties may not regulate shooting ranges which are not in violation of any state or federal law, though they may regulate massage parlors and public displays of nudity.

Counties may operate Golden Age Nursing Homes to provide care and support to county residents of good moral character over the age of 65. The county commission may acquire land, construct facilities, and appropriate funds to operate the home. Golden Age Nursing Homes may also be used to provide care and support to indigent and destitute elderly residents, if the county does not have a separate facility for that purpose. The county may

also contract debt to exercise this authority. The county may also lease any county home or farm to an organization which intends to provide care for elderly or indigent county residents.

The county has the authority to abate any public or private nuisance upon its own motion or by petition of any elector in the county who lives near a nuisance. If the county takes action to clean up private property or abate any nuisance on private property, it may charge the property owner for cleaning, such a charge to constitute a lien on real estate.

County supervisors have the authority to acquire land for and construct any public building related to the preservation of the public health or to providing healthcare for county residents. Counties may cede any land or equipment which is no longer necessary for any county purpose to a 501c-3 nonprofit organization which provides primary healthcare to county residents. Any county with greater than 100,000 residents may create a hospital construction commission to oversee the construction and improvement of county hospitals. Counties must also provide temporary care to individuals with mental illness who have no other means of receiving care.

Counties with military bases or National Guard armories may acquire, construct, expand, improve, operate, and maintain water works or sewerage facilities. Counties may contract indebtedness by issuing bonds to accomplish any of the above. Counties are empowered to assess fees for use of the waterworks or sewerage facilities and to enter into contracts to provide water or sewage service.

Counties may acquire land for solid waste disposal facilities by purchase, lease, or eminent domain and may subsequently construct, maintain, and operate solid waste disposal facilities. Counties may exercise this power alone or may cooperate regionally to provide waste disposal services. Counties may also operate recycling centers. The county may levy a tax and may also contract debt by issuing bonds to realize this authority. Privately operated solid waste disposal facilities may be subjected to a fee by the county legislative body.

Counties may additionally create regional solid waste management authorities with all the powers attributed to counties and municipalities, but subject to oversight from the local governments which make the up the membership. The authority has a board of commissioners to operate the body,

with membership distributed proportionally among the member counties. The authority may acquire land for waste disposal facilities and subsequently construct, maintain, and operate the same. To fund its operation, the authority may impose fees for the use of services.

### **Roads, Bridges, and Transportation:**

County commissioners have complete control over roads, bridges, and ferries located within the county. Counties may not establish road districts, but must instead operate and maintain a countywide system of roads to ensure equal distribution of infrastructure resources. County commissioners are charged with laying out, constructing, and maintaining roads. Counties held elections on whether or not to have a countywide road system in 1988; counties which did not vote for a countywide road system may maintain their road districts. County commissions also have the authority to maintain private drives used school bus turnarounds and as driveways to cemeteries.

Counties in which there is located railroad property may create a local railroad authority or may join a regional railroad authority with other contiguous counties. The railroad authority may acquire, improve, construct, and operate railroad property, as well as acquire industries which are related to the production of railroads. The authority may charge fees for use of the rail system and make contracts related to railroad business. The county may levy an ad valorem tax to maintain railroad properties.

Counties may regulate parking on public land and near the courthouse, though they may not operate tow companies. Counties may apply for federal funds for the improvement of railroad crossings.

### **Recreation, Leisure, and Culture:**

Counties may appropriate money not to exceed \$2,500 in aid of fairs or fair associations. The counties may appropriate funds to advertise their agricultural and natural resources at any permanent exhibition or state or county fair. The county may levy a tax of one mill to establish and maintain this exhibit. Counties may also appropriate funds for contests in excellence in livestock and crop raising.

Counties may issue bonds in order to acquire, construct, maintain, and operate convention centers. Additionally, counties on the Gulf of Mexico may create and operate convention bureaus for the purpose of attracting tourism to the county.



Counties may appropriate money for a variety of historical and cultural purposes, including the restoration and preservation of Confederate war graves and to support public libraries.

**Alternative Forms of Government:**

The county legislative body may establish administrative policies and hand over their execution to a full time, trained county administrator. Such an administrator shall not hold any executive power, but shall instead oversee all county departments and provide managerial and supervisory assistance.

# Missouri

## **Introduction:**

The Missouri State Constitution and Title VI of the Missouri Revised Statutes create county governments, establish their three-member commission structure, and give the legislature the power to establish their duties and powers. Missouri also recognizes the independent city of St. Louis as a county government. Missouri orders counties into four classes, based on the assessed value of all real and personal property within the county, each of which has specific powers. The powers to each class of county is beyond the scope of this report, which only discusses powers common to all counties in the state. This unfortunately means that many county powers are not discussed here. Missouri is a Dillon's Rule state.

## **County Finance:**

The county commission has authority over the county budget, revenue, expenditures, and debt. The commission must make and adopt a budget on recommendation of the county's department heads following a public hearing concerning the final budget. County commissions must provide for the generation of revenue for the county budget by both ad valorem taxes and sales taxes in certain counties. The commission may also levy a tax on transient rooms with the revenue generated thereby going to fund activities related to tourism and a tax on recreation sales tax going to fund recreational activities and the construction of a convention center. When constructing public improvements, the county may accept federal and state aid; however, when making purchases, the county must use products of the State of Missouri if possible.

County commissions may contract debt to fund county operations and the acquisition of public utilities; however, their contracted debt may not exceed the total county revenue minus any unencumbered balances from the previous year without a vote. With a popular vote, the county may contract debt up to 5% of the assessed value of property within the county. The county may contract debt by issuing notes in anticipation of revenue as well. The county commission is the only body with the authority to review and discharge claims against the county.

The county may from time to time establish funds for special purposes, including the construction and maintenance of public buildings. Any unencumbered balance of a special fund may be transferred to the county general fund. Other permissible funds include a sheriff's revolving fund to be expended at the sheriff's discretion.

## **Contracts:**

The Missouri Constitution permits counties to cooperate with other local governments, as well as the state and federal governments, to exercise any power or execute any function which is lawfully granted to county governments.

## **Zoning and Land Use:**

County commissioners are authorized to hold public land in the name of the county and to make such rules and regulations about the use of county land as may be in the public interest. Counties may not hold land in other counties unless for the operation of the county sheriff's department. County commissioners may additionally acquire land by purchase, lease, or eminent domain, and may sell land which no longer serves the public interest.

Counties are required to maintain certain public buildings, including courthouses and jails; however, counties are authorized to construct any public building which they feel may be in the public interest to construct and operate. The county commission must provide for the construction, upkeep, and operation of the courthouse and is empowered to issue bonds fund construction. In addition to the courthouse and jail, the county may acquire armories for the Missouri National Guard. Whenever constructing a county building, the commission may either use public land or may acquire additional land; whenever maintaining a public building, the county commission shall have the authority renovate or repair the edifice. The county must provide office space for county officers and departments inside public buildings.

To provide a comprehensive development plan for the county, the commission may divide the county into such zones and districts as may be expedient to administering county functions. To preserve public

safety, counties may adopt nationally recognized building codes within their zoning ordinances. Counties may create planning commissions to act in an advisory capacity, assisting the county commission in determining a comprehensive plan, where to establish service districts, and zoning ordinances. The county commission may vote to adopt a master plan proposed by such a commission as the county development plan. The development plan may additionally include county commissioners' commitment to economic development and neighborhood improvement and the actions they intend to take to spur economic growth. A caveat: zoning and planning authority, in particular, varies wildly based on county classification. These general powers are extended in greater or lesser measure to all counties, but certain counties may exercise more or less authority based on classification.

### **Public Safety, Health, and Welfare:**

Whenever in the county development plan the county or planning commission establishes a fire district, the county commission may appropriate money for the use of the fire district in purchasing equipment, hiring personnel, and operating its fire abatement and protection programs.

Any county may provide ambulance service to transport sick or injured county residents to healthcare facilities. The ambulance service may be contracted from a municipality or neighboring county, or the county commission may acquire equipment by purchase, lease, or gift and hire personnel to operate ambulance services. The county may establish reasonable rates for the use of emergency ambulance services. In addition, the county may put to a vote a tax of five cents on every hundred dollars of taxable property to fund services for senior citizens.

Counties may establish sewer and water service districts in the county development plan to provide water and sewerage service to county residents. Based on the classification of the county, commissions may either contract for such services or may acquire facilities to provide such services themselves.

Counties may provide dumping grounds for solid waste and rubbish in the interest of preserving public health. To that end, county commissioners may levy taxes and issue bonds to construct or otherwise acquire facilities, as well as charge a reasonable fee for the provision of trash collection service.

### **Roads, Bridges, and Transportation:**

The county commission is charged with the care and control of county highways. For that purpose, the commission may make an annual levy or issue bonds to construct, improve, enlarge, maintain, and operate county roads. The county commission is the rule-making authority for all public roads, parking facilities, and traffic ordinances. The county may grant easements on public roads to watershed districts and to other bodies which petition for them.

Charter counties may additionally operate parking facilities for motor vehicles in the county. The county may finance these facilities by issuing revenue bonds if the parking area is a pay facility, general obligation bonds, or by appropriating general revenue funds.

### **Recreation, Leisure, and Culture:**

Counties may acquire and operate parks for the benefit of county residents, and county commissioners may set aside five percent of the county revenue fund to purchase and maintain county parks. The county commissioners may propose a tax and, contingent upon approval from the county's electors, levy it on the county's residents. Portions of counties adjacent to municipalities operating a park system may become a part of that park system, submit themselves to the municipal tax, and give the municipal park commission authority to construct parks in the portion of the county which elects to join.

Counties are additionally empowered to operate sports complexes, run by five member commissions. These commissions have the authority to borrow money, issue bonds, levy taxes, and spend the revenue generated in the above ways to acquire and construct stadiums and other facilities. The complex may charge admission fees to any sporting event.

### **Alternative Forms of Government:**

The Missouri Constitution authorizes the adoption of a charter form of government by counties. To create a charter, the county must elect a charter commission to study the government and author a charter which describes the county's new governmental structure and powers; however, no charter may expand county taxing or debt authority.

# Montana

## **Introduction: Montana State Constitution, Article XI, Sections 3, 4, 5, 6,**

The Montana State Constitution establishes counties in Article XI, laying out the basis of county powers. Counties derive their authority from Title 7 of the Montana Code Annotated. The constitution also establishes the number of counties and county boundaries, providing that the legislature shall not change the boundaries without the consent of the residents. The constitution establishes standard three member commissions and lists officers to be elected. The constitution also provides for home-rule powers that may be exercised following the adoptions of charters. Even if the counties do not adopt a charter, the constitution demands that county powers be construed liberally, which means that counties have the power to exercise a broad range of authority. Montana is not a Dillon's Rule state.

### **County Finances:**

The county commission is charged with the formulation, promulgation, and adoption of a county budget. The commission additionally retains all authority to levy a mill tax on property in the county, make appropriations, issue bonds and securities, and discharge any debts claimed against the county. When contracting debt, the county may issue both general and revenue bonds in anticipation of tax revenues, though the county may not contract debt in excess of \$500,000 without approval from the county electors. Moreover, the county may institute a resort tax not to exceed 3% on resort areas in order to provide the resort district with more extensive services, though they county may only institute the tax if the electors living in the proposed resort area agree to it in an election.

The county commission retains the authority to license various occupations as well, including itinerant retail merchants, hucksters, and transient vendors. The county may use these license fees to establish a public flea market or farmer's market.

### **Contracts:**

The county commission may, by agreement, cooperate in the exercise of any power or the execution of any local government function, share

services with other local governments, and transfer power to an officer or other local governmental division. For any contract involving large sums of money, the county must undertake a competitive bidding process to ensure the county does not spend unnecessary funds.

### **Zoning and Land Use:**

The county commission has the authority acquire land by purchase, lease, or eminent domain and to hold real and personal property in the name of the county. The commission may additionally sell such land as no longer serves the public interest, though it may retain mineral, water, timber, and other rights on land it sells or leases. The county is required to maintain certain public buildings on its lands, including a courthouse and a jail. In the courthouse, the county may operate a law library. The county may operate these buildings jointly with a municipality if it desires. The county may enter into energy conservation contracts that attempt to diminish the use of electricity in public buildings; however, such contracts must demonstrably increase savings before they may be validated.

The county commission may divide the unincorporated portions of the county into such zones as may be expedient for promoting economically sustainable growth. These zones may classify county land and mandate what sorts of use the land may be put to. The board may regulate the size, type, height, bulk, and other characteristics of buildings within these zones; however, all zones must be uniform in their regulation of buildings. To formulate and carry out a development plan, the county may create a planning commission to assist it. To execute the plan, the county may exchange land with the federal government, grant franchises on use, and issue permits for construction and management of county land.

The county may additionally create special districts and service districts to execute functions on behalf of the county government. The districts may be created by a vote of the electors living within the proposed district. Districts may carry out a variety of functions, including constructing roads, providing services, and promoting public safety and health. In addition, counties may create business, industrial,

and commercial improvement districts by a similar process. In improvement districts, the county commission may make an assessment of charge a fee to make improvements, including lighting, street parking, rural improvement, and storm sewers. The county must spend any funds gained from the assessment on improving the district.

The county is empowered to create housing authorities to provide housing to low- and moderate-income housing for individuals living in the county. The county may operate the housing authority jointly with a municipality if it chooses to do so. These housing developments may either be in the municipality or in rural areas.

The county is charged with managing resources and land, as well as making ordinances to prevent erosion and protect natural resources, including selling land and mineral rights separately. To do so, the county may create a land advisory board to review land use in the county and make recommendations about protective ordinances to conserve natural resources. The county has the authority to purchase wooded land for the purpose of creating a county forest. The land on it may be protected from timbering by county ordinance. Alternately, the county may allow harvesting of wood resources on the land and may charge a fee for allowing an individual or corporation to do so. The county may permit either dead wood collection or small scale timber collection, but may not franchise rights to deforest the entire property. If the county wishes to manage resources on a regional level, it may create regional resource management authorities.

### **Public Safety, Health, and Sanitation:**

The county government must take steps to protect its citizens. It must appoint a fire marshal and may create special fire protection districts. The commission may assess fees in these districts to generate revenue for the provision of fire protection service. In addition, the county may appropriate revenue for volunteer fire departments.

The county sheriff is the public safety officer for counties, responsible for enforcing all county ordinances. County governments cannot make ordinances about or regulate the ownership, possession, or sale of firearms; however, they may regulate the discharge and concealed carry of firearms at any time.

The county must provide emergency medical services of its constituents. It may acquire land and constructs facilities for hospitals, but governance of the facility must be left to a board of hospitals trustees. The county may create hospital districts and assess a fee on households within it to fund the hospital. The county may operate a boarding home for the aged in conjunction with or separate from this hospital to provide elderly residents care and shelter.

The county may define, regulate, and abate any public nuisance which poses a threat to public health or safety or blights the community aesthetic, including noxious weeds and rabid or wild animals. The commission may appoint a rodent control board and a weed control board to promulgate lists of nuisances and to take steps toward abating them. If there is a nuisance on private land which the owner fails to abate after being served notice by the commission, then the county may enter the property to abate the nuisance. The county may additionally place a lien on the property until the owner pays for the abatement of the nuisance or removal of the blight.

To prevent the accumulation of litter on public and private land and in the interest of promoting public health, the county may create a solid waste management authority to collect and safely dispose of solid waste. In addition, the county may provide water and sewerage service. To that end, the county may acquire any of the facilities necessary to provide any of the three above services and may assess a fee for providing such services. The board may also create water quality districts in which it protects water supplies from pollution.

### **Roads, Bridges, and Transportation:**

The county commission is charged with laying out, constructing, and maintaining all county roads in the unincorporated parts of the county. The county may create road districts headed up by administrative boards to oversee the maintenance of county infrastructure in that part of the county if they so choose. Montana's counties may additionally create transportation authorities to provide public transportation—buses, rails, and subways—if the county so desires.

The county may additionally establish port authorities and rail authorities. Rail authorities have the power to lay out, construct, and maintain



railways in the county, whereas port authorities are empowered to stimulate economic growth and support the expansion of new industries in the county by supporting the development of infrastructure. Both authorities are empowered to acquire any facilities and make any ordinances necessary to their proper functioning

### **Recreation, Leisure, and Culture:**

The county may acquire such land and facilities as may be necessary to establish county parks and recreational facilities, including recreational programs and sports facilities. The county commission may exercise this authority on its own or may create a parks and recreation board to do so on its behalf. The county may also construct a civic center on public land. The county may operate programs for both youth and elderly residents in recreational facilities.

Commissions may operate county fairs and acquire the land and facilities to do so. Alternately, the county may delegate its authority to operate fairs to a county fair board, charged with planning and

executing the fair. The county may appropriate funds to display county industrial and agricultural products at such a venue.

The county may additionally acquire land to operate a public library system and/or public museums.

### **Alternative Forms of Government:**

The constitution provides counties with the authority to author a charter and take on home-rule powers if the residents of the county approve. Montana offers many other forms of alternative government as well, including a commission-executive form, a commission-manager form, and a city-county consolidation. In the case of the first, the manager acts as a supervisor for all administrative and executive departments. A county executive operates similarly, save that the elected executive retains veto power. City-county consolidation charters a new government out of the old city and county with the power to act as both a city and a county and to provide the services each is charged with providing.

# Nebraska

## **Introduction:**

Nebraskan counties derive their authority from the Constitution of the State of Nebraska and Chapter 23 of Nebraska Revised Statutes. Though subordinate to the state government, counties do have alternative forms of government from which to choose. The commission, composed of three or five members, serves as the sole legislative authority for a county, empowered to exercise any authority granted it by law. These governments, designated bodies politic and corporate by the Nebraska code, are established within political boundaries delineated by the state. Nebraska is a Dillon's Rule state.

## **County Finance:**

The county board has the sole authority over county funds and business unless specifically granted to some other agency or officer by state law or local ordinance. Boards may establish a petty cash fund for small reimbursements and for general operations and expenditures. The board, being the sole authority over the budget, is also the sole authority for examining and settling accounts and claims raised against the county. When the county seeks to settle a claim it holds against an individual or corporation, it may agree to settle for less than the face value of the claim if no money has been collected after a period of five years. Counties may invest legally in government bonds and securities, but may not invest in any privately held company by purchasing stock.

County boards, in formulating the county development plan, must consider the future of the tax base and ways in which to limit government expenditure before they approve the plan. This is to ensure adequate government resources to execute the plan in the future.

The county has the power to establish and levy a property tax for use by the county government. The government may not exceed a levy of fifty cents per one hundred dollars of taxable property in the county, although it may levy an additional five cents per one hundred dollars of taxable property to pay for interlocal cooperative agreements. Should the board wish to levy a greater tax, they may put the issue to a vote before the electors of the county. If the

electors vote in the affirmative, the county may levy additional taxes for specific purposes. Taxes made pursuant to executing the county duty to establish and operate a courthouse, jail, and other county buildings may not exceed a levy of seventeen and a half cents per hundred dollars of taxable property in the county. Alternately, counties may put to a vote a tax of 3.5 mills to provide for public building funds. Excess funds may be transferred to the general fund.

If the board decides to levy taxes greater than 50 cents per one hundred dollars of taxable property in the county, the tax must be put to a vote before the electors of the county with a substantive reason for the need for such a levy and the duration of the excessive levy. A special tax levied to pay off a debt must be kept in a separate fund in the county treasury, to be spent only for the specific purpose of paying off the debt. Any excess money in such a special fund may be transferred to the general fund.

When collecting claims the county has against other people, the county board may require that the individual pay off the debt within five days of service of the notice. In the event the individual fails to repay the debt, the county may sue the individual for the money owed in a court of law.

When making appropriations in anticipation of taxes levied by the county, the board may not issue warrants nor contracted indebtedness over 50% of the expected value of the fund following collection of the tax. For counties with a population greater than 150,000 people, the board must hire a purchasing agent who is not a county officer to make purchases with appropriated funds.

## **Contracts:**

County boards may enter into contracts with other boards of counties in the state of Nebraska to exercise powers attributed to them separately subject the requirements of the Interlocal Cooperation Act. The agreement, to be made in writing, must specifically outline all powers to be exercised jointly, the method for such exercise, and the distribution of the cost of joint exercise. The board may additionally enter into contracts with private entities or public corporations as may be necessary to carry out the county's corporate powers. If the cost for the lease

of equipment or property exceeds one tenth of the total taxable value of taxable property in the county, the board may not enter into another contract. Equipment and property owned by the county may alternately be leased for a period not to exceed one year to any individual, private entity, or public corporation.

When in the course of executing a development plan the county sees fit to establish some program or erect some structure, the county may contract with any individual, private entity, or public corporation to carry out its plan. The county may additionally, by resolution, approve payment of the contract prior to receipt of the services. In the construction of public buildings, however, counties may not pay the contracted debt out of a special fund unless at least 70% of the tax levy has been collected.

### **Zoning and Land Use:**

County territory is fixed by the legislature and may not be altered without majority approval of the electors of both counties in question. In cases of doubt, the legislature reserves authority to set the boundaries of counties, though no county may shrink below four hundred square miles in area.

County boards may purchase and hold real and personal estate necessary to the function of the county government. Purchase incorporates means of acquisition ranging from leasing and leasing with option to buy. This includes land made available as a result of judicial hearings and land ceded or deeded to the county as a gift. If acting in the best interest of the county, the board may sell or lease the county's real and personal estate. The county may exercise its power to take and to have care and custody of county real and personal estate. Counties are required to provide a courthouse and suitable jail, in addition to any other county buildings as may be necessary to the operation of the government or the wellbeing of the residents of the county. Such buildings may include offices for county enterprises and buildings vital to community activity of social, athletic, or recreational purpose. The board may enter contracts and charge reasonable fees for the use of these buildings.

The county board may sell any county property it chooses to sell so long as such an action is taken in the best interest of the county. The county board may, if it so desires, sell county property on credit provided the credit extended does not exceed two-

thirds of the total sale price. Counties must sell property at a price comparable to the fair market value of the property, unless selling land for a veteran's home to the state for purposes of providing domiciles to veterans.

On petition of two-thirds of the owners of a plat in the unincorporated areas of the county, the board may authorize the vacation of the land. A petition of the same number of owners is sufficient for the county to change the name of the plat.

Counties may establish planning commissions to create and advise the board about the proposed expansion of the county. The plans include the future of the county agriculture and industry, creating a solid infrastructure for future development, and ensuring prosperity, safety, and health for the citizens of the county. The board may adopt this development plan and implement it by dividing the county into such zones as may be necessary for the expedient operation of the county government, though they may not take these actions or appropriate funds to execute these actions until having received the advice of the planning commission. The board may regulate the type of building allowed in each zone, the density of buildings, the height of buildings, the uses of land for agriculture, industry, commerce, and the height, bulk, and size of buildings and other structures. The board must give due consideration to soil and water conservation in the unincorporated areas of the county.

The county development plan must also include provisions concerning the preservation of public health, including security from fire and other dangers, and lessening the hazard of runoff and storm waters. To mitigate the damaging effects of flooding, counties may establish special districts or zones subject to periodic floods. In said zone, the county may require a higher standard of building or ban building altogether in order to preserve public safety in time of flood emergencies.

In regulating conservation and agriculture, counties may institute distance requirements from the nearest residence; however, counties may not implement a moratorium on livestock waste facilities nor impact existing facilities. County boards may acquire sites to construct, purchase, remodel, or repair new or existing facilities including grandstands, pavilions, exhibition halls, barns, racetracks, and other such facilities related to the promotion of the horse-breeding and livestock industry in Nebraska. The

board of supervisors may issue general obligation bonds and contract indebtedness to do so. Counties may additionally contract out the operation of these facilities to nonprofit corporations.

In the unincorporated areas of the county, the board may restrict the construction and operation of dance halls, roadhouses, and other places of public amusement without licensure from the county. Neither may any individual operate any pool or billiard hall in the unincorporated areas of the county without a license.

Counties may make requirements about the size, bulk, and number of stories of residential buildings as well. However, they may not exclude a home simply on the basis of it being a non-permanent or manufactured home, though the county may stipulate the size of the manufactured home, ban wheels or axles attached to the mobile home, and demand a certain aesthetic standard.

To enforce the rules the board approves with respect to zoning, the planning commission may issue permits prior to the construction or major renovation of new buildings. Planning commissions may grant exceptions to the rules they promulgate concerning zoning and building code to individuals, private entities, or public corporations seeking to execute some policy prohibited by the rules. The county board of commissioners may either reserve this power to board or may delegate it to the planning commission.

### **Public Health, Sanitation, and Safety:**

To preserve public safety for the county, the board may establish rural and suburban fire protection districts to be managed by a board of directors for the district. The board shall levy a tax on the service district such that the district may maintain facilities and equipment necessary to the abatement of fires. Counties may employ firefighters or operate volunteer fire departments.

The county board may serve as board of corrections in counties with less than 150,000 people; however, in counties with a population in excess of 150,000 the board of supervisors must establish a board of corrections. This power charges the board to operate the jail according to Nebraskan standards and shall have charge of all inmates in said jail. The same board may enter into contracts for the operation and maintenance of the jail and health and wellbeing of the inmates.

Counties are empowered to acquire land for, design, and institute programs, including the provision of buildings and equipment necessary to implement the program, to protect, treat, rehabilitate, educate, and provide care to the aged, the blind, the disabled, the ill or infirm, and the mentally disabled or ill. Counties may exercise this power alone or in tandem with other governmental subdivision of Nebraska.

The board may cooperate with the Nebraska Department of Agriculture or any parallel federal agency to abate insect pests and disease for agricultural and horticultural plants in Nebraska. To protect the economic interests of county agriculture, the board may expend money from the general fund to accomplish this.

Counties may create hospital authorities as bodies corporate and politic to administer to the hospitals the board may place under its jurisdiction. This includes hiring and firing staff, maintaining and expanding services, leasing and purchasing equipment, and to enter into contracts with public and private entities to execute all of its duties. The board may establish a district to serve as the foundation of the hospital's tax base. Hospital authorities may levy a three and a half cent tax on every one hundred dollars of taxable property in the service district to fund the hospital and may additionally charge reasonable fees for services rendered.

County boards may acquire and operate sewer disposal facilities to treat, purify, or dispose of liquid and solid waste. The board may additionally levy a three and a half cent tax on every hundred dollars of taxable property in the county to pay for the system; said tax is exempt from all regulations on property tax ceilings. In addition, the county may subsidize the system by levying user fees on the sewer and issuing general obligation bonds. In addition to this power, the county may provide water and solid waste disposal services.

### **Roads, Bridges, and Transportation:**

Counties have the sole right to establish, lay out, construct, alter, and discontinue any road running through the unincorporated area of the county. Counties may exercise their right to purchase land, or acquire titles by gift, or to seize land by eminent domain to acquire the property to provide a sound infrastructure. Boards may move to abandon roads that provide a similar service as state or federal

highways or any abandoned or unused road; however, the board may not discontinue roads lying within the zoning territory of an incorporated city without prior approval of the legislative body of the city. The county may establish the present state of roads and lay out plans for future road or bridge service in the county development plan.

The supervision of public roads is vested in the county board, which has authority over maintenance and improvement over existing roads. Moreover, the board may establish traffic laws and administer local, state, and federal highway regulations on the roads.

County commissions may establish airport authorities, either alone or in tandem with another county, to administer and regulate airports within the county's territory. To fund the outlay associated with establishing an airport, counties may issue bonds.

### **Recreation, Leisure, and Culture:**

Counties may operate parks and recreational facilities. This includes the power to acquire and develop land with any facilities or fields which may be necessary to the successful execution of a recreation plan. The county may issue bonds to fund these endeavors.

The county development plan allows counties to regulate zones so as to preserve and protect historic buildings and sites. Counties containing a city of the primary class, i.e. a city of 100,000-300,000 people, may make aesthetic improvements to the county, including planting ornamental and shade trees and shrubs and erecting monuments. To erect and maintain these monuments, the county may levy a tax of 3.5 mills.



# Nevada

## **Introduction:**

Counties in Nevada derive their authority from the Constitution of the State of Nevada and Title 20 of the Nevada Revised Statutes, both of which empower the state government to prescribe the authority delegated to county governments. The Constitution does allow the counties to seek a charter for an independent government; however, no government has yet adopted a home rule charter. Carson City, which is not in a county and considered an “independent city” by the US Census Bureau, retains many of the powers attributed counties by the state legislature. Counties are limited to the specific statutory code, but may exercise any power or make any legislation pursuant to the exercise or deployment of their powers. Nevada is a Dillon’s Rule State.

Nevada county commissions consist of three member boards, unless authorized otherwise by either state statute or local ordinance, and retain all legislative authority. Commissioners may become members of the state association of county commissioners and any national organization with which the state association is affiliated. The commission may appropriate funds to pay membership dues.

## **County Finances:**

The county commission has full budgetary authority within the confines of the statutory code. The amount of debt counties may contract, the taxes they may levy, and the assessment they may make except for the purpose of acquiring water supplies is established by the Nevada legislature. The county may not levy ad valorem taxes which exceed 106% of the allowable revenue of the previous year’s assessed property, excluding assessments made in the current fiscal year, fire district, and revenue from mining operations. Public money may not be spent on behalf of or invested in any private corporation excepting railroad companies and corporations. The investigative power that comes along with establishing a budget gives the county the authority to audit all accounts of all officers and to discharge debts on claims against the county. The commission has the power to decide how to manage the flow of county money, be it in trusts or federally secured bank accounts, and to advise the treasurer on the disbursement of funds.

State code authorizes the county commission to levy taxes on real and personal property assessed within the political boundaries of the county. In addition to taxes, the commission may make assessments on property and charge service fees for any service or utility provided by the county for the public. Connection fees are also acceptable. Special service districts may levy additional taxes for the provision of services including water, electricity, emergency medical services, and other services. In addition, the commission may develop a schedule of fees for the use of public improvements, including stadiums, performing arts centers, and museums, among other public facilities.

The commission may opt to levy a 1% tax on the gross receipts of any rental lodge after putting the question to a vote of the county. The agency which collects the tax may not retain any of the money as an administrative fee, but must instead put all the revenue in the county general fund. The money raised by such a tax must be used on the construction and maintenance of sidewalks, streets, avenues, boulevards, and other public rights-of-way used primarily by motor vehicles or on the interest payment of bonds, notes, and other obligations of indebtedness the county may incur. Money collected in the unincorporated area of the county must be used for development in the unincorporated area of the county. When collected by a transportation service district, the money must be used for by the transportation authority for improvements and operating costs. In a county with a population in excess of 400,000 people, the county must impose a tax of 2% on rental transient lodging and provide the state transportation commissioner with three-eighths of the profit. The county may retain the other five-eighths to use in promoting tourism through advertising available accommodations, entertainment, and special events. Counties with populations less than 400,000 may by ordinance and majority vote of the county’s residents impose a similar tax.

Counties may levy a two mill ad valorem tax in order to advertise and otherwise promote the county to prospective homebuyers and industrial and commercial developers. Alternately, the county may use the tax to contract with a separate public or private entity to carry out the same function.

The commission may make appropriations and expenditures outside those specifically authorized by law for any purpose with substantial benefit to the citizens of the county. In addition, the county may cede equipment or funds recovered from embezzlement charges to nonprofit organizations created for religious, charitable, or educational purposes. The board may only contract debt as does not exceed, with the addition of the salaries of county employees, the money on hand in the treasury or in anticipation of taxes. The board may issue general obligation bonds in order to fund public improvements (including maintenance, operation, construction, and land acquisition) so long as such bonds do not exceed 15% of the total last assessed valuation of county property.

Counties and special service districts may issue general obligations bonds in anticipation of tax revenue for the purpose of pursuing projects related to public interest. In special service districts, the contracted debt may not exceed 50% of all taxable property, excluding motor vehicles, in the district.

In the interest of preserving services provided to the county's residents, the county may subsidize and otherwise expend funds to reduce competition among ambulance service providers, taxicabs or other public transportation, collection and disposal of garbage, airport operations, water and sewage treatment, landfills operations, concessions on public property, and maintenance of benches and shelters. The commission may offer a franchise to an individual or private corporation to be the sole provider of the any of these services. In the event that a state agency or law already regulates any of the above, the county may not make a similar regulation.

The commission has the authority to issue licenses, tax, and otherwise regulate any lawful profession, trade, industry, occupation, or business in the county. This includes license taxes on revenue or regulation imposed and executed by the county commission. This includes the right to license entertainment venues such as dance halls and gambling halls, as well as tent shows, circuses, theme parks, and exhibitions. Dancing halls, escort services, entertainment by referral services, and gambling games or devices must seek licensure by the commissioners when operating in the unincorporated parts of the county. A county of more than 400,000 people may not issue licenses to brothels or houses of prostitution, though it may issue liquor licenses and collect taxes on them.

Commissions may also levy a license tax on farmer's markets, pawnbrokers, and secondhand dealers.

When an individual falls into delinquency of license taxes, the county may enforce a lien on the taxes owed. Alternately, the commission may delegate the responsibility to enforce liens to the recreation board. The board may, by ordinance, impose a civil penalty rather than a criminal one on businesses in delinquency of their licensing tax.

The board must make regulations requiring a license for outdoor assemblies which can reasonably anticipate 1,000 or more participants. The board may additionally charge a nonrefundable license fee for the right to assemble.

### **Contracts:**

County governments may enter into cooperative agreements with Nevada, other counties, or any private or public corporation for a variety of purposes, including modifying the weather. The expenses must be paid out of the county's general fund. The contract may extend beyond the term of the commissioners who enter into the contract, but only in the sense that the commission must continue appropriating funds to pay for the services rendered. The county is specifically empowered to enter into a contract with the Department of Agriculture.

### **Zoning and Land Acquisition:**

Counties may purchase, lease, rent, or otherwise acquire land for use for public purposes providing substantial benefit to the county's residents. The county is vested by the legislature with all power to execute the above power, including the encumbrance of land and gifts of land. However, the county may not seize the title for land already publicly held, except at the consent of the controlling political entity. Counties in Nevada may acquire land through exercise of eminent domain, provided that they provide just compensation for the land. The county may make all ordinances related to the care and management of real and personal county property.

In addition to acquiring land for county use, the county may lease or sell county land for recreational, industrial, commercial, and residential purposes or for the public benefit as determined by the commission. Potential lessees include nonprofit organizations, private corporations, and special improvement district boards.

To properly administer the needs of the county's residents, the commission may establish such zones as may be convenient for the provision of services. Counties may additionally create special service districts to perform particular functions in certain parts of the county. Districts may be created by resolution in the unincorporated areas of the county, unless the incorporated municipality agrees to the terms of the service district. If the commission so desire, they may create a board to oversee the special service district and administer the services provided by the district. These zones may promulgate such rules concerning building code as may be necessary to maintain safe structures and charge fees for inspection of buildings and violation of building codes; however, in a county of 400,000 or more people, the city's code takes precedent if it is more stringent. If a county building inspector finds a building in such a state of disrepair as to compromise public health or safety, he or she may take action to abate the problem.

The commission may create a public works department to administer to all public lands and buildings. The board's zoning privileges with regard to public works and land use may be restricted by state law, such as the Spring Mountains National Recreation Area Act or the Red Rock Canyon Conservation Area and Adjacent Lands Act.

To preserve the environmental diversity in the State of Nevada, counties may establish wildlife protection districts. Such district may regulate land use in the district to minimize the impact of land use on endangered or threatened species, including selling and leasing real property, except that the district cannot abridge water rights. In addition, the county may make ordinances to regulate smoke and air pollution, including soot, cinders, noxious fumes, and other public nuisances produced by buildings in the county. The county may regulate sawdust pollution in county streams and may levy a tax to prevent such pollution from damaging the stream environment. Moreover, counties may prohibit the waste of water on public and private lands as a way to conserve resources. They may also create a wetland mitigation bank in accordance with federal guidelines. If the county contains a species classified as endangered or threatened, the county may establish a fund and take steps to preserve and promote the species, its habitat, and its food supply.

County commissions, or a commission designated to use their power, may acquire improvements for

fences or construct and maintain the same. These fences are to be constructed in a fence improvement district to be established by ordinance.

To provide affordable residential housing for all residents of the county, the commission may develop inexpensive housing projects, rehabilitate rental property in residential neighborhoods, and revitalize derelict property. They may appropriate funds to exercise these powers from the general county fund, but may not levy any additional taxes to do so.

Anyone wishing to engage in property management, including the management of middle- and low-income housing described in the paragraph above, apartment complexes, and rental property, may be required by the county commission to receive a license. Moreover, the county may require that apartment complexes and rental property in the unincorporated areas of the county be managed by an individual who has a property management license.

County governments may purchase or exchange county property for private property that abuts a road or flood control facility in order to expand the road or flood control facility. Flood control facilities include any natural or artificial water facility for the collection, channeling, impoundment, or disposal of rainfall and other waters.

### **Public Safety, Sanitation, and Health:**

To preserve public safety from fire hazards, the commission may either create, purchase land for, construct facilities for, maintain, and operate a fire department, or may vest the authority to do so in a special service district commission. The commission may cooperate with state agencies meant to protect the public from fire for that purpose, and may additionally eliminate fire hazards in the district, such as dry grass accumulated on public roads. This includes regulating the use of combustible or flammable materials, making arrangements to provide medical care to individuals injured by fires, and regulating firework possession and use. The commission may levy taxes to fund the service district.

The county may make other provision necessary to public safety, including ordinances regarding the abatement of criminal gang activity, the provision of public safety within certain areas of mobile home parks, and ordinances against loitering. To fund the measures and action taken against individuals pursuant to their enforcement, the county may request that the convicted party pay court fees

and costs associated with the arrest. Though the legislature reserves the right to regulate the sale, purchase, and exchange of firearms, the county may make such regulation as may prohibit the unsafe discharge of firearms in the county.

The county commission or a special service district commission vested with authority by the county commission may take pains to abate public nuisances, including mosquitoes, flies, insects, rats, rubbish, weeds, wild horses on private property, graffiti on residential and non-residential property, and excessive noise, including noise from aircraft. In fact, counties with populations greater than 400,000 may propose flight paths, educate the public, and create programs, so long as such programs do not damage the airline industry, to abate aircraft noise. This includes the abatement of stagnant water as a nuisance and the right to purchase, lease, rent, maintain, and operate equipment which will serve the county to combat the public health hazards inherent in these nuisances. Pursuant to this goal, the county may levy a fifteen cent ad valorem tax per one hundred dollars of taxable property in the county, unless the electors of the county agree to pay an ad valorem tax of up to twenty cents per one hundred dollars of taxable property. The county may charge fees to any private individual who, failing to abate the nuisance following service of notice, forces the county to take action.

Counties may make ordinances to protect residents from rabies by abating rabid animals. The county board of health must follow the regulations established by the state board of health in addition to county ordinances. Moreover, the county may abate dangerous animals by prohibiting cruelty to animals, regulating large animals, and the establishment of a pound and dog-catcher.

The county may establish a neighborhood justice center in counties with less than 100,000 residents—they must establish one in counties with more than 100,000 residents—to mediate simple disputes impartially. Though the county may charge for training or for particularly complex case resolution, the services offered by the center must be offered for free to residents. In addition, the county may provide services to and expend funds on delinquent children to rehabilitate them.

Counties may make efforts to assist children in need, most notably by establishing youth shelters for indigent or runaway youth. In the case of children

convicted of delinquency in a juvenile court, the county may establish a “forestry camp” to house such children. The commission may subsequently require children to labor on the buildings and grounds of such a camp.

A county commission may, pursuant to providing services and care for veterans, establish an office of a coordinator of services for veterans. This office assists veterans or veterans’ spouses, dependents, or primary caretakers, in discharging all claims the veteran has against the US government or the State of Nevada for any care or service to which the veteran believes him or herself to be entitled.

In flood prone areas, the county commission or a board invested with their authority may establish a flood control district and construct and maintain facilities to abate flood and water damage.

The commission may also acquire equipment and property necessary to provide medical services to residents by creating a hospital, or may create a service district to provide the same services. The commission may hire individuals trained to offer emergency medical services to staff the facilities and may charge service fees associated with the use of emergency medical services. The county may additionally provide medical services in the remote areas of the county, including a physician and registered nurse, and fix fees to allow all residents to make use of the service. The county must provide care to the indigent living in the county by whatever means allowed by law, including but not limited to the use of emergency medical services. The county may additionally enter into contracts to supply prescription drugs at reduced cost to county residents and may provide scholarships to medical students on the condition that the student will return to a less populated and underserved area of the county to provide medical care.

The county may provide for its residents a public cemetery or may establish a service district to do the same. The county may acquire land for the cemetery, levy a tax not to exceed two mills per dollar of taxable property to pay off any general obligation bonds issued to purchase the cemetery, and levy a tax sufficient to fund the operation of the cemetery. The county may acquire land for a cemetery, enlarge an existing cemetery, or abolish an existing cemetery. Alternately, the county may convey cemetery land to a nonprofit organization outside the government to perform all the same functions.



To preserve public health and safety and to administer buildings and ground facilities, engineering, building safety, waterworks, sewers, garbage and refuse disposal facilities, public sanitary facilities, and water treatment facilities, the commission may create a public works department. The department and special service districts may finance and construct projects on any and all public lands, including adjacent to public roads and waterways, so long as they do not violate any restrictions on the exercise of their power. County powers with regard to public works are always subordinate to regional planning commissions created by interstate compact, including the Tahoe Regional Planning Compact.

Counties may create sewer service districts to preserve public health. Either the county commission, or a board invested with their power, may construct and extend the sewer system to service the district established. Powers appurtenant to the maintenance of the system include charging user fees for any commodity produced by the plant and testing the state's water for any discharge or pollutant hazardous to the public health. The county may contract with private corporations or public entities to assist in the provision of this service.

The county, or its designee, may additionally acquire land to use as a garbage disposal site and purchase, maintain, and operate equipment to collect garbage and refuse. The county may, when necessary, compel residents to use the sewer and garbage service on the advice of the Department of Health and Human Services as a means of preserving public health.

The county board of commissioners may either create or exercise on its own the right to establish an electrical service district to provide light, heat, and power. This includes the right to construct, acquire, repair, maintain, and operate plants to produce, transmit, and distribute power within or without the State of Nevada. Moreover, counties may contract with municipalities, private corporations, to the State, and the any public institution electricity or any commodity produced by a power plant. The commission in a county of more than 100,000 but less than 400,000 people may additionally supply financial assistance to individuals who wish to connect to the public water system or who wish to make their property more flood resistant.

The county commission in a county of more than 400,000 people may acquire water treatment

facilities and distribution systems to provide clean water outside the incorporated areas of the county. The board may acquire, construct, reconstruct, improve, extend, or better a system to provide, store, distribute, and purify water for public and private purposes. The commission may additionally levy a tax sufficient to pay all or part of the cost of acquiring and maintaining water service. A service commission may be established to administer the water service district. The county need not provide water to artificial streams and lakes unless required to do so by state law. The county may mandate the use of public water systems if a subdivision of land does not have any other water source. Additionally, the county may promulgate rules about the use of water in the county to preserve the supply and prevent contamination. The county may also sell or lease a right-of-way on water rights to a public utility engaged in the business of providing water to customers within the boundaries of the county.

If the commission finds that the county's ability to provide water or sewage service is insufficient and if there is a municipality providing the same service, then the county may require private property owners to use the municipality's service rather than the county's.

### **Roads, Bridges, and Transportation:**

The county commission has all power and authority to lay out, control, and manage public roads, turnpikes, ferries, and bridges within the political boundaries of the county and to make such orders that they may execute this power. The county may exercise any of its powers to maintain and improve roads and to clear them of snow. The county commission may create a public works department, which will oversee roads and bridges, including construction and maintenance and provide engineering services for public roads and may create a transit authority, either alone or jointly with other governments, to administer transportation services. Counties have jurisdiction over traffic laws and enforcement on these roads to be administered by a highway patrol, provided their ordinances do not conflict with state or federal legislation. Permissible ordinances include police and sanitation regulations, as well as maximum allowable parking time. Highways maintained by the State of Nevada may not be subjected to a speed limit by county ordinance.



The county may provide similar services for private roads, including snow plows and highway patrols, if the county has a legitimate interest in offering the service on a private road. The county may charge the appropriate party the prevailing rental rate for use of county equipment.

County commissions may establish districts where they may exercise their authority to improve streets and alleys by creating culverts, sidewalks, and parking, among other improvements. They may additionally improve, extend, or construct sidewalks adjacent to public roads for the convenience of the county's residents. The county commission, or a special service commission, may also either operate publicly or contract with a private entity to provide lighting for public streets and places. The commission may make efforts to beautify the streets using medians and ornamental plants.

To keep roads safe for public use, the commission may rent and operate equipment to eliminate buildup of snow. In addition, the board may make ordinances prohibiting horses, cattle, goats, swine, or sheep from running at large on any portion of the district's roads which are fenced on both sides. The commission must also regulate the solicitation of charitable contributions in the medians of divided highways or on sidewalks adjacent to highways to ensure public safety.

Counties may establish airports and operate them by levying a tax on the county or, alternately, may establish a commission to operate and maintain the airport. The commission may subsequently lease the airport to a private corporation wishing to operate it.

### **Recreation, Leisure, and Culture:**

The county may acquire property for and operate or maintain county parks, golf courses, and all other cultural centers it deems appropriate for the cultural development of the county. The county may expend any surplus funds, barring bond interest and redemption funds, to purchase such lands. The commission may additionally accept gifts of recreational and cultural centers. The commission

may use the general fund to provide the fiscal resources to operate or expand cultural centers and recreational facilities. When the county hosts fairs, the commission may levy a tax not to exceed four mills to display county agricultural and industrial products, as well as natural resources, at the fair.

A county with a population greater than 100,000 but less than 400,000 may operate and maintain a minor league baseball stadium. They may fund the stadium construction and maintenance by the issuance of revenue bonds.

A county with a population greater than 400,000 may operate and maintain a performing arts center. The county may issue bonds in anticipation of public improvement fees and may contract with other counties to execute the project.

The county may levy a tax of up to five mills per year on every dollar of taxable property—a tax which may be excluded from the maximum tax allowable ad valorem tax—to establish a historical society, county museum, or art center. Such a society, museum, or center should be a nonprofit corporation engaged in purchasing and displaying items relevant to the historical development of the county. The organization may sell duplicate or unwanted items to any other nonprofit educational association aimed at preserving and displaying the county's history.

The county commission may create a recreation service district and either retain the power to operate it or invest it in a service commission. The service commission is subject to approval by an appropriate state regulatory agency. The authority may acquire land and facilities for the recreation of the county's residents and then provide facilities or improve existing ones, including facilities for sports (golf, squash, tennis, etc.), museums, botanical gardens, swimming pools, bowling alleys, marinas, concert halls, and gymnasias, among other buildings. The county commission may acquire and improve swimming pools, including a locker room, shower, and all other appurtenant facilities, but may not levy any assessments or contract any debt to do so.

# New Hampshire

## **Introduction:**

New Hampshire counties derive their power from the New Hampshire State Constitution and Title III of the New Hampshire Revised Statutes Annotated, which establish a legal framework for their existence and exercise of power. New Hampshire's ten counties have a county delegation, which has legislative power and a three member board of commissioners which has executive power to be exercised by a majority vote. The county delegation is composed of the state representatives elected in the representative districts of the county and is responsible for all appropriations. The county is considered a body politic and corporate, capable of being sued, purchasing and holding real estate, and making contracts and doing all other necessary acts related to the function of the government. New Hampshire is a Dillon's Rule State.

## **County Finance:**

Budgetary authority resides with the county commission, which disburses funds appropriated by the county delegation to county departments. The power to tax, however, rests with the delegation, though they may only levy a tax for two years at a time. The county must serve warrant to town selectmen, who will subsequently assess, administer, and collect taxes to be delivered to the county treasurer. Towns which become delinquent in taxes may be charged an interest rate on the debt of 10%, but towns may apply to the county for an abatement of interest accrued, which the county delegation may accept and abate. The county may authorize the use of a credit card or other forms of electronic payment of taxes.

The county may also contract debt, establish a contingency fund for unforeseen expenses which may from time to time arise, and create a nonlapsing reserve account to fund long-term care services. The county may siphon revenue from the general county fund to a special purpose fund, recognizing that shifting the money in this way means that it may only be used for the purpose for which the special fund was established.

The county may hold in trust gifts, legacies, and other devices made to the county for the establishment, care, and maintenance of any county facility so long as

the purpose ascribed to the funds is within the scope of the county's power and within the vision of the county organization's goals. The county must, upon acceptance of the gift, establish a board of trustees to manage the gift and execute its intended purpose. County trusts must be deposited in an account in a New Hampshire bank. The county may invest in certain legal investment organs using excess funds if the county commission and delegation deem such an investment an appropriate use of public funds.

The county legislative body may make appropriations to fund cooperative extension services offered by the University of New Hampshire to supplement funds granted by the state and federal governments. The county may additionally expend funds on programs to assist the extension service in educating the citizens of New Hampshire.

To review the case of expenditures which demand obligation from both the state and county government, the state established a county-state finance commission. The commission is charged with a review of county-state obligation to Medicaid, to refine billing procedures used by the county, to recommend rate adjustments for services provided by the department of health and human services, and to evaluate and pursue alternative funding options.

## **Contracts:**

The county may enter contracts with public and private entities to ensure proper functioning of the county government. The county may engage in a contract and expend funds in the execution of that contract in anticipation of state or federal grant money. The county commission must approve any contract which allows an individual use of county real property, however.

## **Zoning and Land Use:**

The county has the right, as a body politic and corporate, to purchase, hold, maintain, and convey real estate in the interest of the public good. Real estate purchase, conveyance, and sale may be authorized by the county delegation only. The care and maintenance of county buildings, however, rests with the county commission, as does the right to purchase all the county's personal property.

The county must maintain certain county buildings—including a courthouse and a jail—within minimum standards of convenience and must provide a place in the same buildings for a register of deeds. The county may also maintain a county farm. The county may insure such buildings against fire and other potential disaster. The commission may erect, enlarge, or repair any county building for a cost not to exceed \$5,000. Any greater sum must be appropriated by the county delegation.

The county must attempt to obtain land by contractual agreement with the landowner; however, if the landowner refuses to pay offer a fair sale price for the land in question, the county may exercise a right of eminent domain. The county must assess the value of the property, provide a comprehensive report of its status, and then offer compensation to the landowner for its condemnation and seizure.

The county commission has the right to establish zones in the unincorporated areas of the county as a means of regulating building size, type, purpose, and bulk. The county may exercise this power to ensure reasonable development and growth in the county.

### **Public Safety, Health, and Sanitation:**

The county is charged with the care of elderly persons. The commission must provide for their support, either on the county farm, in a county nursing home, or elsewhere, and may appoint agents of the county to provide for their care. The county commission may appoint a director of the county nursing home and a superintendent of the county farm.

The county must maintain a correctional facility, which may include a county farm, and may establish a corrections department to oversee it. The commission has the power to appoint an administrator for the correctional facility and hire any other employees as may be necessary to provide for the inmate's proper care. The department may purchase real estate, promulgate rules about the treatment and behavior of inmates, and may discipline inmates for violating the same rules. Inmates may not be employed for any personal use by any county official.

The state maintains police departments; however, each county may elect a sheriff. His or her only obligation to the county government arises when he or she handles county money earmarked for some public use about which the county can legitimately legislate.

The county has full jurisdiction to plan, construct, and operate water supply, sewage, and treatment facilities. In the event that water supply, sewage, and treatment facilities about county buildings and are not operated by a municipality, the county may exercise jurisdiction over them as well. The county must provide services to the unincorporated areas of the county, the cost of which may be assessed on the property taxpayers receiving the service.

### **Education:**

The county commissioners are responsible for providing for the education of the county's youth in unincorporated towns and areas. The commission must either establish elementary schools in the county or provide tuition and room and board money to send children to a county which operates elementary and high schools. The county may raise funds to support this endeavor by assessing the taxpayers of unincorporated towns and areas.

### **Recreation, Leisure, and Culture:**

A county may purchase and hold land with the approval of the county delegation for recreational purposes. They local government may additionally construct recreational buildings on such land and such employ staff and instructors as may be necessary to the maintenance of the facility and the benefit of the county's residents.

### **Alternative Forms of Government:**

The New Hampshire state code makes an allowance for counties to establish charter commission to review the county government and the powers it exercises. The commission may then make recommendations to the county government about a home-rule charter and may subsequently write a charter for home-rule. If approved by a referendum in which two-thirds of the voters who vote in the general election approve the adoption of a home rule charter, then the charter goes into effect. No county in New Hampshire has yet adopted a home-rule charter.

# New Jersey

## **Introduction:**

New Jersey counties derive their authority from the New Jersey State Constitution and Titles 40 and 40A of New Jersey State Statute. The constitution demands that all laws made for counties be construed liberally in favor of local governing bodies. The New Jersey state legislature may, upon petition of the local governing board, make any law regulating internal county affairs specifically. The county board of freeholders has complete authority over all legislative and executive affairs, though it may appoint a county administrator to oversee departments and to administer to the county's day to day affairs. New Jersey statute requires liberal readings of the law to grant counties as much power as may be construed from the constitution and state statute, particularly over the government's authority to reorganize itself and to establish and abolish agencies. The county may also apportion duties among said agencies as it perceives to be most efficient. The county also has the authority to call expert witnesses to inquire into matters about which the county has a legitimate legislative interest. New Jersey is not a Dillon's Rule state.

## **County Finance:**

The county legislative body has complete control over the county's finances and the power to set the county budget and incur indebtedness, as well as to levy taxes. Incurred indebtedness may never exceed 2% of the percentage of net debt at one time. The county may appropriate funds to exhibit the county's industrial, agricultural, and poultry products and to advertise the advantages of the county to prospective business and home owners.

The county may establish an office to study the county's economic benefits and to subsequently advertise them. In addition, the office shall provide the legislative body with relevant information about the county's economic development. The county may also establish a citizens' advisory committee to hear from county residents about economic development. Any economic growth program fostered by these organizations may be funded by the county and designated a "community action program."

The county may create and fund an office of consumer affairs with such employees and executives as may serve as a liaison between consumers of goods and commercial retailers of goods.

Counties may appropriate funds and distribute them to port and harbor authorities created by the legislature; however, the county lacks the authority create a harbor authority on its own.

Counties may levy taxes on rural lands with voter approval to acquire, development, and maintenance of land for recreational and conservation purposes, and acquisition of farmland for farmland preservation purposes. Land acquired under this provision is considered held in trust for the purposes expressly outlined by statute. The tax may be appropriated by the county and disbursed to nonprofits if the county wishes a nonprofit to execute the conservation initiative.

Whenever counties may contract debt, they must establish a sinking fund and a commission to manage it with a membership number to be determined by the amount of money in the fund. All disbursements, sales, investments, and transfers of securities must be done by resolution of the sinking fund commission. The sinking fund commissioners may have full control over the sinking fund's assets, including the power to convert assets into cash and to invest in US government backed securities.

Counties may establish a pension plan for uniformed officers killed in the line of duty and may pay their dependents a sum not to exceed \$4,000 per month. The county must include appropriations for the pension in the budget.

## **Contracts:**

Counties have the authority as bodies politic and corporate to enter into agreements with individuals, private corporations, and public entities to execute the county's interests. Municipalities and counties may enter into agreements to exercise any shared powers jointly and to divide costs. This includes nonprofit corporations in many cases. Counties may enter into agreements with other public entities to provide public health service, furnish visiting nurses and dispensaries, and provide investigation in public health work. The county may also enter agreements



with municipalities to provide distribution of federal surplus food services to aged, disabled, or blind individuals on assistance in the county. A county with a population of over 500,000 may contract with municipalities to provide city-like services in county areas. The county may appropriate funds and spend them pursuant to contractual obligations.

### **Zoning and Land Use:**

The county is vested with the title in perpetuity to all lands purchased on its behalf by government officials. The county legislative body has complete control over all property the county owns. The body has the power to obtain land for any public building by purchase, lease, or eminent domain, with lawful acquisitions including land for parks, recreational facilities, courthouses, law libraries in said courthouses, and hospitals.

The county may create a planning board of no more than five and not less than nine individuals who shall be charged with making and adopting a master plan for the physical development of the county. The board may encourage cooperation with municipalities to make for unified development. The master plan should include a map denoting future roads, subdivisions, bridges, waterfront developments, conservation areas, and other zones which the county may lawfully create. The county board of freeholders may approve the master plan created by a planning board. The county board may also set building and engineering standards for all structures to be built within the county, and may only approve a master plan if the proposals contained therein meet the minimum standards established in the building and engineering code. When a developer applies for a building permit under the master plan's proposed development, the county planning board must approve the permit.

The county board may also establish county improvement authorities of five members as bodies politic and corporate. The body, subject to approval from the state, is charged with providing agencies and government units with facilities they need to expand, with providing public facilities like convention halls, hotels, community service buildings, with providing public transportation and port facilities, with maintaining garbage collection and disposal facilities, and with the provision of loans to entrepreneurial individuals in the county. To that end, the authority is granted essentially all the powers granted a local government, including

eminent domain power, the power to insure buildings, as well as the power to issue bonds, accept contributions, and to extend lines of credit. The authority may acquire, lease, sell, convey, and purchase land to construct the buildings it is charged with constructing, may issue bonds and generate revenue, and may extend credit, among many other powers intended to make capital available for county development. Money may come from appropriations by municipalities or counties as well as from leases or sales of lands and buildings.

The county park or recreation commission may, in time of emergency, create housing for veterans. Created originally as a way to provide housing to veterans of World War II, the law allows the commission to sell or convey land after the need has passed. The park commission retains the power to create such housing to the present day, however, for any needful veterans of United States wars.

Counties, in the interest of preserving cemeteries, may appropriate up to \$10,000 to restore, preserve, and maintain cemeteries. Of particular interest are cemeteries with veterans of United States wars and cemeteries where colonists from East Jersey and West Jersey are buried. No funds may be available for restoration, only 10% of interments can have been made since 1880, and no interments can have been made in the past 50 years for the cemetery to be eligible to receive money.

The county may enter an agreement with the board of conservation and development to contract the maintenance of any protected forest lands. Counties may also open maintain inlets, streams, canals, basins, and other waterways. Counties may appropriate funds for maintenance purposes and also improve waterways, either alone or by contract. These powers may be executed singly or jointly with another political entity. Counties may issue bonds for any of the provisions listed above and may also appropriate money for the digging of channels. Municipalities may contribute to that expense. Any moneys appropriated must be compensated for by tax levies.

In addition to waterways, the county may construct bulkheads and other devices to prevent erosion. If necessary, the county may join a joint commission on flood abatement which will have the authority to make recommendations about bulkhead construction. If the federal government wishes to construct bulkheads, the county may appropriate funds to assist it.



## **Public Safety, Health, and Sanitation:**

Counties may appoint a county fire marshal to guarantee fire safety on county buildings. They may also create a county police department if they make any kind of county ordinance or local law about public roads. The county may provide both departments with the funds and equipment necessary to appropriately enforce county ordinances with regard to fire and traffic. Counties and local health boards may not regulate biotechnology development in the area, though that does not preclude them from exercising their power to provide fire protection or public safety or to regulate industry or business.

The county may charter a separate authority with powers similar to the county development corporation's to mitigate industrial pollution in the county. The authority, which is under the supervision of the county board of freeholders, has the authority to acquire, construct, maintain, operate, and improve pollution disposal facilities for industrial operations in the county. The authority may charge a fee for its services, though it must operate within the confines of federal environmental protection laws and rules.

The county may establish a veterans' treatment facility by contract with the United States government or with public or private hospitals in the county. The county may appropriate any funds necessary to making such a program effective. If there is no provision for such money in the county budget, the county may borrow money or appropriate otherwise unencumbered funds. The county may also appropriate funds to sponsor blood drives to keep local hospitals stocked.

The county may make annual appropriations to the national burn victims foundation as well as local nonprofits which specialize in burn treatment and care. The county's appropriation may not exceed \$1,500 per year, but may provide for the establishment of specialized centers and the training of EMS personnel to respond to burn victims. The county has provision to similarly aid other organizations, including those dedicated to Cooley's Anemia and Tay-Sachs disease. The county may make appropriations for local health and welfare boards as well. They may deposit the monies in an account for use by the private or public organization.

Any county may make a voluntary gift of \$70,000 annually to any incorporated ambulance, first aid, or volunteer emergency response team which offers

its services to the entire county. If the association demonstrates extraordinary need, the county may gift an additional \$35,000. In the case of a general conflagration in a county, the freeholder board is authorized to appropriate, raise, and expend a sum not to exceed \$25,000 to recoup losses and repair damages. The county may contract obligations to make such an expenditure.

A county may establish and maintain a facility for treating individuals with mental disorders, whether voluntary or involuntary, and may extend such service to inmates. The county must annual calculate the rate of treatment for individual patients and pay a sum to the facility for all patients treated in the year. Counties may also establish a treatment center for narcotics abusers. The county may operate it separately or may contract the treatment of narcotics abusers to a hospital.

Counties may appropriate funds to public or private nonprofit hospitals operating within the county and providing medical care to county residents or for any service contributing to the health, welfare, or education of the community. The county may also appropriate funds to a private, nonprofit organization engaged in providing a home or shelter to youth. This includes providing a place to sleep, food, clothing, transportation, and medical care to indigent youth. Counties may make an annual appropriation to any approved, private nonprofit narcotics abuse treatment center if they would rather fund a private nonprofit than establish a county run center.

Counties may create food distribution authorities as bodies politic and corporate in the State of New Jersey. Such an authority is intended to provide a boost to New Jersey farming and fishing industries by purchasing food and distributing it. The authority may operate and maintain a food distribution center for wholesale foods, including purchasing all the appropriate employees, vehicles, and equipment for the operation of the facility. The authority may exercise eminent domain, issue bonds, and receive appropriations from any governmental entity authorized to convey money or property to the authority.

Counties may also provide water services to county residents, but must do so through a municipal agency or authority. Counties may acquire, construct, maintain, operate, and improve water distribution systems and water treatment facilities, solid waste collection and disposal facilities, sewage

facilities, and facilities for generating hydroelectric power. The county may charge service fees to fund the service provision and connection fees to link property to the system. The county may require that individuals in well-served areas connect to the system, however. The county may develop a separate schedule of fees for seniors and disabled individuals, as well as low-income housing. The county may sell, lease, or otherwise convey its utilities to a municipal authority to administer. The county may contract for any of the above services to avoid providing them itself or may make use of the municipal sewer.

A county government may acquire a public water supply from any private or public entity to operate as a public utility. The county may construct, improve, operate, and maintain water distribution facilities to provide water to the county. The county may issue bonds to fund such an endeavor, and may also assess fees on properties which make use of the county's water supply system. The county may choose to abate rates on certain individuals' property, including senior citizens.

The county may create sewer authorities as bodies politic and corporate, with boards of five members. Counties may do this alone or in conjunction with another governmental subdivision of New Jersey. The authority has the power to acquire land and construct, improve, or enlarge sewage treatment facilities and distribution services. The authority may charge for use of sewer services and connection fees to attach property to the system, though it may establish special rates for disabled individuals, seniors, and for low-income housing projects. The authority may sell or lease land and may enter into contracts for the provision of sewer services. Any willful pollution emerging from the sewer authority will result in damages being charged to the authority.

The county may maintain plants to provide power and electricity to lights on county roads as well as electricity to county buildings. The county must pay all operating expenses and must appoint a committee to oversee the plant. If the county does not exercise its power to build or acquire a power plant, it must contract with another entity for service provision.

### **Roads, Bridges, and Transportation:**

The county may contract with the department of transportation to provide for the construction of additional entrances and exits to highway projects operated by the New Jersey Highway Authority. The

county cedes control of the property to the Highway Authority when completed, though it may fund improvements if it so desires. Counties may also require permitting fees when opening a new road.

The county has the authority to acquire, by purchase or lease, maintain, equip, improve, and operate any existing public transportation or rail line, including all appurtenant buildings and facilities. The county may contract with a public or private entity to operate a public transportation system. The county may even sell some of said facilities to allow a private contractor to manage ticket sales. Counties may appropriate funds for this venture and may issue general obligation bonds for it. The county may also operate a mass transit system jointly with a municipality, subject to approval from the New Jersey transportation department.

The board of freeholders may exercise the power to maintain and establish parking facilities or may establish an authority to administer parking services to the county. Both must seek municipal approval for the parking facilities, though when the county operates the facility it must be considered a municipal utility. The authority is considered a body politic and corporate which shall have the power to acquire land, either by eminent domain, purchase, or lease, construct, operate, and maintain off-street parking within its area of operation. The authority may levy fees on parking at a reasonable rate and may use such fees to pay the authority's expenses. The authority may borrow money, appropriate funds for parking improvements, and enter into contracts with any governmental entity to better provide services. Any real property owned by the authority may not be taxed by the county. The authority may not sell gasoline. The county may appropriate some or all of the funds generated by parking meters for the construction, maintenance, and improvement of off-street parking.

The county may acquire land by purchase, conveyance, or eminent domain, and may on that land construct, operate, maintain, and improve an airport. The county may make such regulations as will ensure the efficient operation of the airport. The county may at any time lease the airport to any entity, public or private, without consideration of the State of New Jersey, for such a term of years as may be agreed upon. This includes the power to lease the airport to the State of New Jersey. The county governing body may adopt usage fees associated with the use of airfields and landing strips

and may levy taxes and issue bonds to pay for any and all appropriations made for the airport. The county may hire individuals to act as security guards at the airport.

### **Recreation, Leisure, and Culture:**

A county with a Hispanic population constituting at least 10% of the county's population may establish a Hispanic advisory commission which shall advise the county about issues relating to Hispanic life in the county. A county with a large elderly population may create an office on aging to assist seniors in receiving benefits and services as well as advise the county legislative body about senior issues.

The county may establish and appropriate funds for a county heritage and culture board, which shall be composed of between five and nine residents of the county. The board shall be charged with promoting the county's cultural heritage and may sponsor exhibits in a county museum. The county may appropriate funds to support any existing museum, or may alternately use funds to acquire or establish a museum for the educational benefit and recreational use of the public. Such a museum may include objects of a natural, historical, cultural, or scientific interest and may also operate field trips for visitors. The county may also appropriate funds to a junior college for the purpose of fostering a more educated populace.

County legislative bodies may either exercise park and recreation powers alone or may establish recreation commissions of not less than three and not more than nine individuals who shall be charged with managing the county's recreational affairs. The commission may acquire property for playgrounds and recreational places by purchase, lease, or condemnation, and may charge fees for any events it puts on subsequent to approval by county referendum. These funds shall be used to pay for acquisition, construction, maintenance, and policing of all recreational facilities. The commission and the county are also allowed to make use of any federal funds available for parkland. The county may act alone or jointly with a municipality, or even join with contiguous counties to run a park regionally. County recreation commissions may establish a police department to enforce rules; the county may create a constabulary to maintain order and enforce such rules as it the board may promulgate if the county does not have a recreation commission to fulfill the same purpose. If the county lacks a recreation commission, it may exercise the same powers and

perform the same duties, including the acquisition and establish of public recreation facilities.

In the interest of promoting arboriculture and beautifying the county, the board of freeholders may appoint a shade tree commission to oversee the planting of trees around public highways, in public parks, and on other public lands.

Counties with large populations of small children may acquire the lands and buildings necessary to operate a summer camp for them. The camp should be for under-nourished and under-privileged children whose health and welfare might benefit from such a camp. The county shall establish a commission or board to oversee the camp and ensure its smooth functioning. If the county does not meet the population requirement or does not wish to run a camp, then it may appropriate funds to private nonprofit organizations devoted to the same purpose.

Counties may make appropriations, acquire land, construct buildings, and provide materials for a free public library. The resolution to create a library must be put to a referendum before the people of the county. To oversee such a library or library system, the county may create a commission made up of county residents who shall be charged with maintaining the library. The county may levy taxes for the library and may also issue bonds in anticipation of said taxes. Such taxes may be used to enter into agreements with municipalities for extension of library services. Counties may also create library study commission upon petition of 10% of voters in the county to study the library system and ensure it meets the demands of the county. If the library does not, then the commission may put to a referendum a series of proposals to alter the library so it may better meet the needs of the county's residents.

Counties operating libraries may choose to enter into a cooperative library service called a federation of libraries and may appropriate funds for the federation. The contract which stipulates the terms of the federation must establish the proportion of costs to be borne by each participating entity. The library must be free for residents and must include a loan service between libraries.

County governing bodies may, on behalf of the county, accept any monument, statue, or tablet already erected within the bounds of any public street within the county on behalf of the county to keep and maintain. The government may also make

allowance to construct a monument, statue, or tablet within a public street if no such monument, statue, or tablet has yet been erected. Public monuments must be dedicated to public use.

The county may appropriate funds to support the development, construction, and maintenance of any veterans' memorial in any public place within the county or the state. Appropriations may be made to any government or not-for-profit entity established for the purpose of developing, building, and maintaining the memorial. The county may also appropriate funds to any post of the Grand Army of the Republic or to the Sons of Union Veterans of the Civil War and for the observance of Memorial Day.

Counties with an interest in preserving cultural history may appoint a county historian or may appoint the chair of the county cultural and heritage commission local historian. The local historian shall collect, preserve, and make available historical materials related to the county. The local historian shall also assist in the commemoration of monuments and landmark commissions on the use of national, state, and local historic sites in the county.

### **Alternative Forms of Government:**

The board of freeholders or the residents of the county may submit to public vote the question of a charter study. At the same election, the public must elect eleven charter study commission members to examine the government as it stands and evaluate the measures needed for an effective charter government. The commission must evaluate a charter's legality within the confines of state law and must additionally decide if the functioning government better suits the needs of citizens. Following approval by the commission of the charter and a referendum of the county's residents, the county may adopt a charter form of government. The government gives charter counties broad powers of self-governance to abolish and create departments, create, consolidate, and abolish offices, and to exercise any other power not specifically banned by state law.

Other alternative forms of government include county executive and county manager plans. The first provides for an elected executive who holds executive power in the county, including veto power over legislation. The second provides for a county manager who has all executive power except a veto. Two unused forms of government include the board president plan, wherein the county board elects from among its members a president who has executive power to appoint a manager. The other unused form, the county supervisor plan, has an elected supervisor sharing power with an appointed administrator.



# New Mexico

## **Introduction:**

The New Mexico State Constitution and Chapter 4 of the New Mexico Statutes Annotated provide for the organization of counties with legislative bodies of three or five member commissions. The county electors are empowered to choose which size commission they would prefer. Counties may opt to gain “urban county” status by meeting the requirement laid out in the constitution and following the procedure described in state statute. Urban county status allows the commission to take steps to cope with a large population in unincorporated areas of the county. Counties are granted the same powers as municipalities unless there is a statutory or constitutional conflict. New Mexico is not a Dillon’s Rule State.

## **County Finance:**

The county commission has the care and control of the county budget, from formulating a balanced budget by considering input from county department heads to adopting the final budget. The county may act as an agent of the United States government when spending any money as directed by US law. County commissioners may levy a property tax as a general tax to fund county operations, including salaries and administrative budgets. The county may additionally levy a tax at a rate to be determined by the board for the purpose of caring for the sick and indigent, though such a tax is subject to approval from a majority of county electors voting in an election. No county may impose impact fees without a capital improvements plan, though they may assess other fees for service provision.

The county commission has the final authority over claims against the county, including their review and discharge. No other county officer may discharge claims without the prior approval of the county commission.

Counties may issue both general obligation and revenue bonds for a variety of purposes, though general obligation bonds are subject to approval in an election. Counties may not borrow money for any other purpose than the erection of public buildings, constructing or repairing roads, constructing or acquiring a system for the distribution of water,

constructing a sewer system, constructing a sanitary landfill, constructing an airport, acquiring land for open space or open space trails, and for the purchase of books or other library resources. Counties may never contract debt in excess of 4% of the assessed value of all land in the county. Counties may not extend credit to any private entity. Whenever the county contracts debt or issues a bond, it must put the issue up to election before the voters of the county, who must approve the measure before the county may issue the bond.

Counties may apply to the economic development office to operate a foreign trade zone, provide facilities that may be necessary to operate the zone, and may exercise any other power or execute any other function necessary to the operation and maintenance of a foreign trade zone.

## **Contracts:**

The county commission has the authority to enter into lawful contracts with public and private entities for the exercise of any county power or the execution of any lawful county function. Counties are specifically empowered to execute functions jointly with municipalities located within the corporate boundaries of counties. County commissioners may contract for the use of equipment for ditch construction, county water associations, and other public utilities the county may establish and operate.

## **Zoning and Land Use:**

The county, as a body politic and corporate, has the authority to hold property in its corporate name. Any conveyance of land to the county commission constitutes land belonging to the county. The county commission may issue any order related to county property as it may deem expedient to the appropriate administration of public lands.

The state considers certain buildings necessary public projects including courthouses, jails, bridges, public hospitals, cultural facilities, juvenile detention homes, parking facilities, administrative offices, and many others. County commissions may issue bonds for the construction of courthouses and jails, as the state considers these necessary public buildings. The county commission may sell public buildings which



are no longer necessary for any county purpose to any municipality located within the county or to the State of New Mexico. Any such sale of public buildings must be at a public auction. Counties may operate public buildings jointly with cities by entering into an interlocal agreement. If either the city or the county contracts debt in the course of completing the project, then the county may levy occupancy taxes to pay off the debt.

County commissions may divide the county into such zones as may make the administration of county building code and county zoning ordinances expedient. Counties may establish a minimum standard of building to ensure county resident safety and may additionally regulate the type, number, size, and other characteristics of buildings in order to guide the growth of the county. To assist them in that effort, the county may establish planning commissions of not less than five members who shall oversee the administration of a comprehensive county plan which best serves the public needs of the county and simultaneously promises economic growth. The county may additionally join regional planning councils to seek to fit the county development plan into a larger, regional plan for sustained economic development.

The county may establish a capital improvements plan and charge impact fees to offset the effects of any public improvement or construction project. The county may expend funds or enter into an agreement with a municipality to reduce fees. The county commission must approve the capital improvements plan within thirty days of its proposal.

Counties all have special district commissions, created by the state legislature, to review applications for special districts. These special districts must be proposed by an elector living within the proposed district. County commissions may provide services to the special district by agreement with the district. The board of commissioners may additionally create improvement districts they deem necessary to public health, welfare, or safety, and issue bonds to construct public improvements within the district. The county may then assess fees and levy property taxes on property benefitting from the improvement district to generate revenue to construct public improvements. The improvement district governing authority may additionally issue bonds and enter into agreements with other local governmental units to execute public improvement projects.

The county may create infrastructure development zones upon petition of individuals living within the zone. The infrastructure development may consist of any service which the county may lawfully provide, funded by the imposition of a tax on the property within the infrastructure development zone. The zone may create a service plan to describe the proposed infrastructure improvements as well establish a schedule of fees to be assessed for continuing provision of the service. The county may provide sanitation and water services, among others.

Counties may encourage water conservation and drought management planning in the county by taking steps to limit unnecessary water consumption and regulate water use in the county.

To prevent the damage to life and property associated with flooding, the county may appoint a county flood commissioner. The flood commissioner may oversee the administration of a tax to provide money for a county flood fund. The county may also contract bonds and exercise eminent domain in order to provide structures to prevent floods from destroying life and property. The county may also establish emergency flood districts where the county commission may take additional measures to protect from flooding, including establishing an emergency flood fund as a contingency to pay emergency relief workers and to fund repairs following the flood.

The legislature finds that counties have an interest in abating pollution, therefore the county is empowered to contract debt and fund projects which take steps to prevent or clean up pollution in the county.

### **Public Safety, Health, and Sanitation:**

The county may issue bonds in fire protection districts to employ personnel, purchase equipment, and acquire and maintain facilities necessary to providing fire protection service. The county may contract with municipalities to provide fire protection services when in the opinion of the county commissioners contracting for the service is more economical than expending county funds to equip a fire department.

All counties have the authority to acquire land by purchase, lease, or eminent domain on which to construct and operate county hospitals; hospitals are considered necessary public buildings by the state, so counties may raise revenue in any lawful manner to fund them. However, the state health board serves

in an advisory role to choose the location of the hospital which will serve the most people. Counties may exercise the power to construct hospitals alone or jointly with another county. The county may issue bonds to fund hospitals provided they seek and obtain approval in a bond election. The county may lease the hospital to another entity to operate or may operate the hospital jointly with another county. Counties may additionally contract with hospitals and other agencies to provide healthcare and support to the county's sick and indigent residents. The county may delegate administrative power over the hospital to a hospital governing board of five, seven, or nine members who shall oversee the fiscal and human resources of the county hospital. To fund the hospital, the county may levy a tax and issue hospital revenue bonds. Counties may additionally operate ambulance services to transport sick or injured persons to a hospital, purchase equipment to operate the service, and hire personnel to operate the ambulances.

Counties may establish special hospital districts by motion of the board or by petition of the electors located within the proposed district. The creation of the district is subject to approval by a majority vote of electors at an election held for the purpose of creating the district. The hospital districts are created to operate public hospitals to serve county residents. The hospital district plan must include a manner of raising revenue to fund the hospital facilities, personnel, equipment, and operation, as well as a method to dissolve the district. The county may vest authority over the hospital district in a board of trustees with the authority to execute the district's plan, raise revenue, expend such revenue on the hospital, issue bonds, and acquire and operate hospital facilities. The county commission may levy a special tax in hospital districts to fund the public hospital.

The county has the authority to collect and dispose of all solid waste. The county may establish refuse disposal districts in which to operate refuse disposal facilities and collection equipment if petitioned to do so by electors living within the proposed district. The county has the authority to provide employees, equipment, and facilities in the district, as well as issue bonds and assess service fees for the use of the refuse disposal service.

The construction of sewerage and water treatment and distribution facilities is considered a necessary public purpose and the facilities thereof necessary

public buildings. Therefore, the county may issue bonds to fund these projects.

The county may assess fees on properties which agree to have the fee assessed to fund increased access to solar energy technology. Imposed on a voluntary basis, the fee shall be used to grant the property access to the benefits of solar energy. The county may place the revenue from such a fee in a solar energy improvement fund.

Counties may establish renewable energy finance districts within which they may encourage the development and use of renewable energy by property owners. To that end, the county may assess fees on property which receives the benefits of renewable energy financing districts to be collected at the same time as property taxes. The district shall be charged with determining the amount to assess properties, as well as establish guidelines for renewable energy improvements made within the county.

### **Roads, Bridges, and Transportation:**

The county has the authority to lay out, construct, alter, maintain, and improve county roads, as well as to perform other such duties with respect to roads as the legislature may establish by law. The establishment and maintenance of public roads, as well as the construction of bridges, is considered a necessary public purpose, so the county may issue bonds to fund these projects. Counties have control over roads in unincorporated county seats as well. The county may additionally issue bonds to construct bridges over streams in the county.

When a county creates an improvement district, it may additionally establish a road and street fund and place tax revenue in the same. The county may make use of the fund to finance infrastructure expansion or improvement within improvement districts.

The county may acquire land by purchase, lease, or exercise of eminent domain to establish, construction, and operation of a county airport. The county may contract debt by issuing bonds and may additionally operate the airport in conjunction with a municipality.

Counties may also enter into regional agreements to create spaceports with the authority to construct spaceport facilities, enter contracts, issue bonds, and generate revenue.

**Recreation, Leisure, and Culture:**

The operation of libraries and cultural facilities is considered a necessary public purpose, therefore the county may issue bonds to fund these projects. Counties may establish a free public library and may receive, hold, and dispose of any gift or bequest made to the county for the improvement of the library. Counties may apply the rents or any other proceeds in a use that will best suit the library. County commissions may also enter into contracts for library service with adjacent counties and municipalities.

Counties may hold an election on whether or not to levy a tax for historic building improvement. If approved by a majority vote, then the county may collect the tax and use the revenues to acquire and restore historic buildings. The county may fund any recreational program or public park or playground by levying a tax, as well as recreational revenue bonds.

Counties may issue bonds and appropriate funds to construct and maintain public auditoriums. The county commission has supervisory control of the

public auditorium. Public auditoriums are considered necessary buildings by the state legislature. Certain counties may also establish, acquire, construct, and operate convention centers. They may assess a fee on use of the center to offset the cost of construction and operation of the center.

Counties may dedicate public lands for the purpose of constructing parks, playgrounds, and recreational facilities. Counties may establish recreational programs alone or jointly with contiguous counties.

Counties may appropriate up to \$1,000 annually for the display of county products at the New Mexico state fair.

**Alternative Forms of Government:**

In counties with at least one city of 50,000 people, the state legislature may provide by general law for a charter writing process. If the charter is adopted by a majority of electors in the city and county, then the two governments may unite to form a consolidated city-county government.

# New York

## **Introduction:**

New York counties exercise legislative power under the New York State Constitution and New York County and Municipal Home Rule Law, as well as by exercising expansive home rule authority. The standard county government is composed of the elected representatives of all the cities and towns contained within a county—i.e. of the town council—but many alternative forms of government exist. These governments may create local legislation, resolution, and ordinance, and may investigate into any matter about which the county may enact such legislation, resolution, or ordinance. The board of supervisors may create such standing committees as they see necessary to the execution of their duties and may also appoint special committees for a prescribed purpose. Advisory committees without any powers other than an advisory capacity may be created by the supervisors as well. In addition to official positions explicitly permitted by law, the board of supervisors may create any position of employment pursuant to the efficient and effective functioning of the government.

A brief caveat: the powers enumerated here by no means represent the breadth of activities about which counties may legislate, nor the programs, districts, and committees they may establish. The Municipal Home Rule Act allows counties to pass local legislation about anything not specifically prohibited by the Constitution of the State of New York. This includes hiring and firing any employee as the county sees fit, discharge of claims, acquisition and care of roads, establishment of financial procedures and levy of taxes not specifically banned by the state legislature, the licensing of businesses, and the provision of public health and safety. New York is a Dillon's Rule state.

## **County Finance:**

The board of supervisors has the final say over the county budget, which is prepared by a budget officer and the heads of all administrative departments. The supervisors, following a public hearing, may by resolution change the budget or appropriations. If necessary, the board of supervisors may raise taxes within legal limits to provide enough revenue to pay for county expenditures. The board of supervisors

may designate a depository for public county funds and may direct the county treasurer to deposit such funds in the depository. Unexpected revenue may be appropriated at any time in the fiscal year for any public purpose as designated by the board of supervisors. Revenue may be placed into a revolving fund to be used in anticipation of taxes, so long as the total amount of money in such a fund never exceeds 30% of the county's total expenditures in one year.

Counties have a variety of avenues for revenue generation. Revenue from the sale of public lands may be used for the purchase or maintenance of any public land, in addition to any other lawful use. Counties may also levy property taxes, with rate increases not to exceed one and a half percent of the full valuation of taxable real estate of the county less the value of interest on indebtedness. The county may exceed the limit and increase taxes by up to two percent by a vote of two-thirds majority of the supervisors or by a majority vote by county electors. The tax may be spent on county purposes enumerated in section 233, but the section is not meant as an exhaustive list. Counties may spend levied taxes on any county purpose about which they may lawfully legislate.

Lawful appropriations include money appropriated to propagate wildlife species, to eradicate or prevent infectious diseases among livestock, to publicize the county or region to prospective homebuyers or businesses, to care for burial lots of United States veterans, to abate nuisances, to establish and maintain fire schools for firemen, to establish and maintain a central fire alarm system, to provide conservation education, to establish a county zoo, or for other public purposes. The county may appropriate funds to establish the programs, construct and maintain buildings, hire personnel, and provide other money as may be necessary to operate the program.

## **Contracts:**

The county may make any contract with any private or public entity it sees fit to execute any of its powers. When contracting services, including law enforcement services, from a town or city, the county must establish a schedule of fees to pay for



the services. The county may contract with other municipalities or counties to provide the public buildings mandated under law; however, counties may not contract out their cemetery business to any funeral home or other organization providing funeral services.

The county may contract with any nonprofit or private corporation to provide any service which the county may lawfully provide, enumerating the duration of the contract and the monetary compensation associated with the provision of services. Lawful service contracts include contracts for memorial or other patriotic celebration, the commemoration of county events, the propagation of fish and wildlife species, prevention of cruelty to children and animals, agricultural improvements, administrative duties, abatement of nuisances, and cooperative extension services.

### **Zoning and Land Use:**

The board of supervisors has the care and control of all the county's real and personal property. The county may purchase, condemn, or accept gifts or conveyances of land for any lawful county purpose. The county may additionally lease county property for a period not to exceed five years with optional renewal or may sell public property no longer useful to public interests following an affirmative vote of two-thirds of the county legislative body. The county's care of public property includes the right to erect, alter, remodel, and otherwise improve public buildings and to keep them furnished for public use. The county supervisors have the authority to select any site for public buildings, except that the jail must be approved by the state department of corrections and the new location of a courthouse must be approved by a majority of electors in the county. The county supervisors may perform all duties prescribed under municipal law related to the erection and dissolution of towns.

The county board of supervisors must maintain certain buildings for the county's use. Such buildings include a jail, a courthouse, a detention facility for juvenile offenders, and a depository for county records, among other such buildings as the county may deem necessary for public use. In addition to required buildings and facilities, counties may acquire, operate, maintain, and provide funeral markers for cemeteries for indigent persons from the county, as well as US Armed Forces veterans from the county. The supervisors may make regulations

about entrance and interment into the cemetery, but may not cause veterans to be buried in the same part of the cemetery as indigents.

The county may establish a planning board pursuant to municipal code and appropriate funds for its use. The board shall be empowered to study the county's development and land distribution and provide the board of supervisors with a plan to foster sustainable, economically sound growth for the county. The county supervisors may enact ordinances, resolutions, and local legislation to initiate the board's plan.

The county has the explicit authority to obtain lands for the purpose of reforestation or for the discovery of oil and gas and to be reimbursed up to \$5,000 by the state. The county may, subsequent to acquisition of the land, plant or otherwise develop the land to protect watersheds, develop the extraction of oil and gas resources, or reforest the land to produce timber resources. The county may sell or otherwise convey the gas, oil, or timber resources in any manner which does not violate commercial codes. The county may appropriate up to \$3,000 to a district forest practice board charged with maintaining forest lands on behalf of the county.

The county may also designate a water quality agency, which may take the form of an existing agency, county officer, or newly created agency, to maintain water quality in the county. The county may appropriate funds to allow the agency to evaluate point and nonpoint source pollution in county waters and may then enact resolutions, ordinances, and local legislation to mitigate pollution and preserve clean water.

The supervisors may create soil conservation districts pursuant to state law regarding soil conservation. The county may appropriate any funds the district may need to follow conservation law to the district directors and may additionally make ordinances, resolutions, and local legislation to enforce conservation law in the district. These districts may also, if given the authority by public referendum, make efforts on both public and private property to abate flood damage by preventing soil erosion. The county may seek to prevent beach erosion as well, by creating a county hurricane protection, flood, and shoreline erosion agency. This agency, empowered by the county legislative body to execute an ordinance, resolution, or local legislation meant to protect property from damage and preserve



beaches, may build bulkheads, construct adequate drainage facilities, and construct retaining walls. The agency may also assemble data, set a budget, and employ such legal and engineering counsel as may be necessary to achieve the purpose for which the agency is established. The county may levy taxes and appropriate funds to pay for the cost of improvements, and assessments may additionally be made on properties which receive the benefits of the agency's work. The county may create districts to prevent watershed erosion from small watersheds, including streams and rivers, by undertaking and maintaining projects to prevent flooding and erosion. The district may levy assessments on properties which benefit from the improvements.

In seeking advice to execute the above conservation programs in addition to providing cooperative extension services, the county supervisors may employ area and statewide extension program specialists in conjunction with Cornell University. These specialists may offer education, research, and advice to the county supervisors making policy decisions, as well as county residents engaged in agricultural activity.

### **Public Safety, Health, and Sanitation:**

New York's counties may provide fire protection services to county residents. These may be county-operated fire departments or special fire districts created by the request of individuals living within a proposed district.

With the permission of the state health commissioner, counties may establish health districts to administer to residents' health. The county board of health retains rule-making authority over the region which the county supervisors give it jurisdiction. This includes establishing and enforcing a sanitary code as well as promulgating other rules designed to protect public health. The board may operate alone or in tandem with a neighboring county's public health board. The board's expenses shall be paid out of the county's general fund in like manner to claims against the county. Commissioners may provide, by using the board's resources or by contracting with public or private entities, hospital services, emergency insurance services, home care, nursing home care, and dentists or physicians. The commission may assess fees for services rendered.

Counties with populations in excess of 35,000

people must provide hospitals to treat tuberculosis, unless the state board of health certifies that another hospital in the county is capable of doing so. The board of supervisors shall acquire property and construct, improve, enlarge, and maintain any buildings necessary to the proper functioning of a tuberculosis hospital. They may appoint a board of managers for the hospital to manage all funds which the county may appropriate for the hospital. The county shall appoint a superintendent of the hospital to act as its administrator and to provide the hospital with all necessary equipment, hire and fire personnel, and to manage the hospital's quotidian affairs. Counties may also establish medical clinics by local law for use by the needy. The county shall acquire property for the clinic, construct, expand, enlarge, and improve buildings clinic buildings, and levy assessment and taxes to fund the clinic. Counties operating free clinics are entitled to state reimbursement. The county may finally establish drug control authorities made up of boards who can execute the powers delegated to drug control authorities. The authority may assist the county in matters related to drug control, provide detoxification and counseling services to drug abusers, and to educate the community about the dangers of drug use. The authority must make annual reports to the county government about the prevalence of drug abuse and the effectiveness of its programs.

The supervisors may establish an EMS advisory board and coordinator office to coordinate joint activity between county and state EMS services. The advisory board shall establish training programs for EMS personnel, while the coordinator shall cooperate with other agencies and administer training programs. The county may also establish a fire training advisory board and county fire coordinator to establish training programs, administer the same, and coordinate fire prevention and protection among state and county agencies. The county may appropriate money to fund these programs and may also appropriate money to fund visiting nursing services for the county's residents.

To pay for the provision of emergency phone services, counties may assess a fee not to exceed thirty-five cents per line per month to fund emergency phone centers. The county may use service providers of telephone service as collection agencies for the fee.

The county may create and fund solid waste

management programs, including constructing solid waste management facilities and acquiring all the equipment and hiring all the personnel necessary for solid waste collection. The county may establish a schedule of fees to assess on all individuals who receive solid waste collection services.

County supervisors may acquire land, create, establish, consolidate, or extend county water, water quality treatment, sewer, wastewater disposal, and drainage districts for the purpose of extending services to county residents, conservation of water resources, and abatement of flooding and erosion. The county may delegate the power to administer the district to an existing agency or may create an agency to oversee the water services. The county supervisors may empower the agency to study county water resources, acquire new facilities, expand or improve existing facilities, and extend services to county residents. The county may enter into any contract to provide water services to or receive water services from a public or private entity and set monetary compensation for provision of such services. Additionally, the supervisors may contract with a public authority imbued with all the supervisor's authority to administer a water service district. The administrator of the agency, subject to approval by the supervisors, may establish a schedule of fees for the provision of water services and assessments for the extension of water services to property.

### **Roads, Bridges, and Transportation:**

Counties may appoint county superintendents of highways who shall oversee all acquisition, construction, maintenance, and improvement of roads and bridges in the county. The commissioner may perform any duty prescribed by law and may additionally perform any duty delegated him or her by the board of supervisors related to highways, roads, and bridges.

The county has full jurisdiction to adopt and enforce rules governing parking, traffic, and use of public roads not owned by the state of New York or any of its agencies. The county may impose a reasonable charge for parking on public land.

### **Recreation, Leisure, and Culture:**

The county supervisors may establish a county park commission of five or seven county residents to manage all the parks in the county. The board of supervisors may from time to time create, acquire,

construct, and improve such parks and place them under the commission's management. The county may appropriate money to fund the commission's activities, but must operate parks at no charge. The board of supervisors may otherwise impose such reasonable regulations as they see fit on the county's parkland.

With a two-thirds majority approval by the county legislative body, the county may appropriate funds to erect and maintain memorials or commemorative monuments in the county for any veterans of the United States in any of its wars, or of any person or event significant to the county's history. This includes the authority to appropriate funds for commemorative events for observance of any legal holiday.

The county supervisors may appoint a county service officer to provide veterans of United States wars with services to which they are entitled, including medical care, education, and assistance locating habitation. The service officer may also advocate on behalf of veterans for any additional service which may be required as a result of their service to the United States.

### **Alternative Forms of Government:**

Rather than a board of supervisors, counties may choose to elect a county legislative body to be called by whatsoever name the county designates. This body may exercise any power that the board of supervisors may lawfully exercise, though its members come from across the county rather than simply the incorporated cities and towns.

County supervisors may appoint a county administrator during the term for which the supervisors were elected who shall serve as the chief executive officer of the county. All county departments shall be under his or her jurisdiction, and he or she shall have the responsibility of establishing the budget for review and approval by the supervisors.

County supervisors may alternately appoint a county manager to execute all duties attributed the county administrator, save that the manager serves at the pleasure of the supervisors.

A county director may also be appointed by the county supervisors for a four year term. He or she may serve as the head of a department without additional compensation, but he or she may not exercise any control over the submission of the budget to the supervisors.

A county president is elected by the people of the county to a four year term. The board of supervisors may not remove the county president from office. The supervisors may continue to enact resolutions, ordinances, and local legislation; however, the county president has the power to veto any piece of law which the county supervisors pass.

Changes in county government to an alternative form may not change the methods in which county's raise revenue, nor may it abridge or otherwise alter the length of term of office for an elected official. Alternative forms of government are promised certain other powers which are enumerated in the Alternative County Government section of New York Statute.

# North Carolina

## **Introduction:**

Counties derive their authority from the Constitution of North Carolina and Chapter 153/153A of the North Carolina General Statutes. Counties in North Carolina, which are bodies corporate and politic under the state statutory code, have commissions that function as a legislative body and a manager who executes and administers county ordinance and resolution. The state grants county governments a liberal construction of county authority in order to grant them broader ability to execute their powers beyond the letter of the law. County commissions may establish the structure of a county government, including the power to consolidate, create, change, and abolish county offices so long as their action is not specifically prohibited by law. The commission also may assert authority over or exercise any power attributed to local commissions, boards, and agencies by resolution. Counties and cities which are contiguous and wish to consolidate a service or governmental agency may establish a commission to study the problem and propose a method for consolidation, including prospective savings and increased efficiency. North Carolina is a Dillon's Rule state.

## **County Finance:**

The county commission is charged with the sole fiscal responsibility for the county, including establishment of the budget, direction of investment and expenditure, and making appropriations. To that end, the commission may appoint a budget officer to oversee the county finances, expenditures, and revenues.

The county may contract indebtedness in the form of bonds under certain circumstances, including the mitigation of a disaster, the construction of a North Carolina National Guard Armory, and to refund outstanding bonds. In addition, the county may contract debt to pay for certain public improvements, including airports, beach facilities, recreational areas, cemeteries, public safety or health facilities, for county buildings, and for community colleges.

The county has several different routes available to generate revenue. They have a general grant of power from the state to impose taxes specifically authorized

by state legislation. They may levy property taxes not to exceed \$1.50 on every \$100 of taxable property in the county to pay for courts, debt service, deficits, elections, jails, joint undertakings, schools, and social services. Counties may also levy sales taxes and privilege license taxes, the latter to be levied on automobiles, music machines, pawnbrokers, general business licenses, prepared food and drink, and animal ownership. A separate privilege license tax may be sold to recoup cost to the county for the operation of low-level radioactive and hazardous waste facilities.

When providing utilities, the board has the authority to establish a schedule of fees for services rendered by county officials, employees, and public commissions which are permitted or required by law, including utilities, health services, abatement of nuisances, and police or fire protection. The county may make assessments on benefitted property when provided with water service or power and charge the property for the use of said service. When the county deems it necessary to make maintenance improvements, it may make assessments to pay the cost of them.

Certain counties permitted by the state legislature to levy a room occupancy tax may do so. The transient lodging facility must collect the tax along with the fees for the room and turn over the tax revenue to the county. The county may not use the tax to develop a hotel or other transient lodging facility.

As a replacement for ad valorem tax, a county may levy gross receipt tax on the gross receipts from short-term lease or rental vehicles for rent to the general public not to exceed 1.5% of the receipt value. In addition to the short-term lease or rental tax, the county may impose a 1.2% tax on gross receipts of short-term leases or rentals of heavy equipment .

The county may not issue any regulation or ordinance which affects the operation of the North Carolina lottery, an establishment of the State of North Carolina intended to raise revenue.

Counties may pass regulation which allows them to license businesses, occupations, trades, professions, amusement, and entertainment which might prove detrimental to public welfare, health, or safety. The county may specifically regulate any kind

of permanent or itinerant entertainment venue, including circuses, bowling alleys, billiard halls, and dance halls. The ability to regulate includes the ability to make regulations for flea markets and businesses or operations for eleemosynary purposes. The county commission may appoint business inspectors to oversee and inspect articles and products passing through the county.

The county may also regulate any out-door advertisements placed on buildings. Should the county win a suit to remove the out-door advertisement, then the county must pay the fair market value of the advertisement's renewal.

### **Contracts:**

Counties, as corporate bodies, may enter into contracts with other public and private entities to expedite the implementation and execution of county ordinances. This includes contracting for and accepting grants and loans from the state or federal government. When making an improvement that benefits the state or federal government, the county may request that the government in question pay part or all the cost of the improvement. Counties may enter into contracts with private individuals to provide any service or execute any power the county may lawfully provide or execute.

### **Zoning and Land Use:**

The county commission maintains the authority to hold and maintain county lands, as well as make provision for the acquisition of land for public use and the future of county development. The county has the right to exercise eminent domain and condemn land for use for the public good. The county must serve notice and provide just compensation for the taking. The commission must additionally approve any condemnation or taking of land by another local government within the boundaries of the county.

The commission has the statutory right to acquire, including by eminent domain and lease, property in the county by any lawful method for use by the commission or any other county board or agency. This includes the power to acquire property for school improvement and community college improvement. Counties may exercise this power alone or in conjunction with another county or local government with which they wish to jointly operate a county agency or board. Moreover, the county has the power to construct, maintain,

improve, and hold public buildings on county land. Conversely, counties also have the right to dispose of any property not being used by the county or for public good.

The commission may divide the county into zones as may be expedient to the sustainable growth of the county. For purposes of service provision, the county may establish and abolish one such zone, known as a township. The county may set the township boundaries and prescribe a name to the township at will. The county may also establish a planning board to study the county and recommend policies and procedures for ensuring stable, sustainable county growth. The county, pursuant to their recommendation, may establish zones within the county. The county commission may also make ordinances which regulate building code within a zone, but which apply only that particular subdivision of land. The building code may restrict number of stories, height, bulk, lot size occupied, and restrictions or allowances appurtenant to the preservation of public safety and health. To adjudicate minor zoning and building code problems, the county may appoint a board of adjustment and compensate them as they county sees fit.

In addition to a local planning commission, the county may join a regional planning commission which may exercise similar powers, but does so for multiple governmental units simultaneously. This organization can contract with services to study the area which makes up its constituent governments and then make recommendations broadly to all members about a comprehensive, regional development plan. This includes cooperating with all state, federal, and local agencies, as well as making recommendations about zoning to local governments. The regional planning commission may also act as a regional economic development commission to foster growth between counties.

The county may establish a building inspection agency to ensure that ordinances pertaining to building code are followed. This includes ordinances related to wiring and electrical safety, for which the county may establish electrical inspectors. The county may administer a test to such inspectors to ensure their competence. Inspectors are entitled to compensation, to be established by the county commission. The county may operate a building inspection agency jointly with another county if it does not wish to operate one alone.



Counties may suspend their traditional taxing and zoning authority when entering into a development agreement with a developer. The agreement must specify a duration and a specific number of acres, the permitted uses of the property, permitted population density, the public facilities added because of the development, and a description of both historic buildings and stipulations by the local government to preserve public health and welfare.

A county may additionally establish service districts, or a district which encompasses the entire county, to provide services including but not limited to hurricane protection, fire protection, recreation, sewage collection and disposal, solid waste collection and disposal, water supply and distribution, ambulance services, watershed improvement, cemeteries, and law enforcement. The service district shall provide services for a fee or assessment, though the county may levy taxes to finance the districts. The county commission may expand or diminish service districts upon petition of the voters. The county may create research districts for the purpose of gathering data useful to the creation and execution of county ordinance or resolution. An advisory committee shall administer the research district and provide its findings to the county commission. Finally, the county may establish economic development districts in which community colleges may offer classes subsidized by the county to develop the human capital of county residents in the district. This too has an advisory committee to provide information to the county about the progress of the district and future programs. The county may levy a tax to support an economic development district.

The county may rehabilitate dilapidated buildings or blighted areas by engaging in community development programs. This includes development of human capital by educating individuals, preventing crime, and providing adequate childcare and education. The focus of such a program, however, is on acquiring funds from any legal source and expending them in a manner which will encourage the renovation and aesthetic and structural improvement of buildings in the county.

The county has limited power to regulate residential private property. For example, the county may require the annual registration of mobile homes, but may not require a fee for registration. The county may also create low- and moderate-income homes which meet minimum standards of health and

safety for individuals in the county as an affordable alternative. The county may create a housing authority to administer to low- and moderate-income housing, exercising all powers attributed to the county commission, including taxation and contracting, to establish the housing district. The county may not prohibit or enact an ordinance which effectively prohibits the use of solar panels as an alternative to traditional water-heating or electricity generation. They may, however, offer loans for the development of sustainable resources.

Metropolitan areas may establish planning commissions to create a plan for sustainable growth for a metropolitan area. The commission has the authority to lay out plats and project future growth as an advisory aid to the commission in planning future roadways, zones, and building codes. In addition, they may evaluate air-quality districts, compliance with regional compacts, and the future of metropolitan infrastructure. The county commission may have access to these assessments for use in establishing building zones.

Counties have limited authority over conservation efforts, most of which are state requirements. Counties can, however, abate floods by removing manmade and natural obstacles to water flow and may additionally make efforts to abate hurricane damage, beach erosion, and damage associated with stormwater. Counties may also support soil and water conservation work done by federal or state agencies by cooperating with them and providing them with funds. Included in the water conservation work is the power to establish watershed improvement programs to establish and maintain drainage projects and additionally fund water resource development projects. Counties with mountainous areas may enact and enforce mountain ridge protection ordinances, whereas counties with significant timber land may make certain measures to restrict development of protected woodland.

## **Public Safety, Health, and Sanitation**

Counties may establish and maintain a fire department to provide fire protection to the unincorporated county or may divide the county into such districts and provide fire service for each district, at the discretion of the county. County commissions may, upon petition of 35% of the voters, establish a rural fire district. The county may seek voter approval to levy a ten mill tax on property in the district in order to pay for the facilities and

equipment necessary to provide adequate fire protection. The county may contract with an incorporated municipality or existing fire service district to provide extended service to the county or may establish its own fire service with the money raised in the tax levy. County commissions have the power to regulate all flammable, explosive, corrosive, and radioactive substances, including bans.

The county may provide law enforcement services to the residents of the county by providing education and training to law-enforcement agencies or contracting with another governmental entity to do the same. The county may appropriate funds or accept grant money to execute the law enforcement training. They may also establish neighborhood crime watch programs to promote security in businesses and in homes.

The county may appoint a three-member local alcoholic beverage control board pursuant to the North Carolina ABC Act. The board, which serves at the county commission's pleasure, regulates the transport and provision of alcoholic beverages to ABC stores in North Carolina counties and ensures that underage individuals do not purchase alcohol. Such a board may be merged with another board established by a city or another county.

The county may issue rules regulating the sale, possession, and discharge of firearms except when used for hunting. This includes regulation of the display of firearms in public places. The county's authority to regulate firearms extends to non-lethal projectile weapons, like pellet guns.

The county must provide secure custody of persons found in violation of the law, but such facilities must be operated to ensure the health, humane treatment, and welfare of inmates. The county must train employees working at the confinement facility and may accept help from the state in operating the jail and educating its employees. The county may operate a juvenile detention facility in the same place as the county jail so long as the juvenile facility meets state code. Two counties may jointly operate a detention facility if they enter into a contract to do so. For misdemeanor prisoners, the county may establish a satellite jail where they may carry out their active sentences using grant money for a state fund established for the purpose of constructing state jails.

County commissions have the authority to make any ordinance or regulation not specifically prohibited

by federal or state law detrimental to the health, welfare, and safety of its citizens as well as the peace of the county. This includes the power to define and abate nuisances.

To abate nuisances, the county may take civil action against any individual who, after having served notice, fails to abate said nuisance on his or her own. Nuisances include junked motor vehicles on public or private property, which the county may remove at expense to the owner if located on private property, as well as noise, public health nuisances like swimming pools. The county may also restrict the reckless abandonment of junked motor vehicles on public or private property. Public nuisances which are offensive to public morals, including operation of sex shops, houses of prostitution, and houses of gambling among other things, whether on private or public property, are subject to abatement.

Counties may operate animal shelters to abate the public nuisance of stray and abandoned animals. The county must provide adequate feed and accommodation to impounded animals. In cases of cruelty to animals, the county may establish rules about the humane treatment of animals and appoint an inspector to review the case. In addition, the county may establish programs to spay/neuter animals. These programs are eligible for monetary assistance from state funds for operations. The city may contract out operation of the animal shelter and spay/neuter program to private individuals or corporations and may additionally appoint one or more animal control officers to execute their ordinances on animal control. The county may regulate the kind of animal kept on private property in the county, including an outright ban of dangerous animals.

Counties must provide public health services by establishing a health department, a consolidated health department, or cooperating with the state board of health. The local department should be able to assess, diagnose, and investigate community health problems, develop and enforce policies and ordinances targeted at preserving the public health, and provide individuals with public health services. The county may alternately operate a health department with more than one county as a district health department. A health department may assess reasonable fees for provision of public health services. Separate from a health department under the administration of the county commission, the county may create a public health authority as

a public body politic and corporate, headed by a board with the power to provide all public health services of the county health department and may additionally exercise all of the property-acquisition and fee-schedule establishment that the county commission may operate.

County commissions may create municipal public hospitals to provide medical services to the county. Pursuant to this goal, they may acquire property, construct and expand facilities, and hire personnel to staff the hospital. The county may contract out the hospital's operation to another entity or may sell it to a nonprofit corporation to manage. The county may alternately establish a hospital authority to exercise its powers to levy taxes in the hospital service area and condemn land under eminent domain power to use as part of the hospital.

A county may operate ambulance and other emergency medical services in the unincorporated areas of the county. They may also franchise out the entire county or such ambulance service districts as they may create to private or public corporations to provide ambulance services. They may establish a schedule of fees to pay for ambulance service as well. To pay for individual ambulance service, the county may place a lien on the real estate of a recipient of ambulance services.

The county may provide social services to residents, including any service intended to further the health, welfare, education, employment, safety, comfort, and convenience of citizens. Such services may include a county home for aged and infirm persons and foster care or abuse victim support. The county may operate social services itself or may contract with a public or private health or social service entity to provide these services.

The county may alternately establish a board of human services, which consolidates all public health services under one board, including mental health services, substance abuse services, and developmental disability services. The board may exercise any of the individual powers of any of those services, including establishment of human services programs, compliance with federal and state law, and creation of a budget. A consolidated board may additionally support a single database and case management system for human services for all agencies in the county.

Pursuant to protecting the county employees' safety, the county may establish a personnel board with

the power to hear employee grievances and ensure compliance with federal and state laws regarding working conditions. Moreover, the board may develop merit tests to determine eligibility and readiness for promotion for all county employees.

The county may establish regulations concerning the collection and disposal of garbage in the unincorporated areas of the county and on county property. Powers extend to include dictating where, when, and how individuals may dump, leave, or dispose of garbage, litter, and all other refuse. This includes the ability to regulate and dispose of solid waste. Counties may franchise one individual or corporation to have the sole right to remove solid waste within the county or may purchase the equipment and hire the individuals to administer solid waste disposal itself.

County commissions may, at the behest of 51% of property-owning residents of the county or of the proposed district, may create a sanitary district. The sanitary district may exercise its powers as a body politic and corporate to acquire, construct, maintain, operate, improve, and enlarge water delivery systems, sewage systems, and water purification systems. The county may additionally create sanitation authorities with the power to levy taxes to fund the provision of sewage and water services, abate mosquitoes, provide garbage pickup, and assess service fees for all of the above services. Alternately, the county commission or sanitation authority board may contract with municipalities or other counties with existing systems to provide water and sewage service to county residents. If a board levies a tax, it may not exceed 5% of the county's tax rate.

The county may, jointly or in tandem with another county or as a regional entity, acquire, construct, establish, enlarge, improve, maintain, own, and operate a public enterprise within or without the borders of the county. Public enterprises include water supply and distribution, sewage collection and treatment systems, solid waste collection and disposal facilities, off-street parking, public transportation, and storm water management facilities. In the case of solid waste disposal, the county may contract with the transportation department to provide equipment to transport the waste to a disposal facility. The county may require that lots within the county connect to the public water system. Counties may finance these enterprises by levying tax, appropriating funds, accepting gifts, and borrowing money. The county may assess a fee

on any individual or corporation which connects to or uses the services provided by a public corporation.

Counties wishing to operate a joint solid waste management cooperation may also create a regional authority, funded by all constituent governments, and empowered to execute all functions of a local solid waste management public enterprise, just on a larger scale. All constituent counties shall provide funds to the regional authority in an amount determined by the contract which define their membership.

Counties may singly or jointly with other counties incorporate a sewer or water authority to administer sewage collection and treatment facilities and to administer a water purification and distribution system. The authority may issue revenue bonds in anticipation of fees which the authority may assess. The authority may enter into contracts with any public or private entity to provide water and sewer services.

### **Roads and Bridges:**

Counties have limited jurisdiction over all county roads within their political boundaries, though they additionally gain authority to improve, maintain, or construct roads operated by the state transportation department by written contract. Counties may improve state roads at expense to the county without contract from the transportation department. Counties may additionally pay the local share of improvements to residential roads operated by the state road system. In addition, the county may make any improvements the public or legislative body deem necessary to existing county roads, including addition of lanes, addition of parking, and construction of a drainage system. They may also name public roads in the unincorporated areas of the county. When the public no longer uses a road or easement, the county may close it. Counties may make assessments for construction and improvement of roads, including the construction of streetlights and other significant renovations to the county infrastructure and may issue bonds in anticipation of revenue to finance county infrastructure improvement.

Counties may regulate the parking, standing, or idling of private vehicles in any public county buildings or privately owned building with a public driveway, including hospitals, shopping centers, and apartment complexes. In addition, the county may regulate golf cart use of roads and highway.

Counties may contract with surrounding municipalities and counties to develop and execute a coordinated transportation plan suited to the needs of a growing county, including the rehabilitation of rail systems. County authority over transportation systems extends to bridges, ferries, and toll bridge which are not under the control of the transportation department. This includes the right to construct bridges over navigable waters and the right to regulate fishing off of bridges.

County's established police departments may hire traffic control officers to administer and enforce traffic law as from time to time may be necessary. Traffic control officers are appointed by the county police department or sheriff but do not have the power to arrest anyone. Counties have little jurisdiction over state roads, though they may limit the times and number of people that may gather on a state road in their jurisdiction. County police and State Highway patrolmen may cooperate in any way necessary to enforce state traffic law.

Counties may operate an airport, which includes the acquisition of land for and subsequent construction of an airfield, landing strip, and airport facilities. Alternately, the county may operate the airport in conjunction with a city or town. Counties have the power to regulate existing airports, including establishing fees and promulgating rules about buildings which may be placed on airport land. Counties may appropriate funds to improve, acquire, construct, or expand the airport and may additionally receive federal grant money for the same purpose.

### **Recreation, Leisure, and Culture:**

County commissions may appropriate funds to erect, maintain, and protect monuments placed on the courthouse square to the Confederate dead or honored servicemen killed in combat. Alternately, they may appropriate funds to give to a state or nonprofit organization erecting a monument.

The county may provide monetary assistance to any nonprofit historical society, museum, or other similar organization. The county commission, library, or school board may make space available for the display of objects pertaining to the county's history and tradition.

Counties may take action as a municipal corporation would when financing, creating, establishing, constructing, improving, or enlarging art galleries



and museums and auditoriums, coliseums, convention centers, and civic centers. The county may operate said public improvements for the benefit of its citizens.

Because of the public's interest in information, the state authorizes counties to establish public library systems, set aside property, construct and improve facilities and acquire library materials. The county may establish a board to oversee the library and establish policies and programs to further use of the library by the public. The county may fund the library through general appropriations and also retain the title deed to all library property. Any resident of any county is entitled to free use of the library system. The library may be operated singly or jointly with other counties.

### **Alternative Forms of Government:**

The commission may by resolution adopt or discontinue the county-manager form of government. Adoption of the county-manager plan empowers the commission to appoint a manager, to name a commission member to serve as the manager, or to confer on some other county employee the duties of

the county manager. If the commission chooses not to adopt or discontinue the county-manager plan, then the commission may exercise all hiring and firing powers and charge department heads with the execution of county ordinances.

Counties and cities which are contiguous and wish to consolidate a service or governmental agency may establish a commission to study the problem and propose a method for consolidation, including prospective savings and increased efficiency. If the proposed consolidation or charter is met with voter approval and approval from the General Assembly, the governments may proceed in consolidating the service, governmental function, or governments in question.

North Carolina allows counties and the largest municipality in the county to merge to form a single government entity, recognized as both a municipal corporation and a county, which may exercise all the right attributed to both bodies separately. The former city may remain an "urban service district" in which the city-county government continues to provide all the services provided prior to consolidation.



# North Dakota

## **North Dakota County Powers:**

North Dakota counties derive their powers from the Constitution of North Dakota and Chapter 11 of the North Dakota Century Code; however, the option to exercise different forms of county government, including a home rule, can be found elsewhere state code. Nevertheless, only one county has chosen to obtain a charter to establish home rule. Broadly speaking, counties have the responsibility to provide for public health and welfare by constructing and maintaining roads and highways, establishing public health districts, and overseeing county finances. Counties additionally have powers to create public authorities to promote economic growth and may offer a variety of social services for seniors, handicapped citizens, and victims of domestic abuse. North Dakota is a Dillon's Rule state.

A commission of three to five commissioners must keep a seal to be the corporate seal of the county. In addition, they must superintend the county's fiscal affairs, supervise county officers, may audit and verify the accounts of all county officers who manage, collect, or disburse county funds, and order the preparation of financial statements. Commissions may also exercise the power to preserve order by punishing violators with contempt (punishment not to exceed a fine of five dollars or imprisonment for more than 24 hours) and to institute and prosecute civil cases.

## **County Finances:**

County governments must superintend the finances of the county, including the duty to audit and validate all accounts of officers of the county with duties involving the management, collection, or disbursement of county funds. Any outlay of funds for public lands which will incur a debt in extreme excess of projected revenue for the fiscal year must be voted on by electors in the county in question before approval by the county commission. If the land is for the construction of a courthouse or jail, for the beautification of county buildings, or if failure to purchase the land would hinder transaction of public business, a majority vote of the commission is sufficient to outlay the funds to purchase the land. They are explicitly permitted to appropriate and expend funds for the purpose of organizing county

governments. When counties provide for capital improvements, whether by petition or by resolution of the board, they may levy special assessments on the affected area to offset the cost of such improvements.

Commissions may levy taxes permissible under North Dakota law and may contract debts and borrow money as well as make payments of debts and expenses. They must also order the publication of county financial statements upon their preparation by the county auditor, verify tax lien money in the county treasury, and provide for assessment equalization. If a special tax is levied, if surplus funds remain in the fund following the execution of the purpose for which the fund was created, and if the county has no outstanding debts, the county commission may transfer the surplus money to any fund they choose. Counties may expend funds for a purpose in excess of the appropriation made for that purpose unless said purpose is a legal requirement under North Dakota code. The county commission must approve warrants for claims against the county prior to disbursement of the claim by the county treasurer.

Commissions may provide loans or grant money to and secure a mortgage from individuals, associations, and corporations. They may also purchase ownership shares in limited liability companies, corporations, and business associations without general liability to the county to spur economic development.

## **Contracts:**

County commissions may enter into contracts following a majority vote of the commission to do so. If a judgment is decided against the county, the commission must levy an irrepealable tax on all taxable property in the county to establish a judgment payment fund to raise money to discharge the judgment; however, counties may not seize private property to raise money for the judgment payment fund.

## **Zoning and Land Use:**

County commissions have the power to make all orders with respect to county property, including purchase and sale, but they must provide courtrooms and jails as well as offices for the sheriff, treasurer, recorder, auditor, clerk of the district court, state's

attorney, county superintendent of schools, and any officer in charge of public records. Pursuant to this mandate, commissions may erect, repair, and maintain public buildings, including courthouses, annexes, jails, and hospitals, on public lands. The county may provide for a central location in which to keep public records and must provide fireproof space to serve as a repository for such records.

Counties must redistrict three months following a federal decennial census unless members of the commission are elected at-large. To accomplish redistricting in an efficacious manner, county commissions must establish a re-districting board to achieve an equitable distribution of the proportion of electors to commissioners in each district.

Counties may restrict and regulate the number, type, and size of buildings to be placed on lands within their political subdivision to promote public health, safety, morals, convenience, general prosperity, and public welfare. To provide this service, counties may divide the county into zones of such shape, size, and number as shall be convenient for carrying out the above stated purpose and have a constitutionally guaranteed right of eminent domain. To that end, the county commission may require maps and plats of the county engineer.

Despite the broad powers granted to counties with respect to zoning, many specific exceptions exist. For example, counties may not prevent the use of land for agricultural or ranching purposes, nor may they prohibit the expansion of diversification of agricultural or ranching buildings and operations, though they may establish low-density production zones around residential, commercial, and industrial areas. Commissions are explicitly permitted to regulate and tax pawnbrokers outside incorporated areas of the county. Commissions are additionally empowered to transfer public lands for use of a county fair or proceeds from the sale of lands used for a county fair to a nonprofit corporation organized to conduct a county fair. Commissions may also resolve to forbid multiple adult establishments from coexisting in the same building or premises or to forbid adult establishments from selling sexually oriented devices.

Counties may sell lands and assets in private sale when the estimated value is less than \$1,000 dollars. Otherwise, a public auction must be held. When conveying lands to the United States, the county must cede any reservations on mineral or gas resources on the land. Counties may otherwise retain the rights

to the minerals or gas and may contract out the extraction of these resources. Any profit made from the sale or conveyance of land or from natural resource extraction is paid into the county treasury. Counties may exchange lands within the county for other lands of like use when the board of commissioners deems it fit and may also exchange lands on Indian reserves for land from the federal government.

Counties object in zoning is to protect and guide the development of nonurban areas, to provide for emergency management, to regulate and restrict the erection and maintenance of buildings in nonurban areas, to lessen government expenditure, and to conserve natural resources. To exercise their zoning powers, counties must establish county planning commissions composed of residents of the county to present a zoning plan to the county commission for approval. County commissions must provide for enforcement of the regulations, but may adjust enforcement of the regulation in extenuating circumstances. However, they may not apply the law *ex post facto*.

Counties may provide for the issuance of permits prior to construction, but must inform the director of transportation if road infrastructure use will increase significantly following construction of the building. The county may collect fees for the issuance of the permit and appropriate funds to enforce the provisions of the chapter.

Commissions may also provide right of way to private individuals and corporations for the erection of telephone lines, electric light systems, water and wastewater systems, and gas or oil pipelines. This provision only applies to public land and county roads, streets, and highways, however.

Counties may establish joint zoning commissions for land located in two or more counties, but such zoning regulations require the approval of all county legislative bodies that have jurisdiction over the land. Counties may not make regulations about lands contained inside townships or cities unless such townships or cities surrender by resolution their zoning powers. Cities and counties have joint zoning authority over incinerators and solid waste disposal facilities unless cities relinquish their authority to county governments. Counties may enter into agreements with municipalities, independent townships, and other counties to create regional planning and zoning commissions, the cost of its operations to be shared among all members. Such

commissions may exercise any powers granted to cities, counties, and townships.

Commerce authorities are permitted by the state legislature to stimulate economic development, promote commerce, and advance general economic growth in the State of North Dakota's counties. To that end, county commissions may create, alone or in tandem with other political subdivisions of North Dakota or other adjacent states, a commerce authority of five individuals may act to administer transportation and storage services as well as lease and sell real property to qualified individuals. To assist commerce authorities in the execution of their duties, counties may lend or donate money to the authority, provide all or a part of taxes generated to stimulate economic development to the authority, provide water and sewage and other facilities to the authority's projects, sell or convey any of the county's interest in property to the authority, provide infrastructure to authority projects, cooperate with the authority in project planning, enter contractual agreements with the authority, establish geographical boundaries of the authority's jurisdiction, set financial incentives for the authority, and exercise eminent domain power pursuant to the efficient execution of commerce authority duties. County commissions may also levy a tax not to exceed four mills to be used to fund projects undertaken by the commerce authority with the advice of the authority's commission. In addition, counties may offer incentives on sales and use taxes on tangible personal property provided such property is part of the commerce authority's infrastructure and necessarily and directly services the needs of said infrastructure.

### **Public Safety, Health, and Sanitation:**

North Dakota's counties may provide fire protection to residents either in the county as a whole or by creating fire protection districts. The county may levy taxes on a county-wide or district basis to fund the operation of fire protection services.

Counties may regulate the confinement and control of dogs, cats, and other domestic animals so long as such rules do not conflict with the state board of animal health. Additionally, commissions may provide for the abatement of rodents, predatory animals, and destructive birds within the county's unincorporated territory and may pay for this service using general funds.

Commissions may engage in comprehensive health planning and may appropriate funds to execute that purpose, or they may contract with a public health planning organization to provide a similar function. This health planning organization may be either a public agency or private corporation.

Commissions must, on petition of 20% of the electors residing in a certain area, provide a rural ambulance service with plat or map depicting the area served. Said ambulance service may levy fees on any property tax-exempt organization and may levy a tax to provide services to the affected district.

Commissions may appropriate funds to establish, maintain, or fund public programs and nonprofit corporations that provide support to victims of spousal abuse, including emergency housing, counseling, advocacy, support groups, and crisis lines.

Commissions may appropriate funds to establish or maintain programs aimed at improving senior citizens' health and welfare as well as to provide informational, recreational, leisure, and counseling services. They may also provide funds to nonprofit organizations aimed at offering similar services to handicapped people. Such organizations must be incorporated as a nonprofit organization to receive county, state, or federal funds. Commissions in counties of not more than 2,000 people may establish a fund to guarantee the indebtedness of nonprofit corporations which construct nursing homes and healthcare facilities as a liability of the county.

Counties may provide a variety of utility services to their residents, including water and sewerage services. To that end, counties are empowered to acquire the necessary facilities and distribution systems to provide service to the county's residents. The county is authorized to assess a fee for the provision of water, sewerage, and solid waste disposal services.

Counties may establish and finance garbage and trash collection systems for all or parts of the unincorporated county, including landfills and solid waste sites. These systems may be operated alone or in tandem with another county and fees may be levied on individuals benefitting from the service.

### **Roads and Bridges:**

Counties may construct and repair bridges and open, lay out, vacate, and change highways as provided for by law. However, commissions must operate and maintain all public and private roads used regularly as part of a public school bus route. Commissions

may otherwise provide for the improvement of private roads by entering into agreement with the landowner. The cost of these improvements shall constitute a lien on the real estate.

To accomplish this, county commissions may either employ a qualified county engineer or may create such an office and hold elections. The commission may then hold this individual responsible for the planning, construction, and maintenance of all county and township highways.

Port authorities are permitted by the state legislature to stimulate economic development, and expand water-based commerce in the State of North Dakota. To that end, a municipality near the intersection of two paved, divided multilane highways or two competing intermodal railways may create, alone or in tandem with another political subdivision of North Dakota or a neighboring state, a port authority as a public body corporate and politic. The legislative body of the county must appoint commissioners to serve on the board of the authority. Prior to the creation of the port authority, counties can exercise any and all of the powers attributed to port authorities, including the ability to purchase, construct, or enlarge storage and transportation facilities not owned by other public entities, establish port zoning regulations, and to provide financial and other support to other corporations whose mission is to promote economic development. Port authorities or municipalities in the event that a port authority has not been established, may issue bonds to raise funds. Counties may assist port authorities by levying a tax to provide financial support, lending or donating money, provide water and sewer utilities to ports and port facilities, furnish roads for ports and port facilities, enter into agreements with the authority to provide services, and take other actions not prohibited by law to assist the authority.

### **Recreation, Leisure, and Culture:**

County commissions may establish, either alone or jointly with other counties, county park commissions to acquire, establish, maintain, and operate public lands as parks and recreational areas. To that end, they may promulgate and enforce rules about the proper use of such facilities and to protect and preserve public lands from pollution. They additionally have authority over public waterways, streams, and lakes. County commissions may levy a tax to provide funds to support park commissions.

A county commission may, with the petition of 10% of the electors of the proposed district, create a recreation service district for the purpose of providing public roads, water and sewage service, police protection, garbage removal service, or any of the other services the local government provides. The commission must create a board to service the district. The board can levy taxes to provide these services and levy special assessments on the affected recreational areas.

Commissions may pass any ordinance and appropriate funds necessary to participate in the nation's historic preservation program, including rooms and offices in public buildings and libraries. Commissions may appropriate funds not to exceed 5,000 dollars a year or levy a tax to provide to historical societies for promotion of their work preserving historic rooms and buildings in the county. Historical societies may not receive these funds until registered as a nonprofit organization.

Commissions may similarly establish and maintain or appropriate funds for nonprofit organizations that assist the arts (defined as a nonprofit recognized by a council on the arts), including expansion of existing programs, subject to annual review.

County commissions also have the authority to erect memorials or otherwise suitable recognition in commemoration of the people who rendered service or lost their lives rendering service to their country using either money from the general fund or by levying a tax. Counties may also join with cities, school districts, and other agencies to erect and operate memorials.

### **Alternative Forms of Government:**

County commissioners may submit to the electorate the option to adopt a county consolidated office form of government in which the board of county commissioners may appoint an auditor who may serve as clerk of the county commission and, if necessary, the clerk of the district court, a treasurer (unless the auditor may serve as treasurer), and a coroner. The sheriff and state's attorney must be elected. Aside from the appointment of the three county officials, county commissions retain the power allowed them by state law.

The county commission may, at the request of 10% of the electors of a county, submit a plan calling for a county manager form of government. Counties may adopt a short form of county manager-ship or a full



county manager-ship and may allow for the election of a county manager or the appointment of a county manager by the county commission. In such a form of government, the county commission retains the power to appropriate funds and levy taxes, to act as a public body corporate and politic, to investigate and audit county departments' and officials' conduct and financial accounts, and to penalize subpoenaed witnesses for contempt. The commission continues to act as a policy-making body with the power to create administrative departments, but cedes administrative responsibility and oversight to the manager. An appointed county manager serves at the pleasure of the commission, whereas an elected one serves for four years.

County managers assume all other responsibilities otherwise provided to the county commission, including but not limited to the oversight of county departments and agencies, the supervision of revenue collection, the appointment of officials who are not elected to office, to prepare and submit a budget, and the care of all county buildings and properties. County managers additionally take over the provision of public welfare, health, and county finances.

The county commission of any county may put to its citizens the question of home rule. The commission must create a charter commission to review the circumstances and propose a charter either solely for one county or jointly with an adjacent county.

Following ratification of a home rule charter, counties may acquire, operate, hold, and dispose of property contained within the county and exercise the right of eminent domain. Commissions also have the power to appropriate funds and levy myriad taxes, including taxes on property, sales and use, farm machinery, alcohol, motor vehicles and fuels, motor vehicle registration fees, and special assessments for benefits conferred. These sources of revenue may be used for all county public and proprietary functions. Home rule commissions may also establish such offices and qualifications for said offices as the commission sees fit and provide for elections of county officers. Chartered counties may also provide for enforcement of and punishment for violation of county ordinances (except where already provided by state law), provide for zoning outside cities and organized townships, lay out or vacate public land, provide for a county highway system, and contract with the local, federal, or state government for any public project. These powers are granted in addition to any other power already granted counties under North Dakota law. While state law continues to apply to these counties, their ordinances may supersede state law where their charters allow. Charters grant full right of self-government to county governments falling under this chapter, giving them authority to exercise broader powers than those explicitly enumerated in the code.



# Ohio

## **Introduction:**

Ohio's counties derive their authority from the Ohio State Constitution and Title III of the Ohio Laws and Rules. These laws establish counties as bodies politic and corporate in the state of Ohio. Ohio's governing structure vests legislative power in three member commissions which are charged with carrying out all duties and responsibilities Ohio law demands of county governments. Ohio has adopted home rule, allowing its counties to exercise any authority which the commissions sees necessary to the proper functioning of the county government unless such an exercise would conflict with explicit laws laid out in the Ohio Laws and Rules. Ohio is not a Dillon's Rule state.

Ohio requires the election of county executives with veto power. The executive additionally must prepare a budget for the review of the county's legislative body and supervise all administrative departments in the county.

## **County Finance:**

The county commission has budget-making authority, including the levy of taxes and the appropriation of funds for county operations. The budget cannot be finalized until approved by the county commission, and no appropriation made until the budget is complete. The county commission additionally has the sole authority to discharge any claims against the county, and must do so before they may be paid. The county may receive gifts, bequests, and donations for any public purpose, including public schools; however, the commissioners may not use their own companies for county purpose if they stand to make a profit from the public contract. The county may, however, appropriate funds to any nonprofit engaged in providing emergency services, promoting safety, or promoting economic development.

Legal taxes include property taxes and sales taxes in certain counties. For example, a county with a population in excess of 1.2 million may levy a 2% tax on food and beverage bought and consumed on the same premises to generate revenue. In addition, counties may tax liquor at a rate not to exceed \$3 per gallon. Counties may collect a transfer fee of thirty cents on every \$100 of value of transferred real

estate. If collecting sales and use taxes, the county may enter an agreement with a person planning to construct an impact facility and offer them up to 75% of the sales taxes collected at that place for up to ten years.

Counties may contract debt up to the legal constitutional limit by issuing general and revenue bonds. These securities must be paid off in a time specified by the Ohio legislature and must additionally be approved by general election. Counties are, however, allowed a line of credit in anticipation of tax revenue. In addition, the county has a variety of legal investment organs in which it may place county funds to secure them against loss.

## **Contracts:**

As bodies politic and corporate in the state of Ohio, county governments may enter into agreements with other public and private bodies to execute some function. Because Ohio allows counties so much authority, the commission, which serves as the county's contracting body, may enter into any contract to execute any function which the state does not explicitly reserve to itself. Ohio's counties are allowed to create policies to assist minority owned or operated businesses when awarding contracts.

## **Zoning and Land Use:**

The county commissions may acquire land by purchase, lease, or exercise of eminent domain and hold it in the name of the county. Whenever such land no longer serves the public interest, the county may sell or lease it out to another public or private entity, including land containing iron, stone, coal, petroleum, gas, salt, and other minerals. On such land, the commission is required to provide certain public buildings, including a courthouse and jail. The jail may be operated jointly with another county if necessary or desirable. The county may maintain a law library within the courthouse if it chooses. The county may enter into agreements to conserve heat and electricity in county buildings for a period not to exceed ten years and subject to the condition that such a contract will reduce expenditures on utilities.

The county has authority in the unincorporated areas of the county to divide the land into such zones

as may be expedient to encouraging the sustainable and economically sound growth of the county. To that end, the county may regulate buildings by a variety of factors, including size, location, height, and bulk. Regulations must be consistent throughout a single zone and are not applicable within city limits, nor may the county impinge on agricultural production with zoning laws. Their zoning authority does not extend to restricting the site of permanently manufactured homes. The county may use zoning regulations to take steps to prevent flooding, as well as provide aid to other counties coping with floods.

Counties also have platting authority for when a developer seeks to add on to an existing community or construct a new community entirely. The commission may demand that the community meet certain requirements regarding safety, public health, and economic development potential. The county may create a new development authority to oversee the new community's growth and to ensure that all county ordinances are enforced on the developer.

The county is additionally required or allowed to engage in certain community development activities. Among these, the commission may create an office of economic development to coordinate county economic development with state economic development. In addition, the county may levy a tax for community improvement and create a community improvements board. If the commission finds their activity beneficial for the county's residents, the commission may issue a bond to fund their activities. The county is authorized to expend county funds to provide low- or moderate-income housing or to rehabilitate blighted areas for housing.

The county may undertake certain conservation exercises. Among these, it may take reasonable steps to adopt, amend, and rescind rules establishing technically feasible and economically reasonable land management and conservation practices. These practices include the abatement of wind and water erosion. Moreover, counties may acquire land to construct, improve, maintain, operate, and protect forests, parks, and parkways. The commissions may vest the authority to control and manage these activities in an administrative agency or board of park commissioners created by the county. The county commission may not acquire land which has been acquired already by a board of park commissioners. The county may also contract with municipalities and surrounding political bodies to control air and water pollution.

## **Public Safety, Health, and Sanitation:**

Counties have the authority to protect their citizens from various criminal threats and the threat of fire. To that end, the county may establish volunteer fire departments or divide the county up into fire protection districts and levy taxes to fund professional firefighters. In addition, the county may fund criminal justice services, emergency services, and crime prevention services. The commission may establish a curfew for any individual under the age of 18.

Ohio counties may operate public hospitals for the health of their residents. Though the county may acquire land and construct hospitals facilities, subsequent improvements must be made by a board of hospitals trustees. The county may create a hospital authority to execute all county responsibilities related to hospitals if it so chooses. To support hospital construction projects, the county may levy a tax and place it in a "county hospital building fund." The county may require that the hospitals provide tuberculosis treatment to county residents.

Ohio's counties may establish health departments run by boards of directors. Health departments are charged with tracking the spread of potentially dangerous diseases in the county, as well as coordinating healthcare services for the indigent and elderly provided within the county. Ohio's counties may establish agencies whose purpose is to administer non-institutional support, care, assistance, or relief to needy or elderly persons in the county at public expense. Any county with more than 50,000 residents must establish services for alcohol and drug abuse, as well as mental health services. If a county has less than 40,000 residents, it may contract for ambulance services; a county with greater than 40,000 residents must provide ambulance services in its own right.

The county commission is charged with providing certain services to county residents, among these solid waste disposal, water service, and sewerage services. If they receive approval from an election, the commission may issue bonds to assist in the operation, construction, acquisition, and maintenance of any public improvement related to the provision of these three services. The government may collect a 2% utility service tax to be used for generated revenue for the general fund. The county may grant a franchise to allow an individual or corporation to construct water and sewer lines under the supervision of the commission.

### **Roads, Bridges, and Transportation:**

The county commission is charged with laying out all bridges and roads in the county, as well as with constructing and maintaining any public infrastructure they develop. The commission may retain authority over the roads itself or may delegate responsibility to any transit authority it may create.

Counties may create transit authority or operate on themselves for the purpose of constructing and maintaining public transportation. Such authorities may be operated at the county level or may be a regional authority. The county may appropriate funds for the creation of a railway. In addition, the county may acquire, construct, and operate a subway system provided 55% of electors agree to any bond issuance associated with the construction or operation of such a system.

The county commission may acquire land for the construction of an airport, or it may delegate its power accomplish such a task to an authority created for that purpose. It may then contract with a person or persons to provide amenities, including restaurants and retail stores, on that property. The county may delegate its power to create and maintain an airport to an airport authority if it so chooses.

Any county bordering Lake Erie may appropriate funds to assist or establish port facilities on that body of water. In addition, the county may contribute to any waterway or canal constructed by the US Government or the State of Ohio to connect the county to the Great Lakes more efficiently.

### **Recreation, Leisure, and Culture:**

The county may create a parks commission to administer to any park, recreational facility, or greenway which the county may acquire. The county may establish a variety of facilities on such land, including art galleries, recreational facilities, zoos, natural history museums, and swimming pools. In addition, the county may appropriate money to municipalities to assist them in operating any cultural or recreational facility.

The county has the authority to construct and maintain a convention or visitors' center. The commission may appropriate money from the county's general fund to ensure the continued operation of such facilities. The county may enter

into an agreement with a visitors' bureau to levy a tax to fund it as well. In addition, the county may purchase, lease, and operate sports facilities and collect a fee for permitting others to use them.

The county may operate a public library system in any public building owned by the county. The library must be a free lending library, funded through the county's general fund.

The county may establish a historical society for the preservation of historical or archaeological sites within the county. The commission may appropriate funds and accept gifts and bequests for such an enterprise. To celebrate the county's history, it may appropriate up to \$20,000 for any fifty year anniversary of the county's founding.

The commission may appropriate up to \$500 per day for Memorial Day celebrations of US armed forces garrisoned within the county. In addition, the county may collect a tax not to exceed ten mills to provide for the construction and maintenance of a memorial for soldiers serving in any war in which the US has participated.

### **Alternative Forms of Government:**

The county commission may appropriate money to pay for the study and preparation of a county charter by a county charter commission. Such a charter must be approved by the people of the county before it is put into effect. The charter must specify the specific duties and powers of the charter government, as well as the governmental structure. The charter must also include an amendment and adoption process.

The board of commissioners may enter into an agreement with any public body in the state of Ohio, including library boards, school districts, water or sewer districts, port authorities, and health districts, among many others, to consolidate services or exercise power jointly rather than singly. Either party may rescind the agreement at any time.

Ohio's counties may make certain changes to their government structure. For example the county may alter its government structure if it so chooses by appointing rather than electing an executive. Such a change requires the approval of the county electorate. All counties must have some kind of executive or manager, however, and all must have a commission elected on an at-large or district basis.

# Oklahoma

## **Introduction:**

The Oklahoma State Constitution and Title 11 of the Oklahoma Statutes provide the legislature with the authority to establish and dissolve counties. The constitution additionally creates all counties as bodies politic and corporate in the State of Oklahoma, extending to them all the powers and privileges that come with that classification. Oklahoma statute vests legislative power in a three-member commission. Each year, one member of the commission is elected chairman with the power to preside over meetings. Oklahoma is a Dillon's rule state.

## **County Finance:**

The county commission is the sole body which may establish a budget, including tax levies, bond issuance, contraction of debt, and appropriation of money; however, county commissions may create a county budget board to which they may delegate the task of creating a budget. The total valuation of property tax levied in the county may not exceed fifteen mills, with five mills going to the school board and the other ten to be divided between the city, county, and towns in which the property may be located. Any income received from highway funds may be deposited in the general fund of the county. Any question of a tax levy must be put before the county's electors.

The county commission may contract debt and issue bonds and warrants; however, without an election and approval of three-fifths of the electors voting in that election, the county may not contract debt to exceed the expected revenue for the coming fiscal year. Any contraction of debt must be put before the county's electors for approval.

The county commission may appropriate funds to support any educational program which provides job training or certification in an area that may require training, including programs put on by the Department of Transportation, the Federal Highway Administration, or any other state agency, technology center school, or university.

## **Contracts:**

Oklahoma's counties, as bodies politic and corporate, have the authority to enter into contracts for any lawful county purpose. The county commission serves as the county's contract-making body, with the power to sign agreements and pledge the county's faith and credit to the execution of a contract. Counties may additionally join with other counties to purchase or lease heavy equipment to share on county projects, as well as cooperate with federally recognized Indian tribes to furnish roads. The commission may enter into an agreement with any city located within its corporate boundaries to share services or unite for any common purpose.

## **Zoning and Land Use:**

Counties may acquire property by purchase, lease, or eminent domain; the county commission is empowered to hold property in the county's corporate name. In addition, the county commission may sell or lease county property if it is unused or no longer serves the public interest or a county purpose. The county may lease or convey land to the federal or state governments, as well as to any incorporated town or city for public use. In addition to conveyances of land for public purposes, the county commission of any county may convey unused land to an established nonprofit organization which constructs affordable housing.

County commissions are required to construct certain public buildings, including courthouses and jails, though they may construct any building they view necessary to the functioning of the county's government. The commissioners may construct such buildings singly, or may opt to cooperate with other counties and political subdivisions to build certain buildings, like jails. The county may charge an additional ad valorem tax not to exceed five mills for the purpose of constructing public buildings. The tax only becomes legal when the county electors approve the measure by referendum; money collect from the tax must be deposited into a fund. When the fund has sufficient resources to finance construction, the county must discontinue the tax and pay for construction. The county may enter into contracts to improve public buildings to be more energy efficient; however, the county may only enter



the contract if it is guaranteed to provide savings to the county in operations costs.

The county commission has the authority to divide the county into such zones and districts as may be expedient for the administration of the county's building regulations. To act as advisors to the county commission, the commissioners may by resolution establish a county planning commission to study the county and prepare a physical development plan. The commission may adopt the plan and effectuate it by regulating the type, size, height, number, and other characteristics of buildings located in certain zones. Counties may cooperate with cities and other counties to develop a regional plan to encourage sustainable growth across multiple counties. A caveat: Oklahoma extends different powers to counties based on population and the areas they must serve. Therefore, while all counties may exercise the authority above, some counties have more authority and others have procedural requirements for zoning.

Counties containing large bodies of water or projects completed by the Army Corps of Engineers may establish lake area planning commissions to develop zoning regulations for the land surrounding lakes. The county commission may use the advice of the lake commission to regulate buildings and construction around the area.

The constitution allows counties to reinvest public fees and funds in redevelopment of blighted, underproductive, or stagnant areas by constructing public improvements and investing in a development plan to reinvigorate the county's communities. In the unincorporated areas of the county, the commission may simply tear down dilapidated structures.

The county is constitutionally empowered to issue bonds and contract debt to secure and develop industry. The county may also create a county-wide economic development program and finance it using an ad valorem tax. The tax may fund studies of economic development or stimulus of agricultural, industrial, and commercial pursuits within the county. The county must create an economic development advisory council to offer assistance to the county in distributing the resources.

### **Public Safety, Health, and Welfare:**

The county commission, in the interest of preserving public safety, is authorized to establish county fire departments and provide firefighting service to the residents of the county. This includes acquiring

land by purchase, lease, gift, or eminent domain, appropriating money to acquire equipment, and appointing a board of directors to oversee the fire department and establish a budget. The commission may additionally appoint a fire chief to administer the fire departments in the county. The county may also enter agreements with municipalities, nonprofit volunteer organizations, or rural fire protection districts for the provision of fire service.

The county may provide fire protection service in a specific area upon petition of 25% of the property owners living outside an incorporated city request it. The board must hold an election and may, upon approval of the district's creation, appoint a board of directors to oversee it. The board shall hire personnel, purchase equipment, and make a budget to receive funds from the county commission in the form of appropriations. The board may assess property within the district to fund its activities as well. Rather than purchasing equipment and operating a new station, the board may contract with an existing fire department for the provision of fire protection services.

Any county which has sufficient funds is authorized to hire or contract with counselors to provide counseling services to the victims of crimes and their relatives, and mental health detainees; however, the county may not fund counseling services for county employees whose duties relate to mental health or law enforcement. If the employee is seeking counseling directly related to his or her official duties as a mental health or law enforcement officer, then the county may fund counseling.

The county commission may establish a reward fund of no more than \$2,000 to provide rewards for information leading to the apprehension and conviction of criminals. In no case may the county reward any individual more than \$1,000 for services rendered to county law enforcement officials.

Counties are charged with preserving public health. Pursuant to that goal, commissions may establish public hospitals, acquire land, and construct, improve, maintain, and operate any necessary buildings. To fund the budget proposed by the board of trustees the county may create to administer the facility, the commission may issue bonds and levy taxes.

The county commission may hold an election to determine whether or not to establish ambulance districts. If the measure is approved, the commission may levy and collect a three mill tax to purchase



equipment and fund district operations. The commission may also appoint a district board of trustees with an administrative and supervisory role, as well as the power to issue bonds. The board must levy a tax to discharge the debt, though the board may also charge reasonable fees for use of the ambulance. The county may operate such a district solely or jointly with another county or contract with a public or private entity to provide ambulance service.

To establish a county health department, the county may levy two and one-half mills on all taxable property within the county. The health department may be maintained jointly with schools and other political subdivisions of the State of Oklahoma. The county commission or budget board may appropriate funds for a drug enforcement and drug abuse prevention program for the county's residents, to be administered through the health department.

Rather than providing a nursing home at the county's expense, the county commission may enter into a cooperative agreement with a nursing home meeting federal regulations to provide services to the county's elderly and infirm. The commission may appropriate money to pay for the services provided.

To provide solid waste management services, the county commission may call an election by resolution or on the petition of 10% of the electors in the county. The commission may levy and collect a tax not to exceed three mills to fund the solid waste management program, as well as issue bonds. The commission shall serve as the rulemaking body for the management services, though it may cooperate with other counties or municipalities to provide for the collection and disposal of solid waste. The commission may charge reasonable fees for the collection and disposal of trash.

The county commission may establish sewer improvement districts upon petition of fifty of the property owners in the proposed district. The board may create a governing body for the district to acquire, construct, improve, and operate sewerage facilities and sewer lines and provide water. The commission may levy property taxes, issue bonds, and assess the fees associated with construction to property owners in the district. In addition, the governing body of the district may establish a schedule of fees for the use of the sewerage system.

## **Roads, Bridges, and Transportation:**

County commissioners have the authority to lay out, establish, construct, and vacate county highways; however, the county shares that power with respect to a road which serves a public entity with land on both sides of the road. In such a case, the public entity also has authority over the road. The county may issue road improvement bonds following the expiration of any improvement assessment they may make to fund county road and infrastructure development.

The county commission may establish rural road districts in the unincorporated areas of the county upon petition of 51% of the voters living therein. The board of the district, created by the county commission, may make rules and regulations regarding the use of rural roads, as well as provide for the maintenance and construction of rural highways. The district board may issue bonds and assess properties for the cost of improving the roads. Despite the creation of the board, the county commission retains ultimate authority over all roads within the county.

County commissions may maintain parking facilities near county buildings for convenience. The county may establish a fund made up of fines collected for failure to pay parking fees or for traffic violations to fund the parking facility.

## **Recreation, Leisure, and Culture:**

The county commission is constitutionally permitted to provide incentives and exemptions as taxation relief on historic structures, for reinvestment, and for enterprise areas exhibiting stagnation or decline.

Counties may provide public library service alone or in cooperation with adjacent counties. Large counties with populations in excess of 150,000 (or groups of counties with a population in excess of 150,000) may levy a tax between one and six mills; small counties with a population of less 150,000 may levy a tax between one and four mills. The levy must be used to construct library buildings, hire library personnel, and provide the library with materials.

Certain, though not all, counties may establish recreation districts and therein provide recreational facilities; however, the extent to which commissioners may exercise this power varies based

on population (in this case, 100,000 and 300,000 people, respectively, confer greater authority on county governments). Counties may act jointly with cities to establish recreation commissions to provide recreational services to county and city residents.

### **Alternative Forms of Government:**

All counties have the authority to adopt a home-rule charter. The charter shall be authored by a fifteen member commission appointed by the county commission. The charter commission must study the local government and produce a new governmental structure which allows the county to exercise home rule powers not specifically denied to counties by the state government. The final charter is subject to the approval of the county's electors in a referendum.

# Oregon

## **Introduction:**

The Oregon Constitution and Volumes 6 and 7 of the Oregon Revised Statutes establish the powers of the state's counties, which are considered bodies politic and corporate in the State of Oregon. The state vests legislative authority in a county court, which consists of two commissioners and a county judge. The judge serves as the county arbitrator and as the administrative authority in the county. Oregon is not a Dillon's Rule state.

## **County Finance:**

County commissions have the authority to establish and adopt a budget which outlines tax levies, and expenditures, as well as issue bonds and contract debt to exercise any county authority or to execute any county function. The county must create a budget committee to assist with the formulation of the budget; however, the final approval must come from the legislative body. The constitution allows commissions the right to levy ad valorem taxes on assessable property within the county; however, the county may not increase an assessed more than 3% from its value the previous year. The county commission is statutorily authorized to levy any tax necessary to discharge the debt or associated with or to finance a county public improvement, provided the tax is approved by referendum. In addition, the commission may collect taxes and distribute them to county service districts as loans in anticipation of revenue, provided the service district reimburses the county later. Surplus funds may be invested in legal investment organs.

While the county commission is empowered to contract debts up to \$5,000 for operational costs, it may not extend credit to a private corporation or individual nor become a stockholder in any private organization. The commission may issue bonds and contract debt for statutorily authorized purposes when the state allows it to, including general obligation and revenue bonds. The amount of debt contracted for revenue bonds may not exceed 1% of the real market value of all property within the county.

## **Contracts:**

The county, as a body politic and corporate, may enter into contracts with other public and private entities to execute any lawful county purpose. The county commission has authority to enter into contracts and to appropriate such funds as may be necessary for the fulfillment of the same. In addition, counties may cooperate with local governments on a regional or one-on-one basis to perform certain key functions, such as comprehensive zoning and physical development.

## **Zoning and Land Use:**

The county may contract for the purchase or lease of real or personal property under certain circumstances. State statute gives county legislative bodies the authority to exercise eminent domain to acquire land for any public purpose, including roads and parks, or public building. Whenever the county no longer has a public need for any land it owns or if the land may be used to operate a public utility, it may sell or convey the land to another public or private entity. The county may sell or lease timber and mineral rights separately from the land itself, as well as retain those rights when selling or leasing out the land.

The county commission may establish a planning commission headed by a planning director to coordinate all county planning activities. The commission may create a county development plan to create a guide for the future of the county. The county legislative body may use the plan and adopt such planning zoning ordinances, which may regulate the type, number, height, and other characteristics of buildings, as well as a county building code to provide minimum safety and health standards, as may be necessary to stimulate growth and adhere to the development plan. Zoning ordinances should take into consideration any solar energy harvesting which takes place on buildings and regulate the bulk and height of neighboring buildings accordingly. Zoning ordinance may also establish certain areas of the county as "exclusive farm zones" or "marginal lands," where activity other than farm use (and woodlots and single-family dwelling in the case of marginal land) is subject to regulation by the county's governing body to protect

the rural land from urban encroachment. The county may additionally license a variety of farm-related activities, from vineyards to youth camps and from wetland development to forest lands. Though these serve as representative examples, the list of allowable regulations and licensures applies differently to different counties based on a variety of factors, therefore the above should be considered an abridged list.

To foster economic growth, the county may lay out an economic development plan and enumerate therein all the economic goals the county wishes to achieve by its ordinance making. Pursuant to that, the county may acquire, construct, refit, renovate, and maintain industrial facilities. The county may lease or sell any part or all of the industrial facilities it acquires to a private or private nonprofit entity; however, counties may not under any circumstance operate industrial facilities. Moreover, the county may sponsor economic development projects, such as a project to provide affordable housing to low- and moderate-income residents. Much of the county's economic development, such as the designation of enterprise zones, occurs at the state level with the permission of the county legislative body to create such a zone.

The county commission may, by resolution or upon petition of county electors, create a people's utility district within which to provide services, including water, water power, and electric energy. The district may be governed by a board of five residents of the district who have the authority to hold elections, levy taxes, contract indebtedness, enter contracts, exercise eminent domain, acquire and hold necessary property, and acquire and develop a source of water, water power, and/or electric energy within or without the boundaries of the district. The districts may sell or distribute water, water power, and/or electric energy within their districts for a reasonable charge.

To preserve energy and promote conservation of the environment, the county may apply for there to be created a rural renewable energy development zone, headed by a board of directors. The board may levy taxes and issue bonds to fund projects in rural areas which promote green energy and sustainable development.

Counties may create cemetery districts in which boards of directors may finance the acquisition and construction of new cemeteries, as well as the acquisition and preservation of existing cemeteries with no caretaker or governing body. The cemetery

district board may additionally bury any indigent county resident and provide an honorable burial to veteran soldiers from the county.

### **Public Safety, Health, and Sanitation:**

Counties may establish rural fire protection zones outside the incorporated areas of the county to provide fire protection services to county residents. The district shall be governed by a five member board elected by the district's residents and administered by a fire marshal. The district may contract with other public or private entities for the provision of fire service or may alternately purchase equipment and operate the service itself. The district may issue bonds and levy taxes to achieve such a purpose.

The county may additionally create a service district in which to provide hospital services. The county may establish a board of trustees to exercise administrative and supervisory powers, as well as to establish a budget for the hospital. The county may levy taxes and issue bonds to fund the acquisition of land, construction of hospital facilities, and financing of hospital purposes. The residents of the proposed district must vote to establish such a district, as with all other service districts.

Counties must establish a policy related to the camping of homeless on public property. The commission is charged with formulating the most humane way possible to remove homeless individuals and move them to a shelter provided for that purpose.

The counties powers to provide electricity, sewerage, water, and hydroelectric energy are delineated above in the section which discusses zoning regulations.

### **Roads, Bridges, and Transportation:**

County commissions are charged with laying out, altering, vacating, constructing, and maintaining county roads. This is considered a public purpose for which the commission may exercise its eminent domain powers. The county may levy taxes, receive grants, and make expenditures pursuant to this duty.

The county commission may create a mass transit district in any metropolitan statistical area to provide convenient public transportation to county residents. The commission may then provide public transportation, including buses, subways, and other public easements. The commission may also levy a schedule of fees on the county's residents for use the public transportation.

### **Recreation, Leisure, and Culture:**

The county legislative body may submit the question of whether or not to create a sports and convention center commission to the county's electors. If approved, the commission may purchase, lease, equip, rent, maintain, and operate sports facilities and convention centers in the county in question. The commission may issue revenue and general obligation bonds for the funding of the endeavor, as well as sell assets or buildings or rent them out for a reasonable charge.

Counties may also create park districts headed by boards in a similar manner to people's utility districts. Such districts may levy taxes, issue bonds, and charge reasonable usage fees to acquire and operate parkland and recreational programs for county residents. The county governing body may designate any land acquired for any reason to be a county park, forest, or recreational area and may either administrate the park, forest, or recreational itself or delegate responsibility to a board.

### **Alternative Forms of Government:**

Counties are constitutionally allowed to adopt home rule charters. The legislative body of the county must first appoint charter commissioners. After the commissioners author a home-rule charter, the county electors must vote to adopt it before it may become law. The charter must delineate a new governmental structure and ascribe powers to the new government, provided such powers are not in conflict with state law. Certain provisions, however, which are deemed matters of county concern preempt state law.

If the county does not wish to adopt home rule, but wishes to alter the county court form of government, may elect to adopt a commission form of government. The commission replaces the judge with a third commissioner who may serve as chairman of the board and act as a county administrator.

Counties containing a city with a population in excess of 300,000 may consolidate to form a city-county consolidation; however, no government to date has adopted this form of government. Statutory provisions allow for an election of a commission to propose a new governmental structure which must put the proposed government to a vote before the people. Only after approval by referendum is the measure considered complete.



# Pennsylvania

## **Introduction:**

The Pennsylvania State Constitution and Chapter 16 of the Pennsylvania Code of Statutes vest authority in county governments as political subdivisions of the state. The counties rely on the Pennsylvania Constitution and statutes for all powers permitted them under law. The state divides counties into classes based on population and allows each class different authority. Though the county may not create advisory boards, it may create a commission on women to investigate the status of women and provide them with equal economic and social opportunity through public policy. Pennsylvania is a Dillon's Rule state.

## **County Finances:**

County commissioners have complete control over their budget and all county fiscal affairs, from revenue generation and accepting gifts to debts and capital reserve funds. No claim against the county may be discharged without commissioner examination and approval. The county commission adopts the budget with allowances for amendments; adoption of the budget allows expenditures to constitute appropriations and taxes to constitute certified tax rates.

Counties may levy taxes to generate revenue but must adhere to fixed tax rates in areas where another governmental entity has legislated about taxes. Counties may not levy taxes in excess of 25 mills on every dollar of the adjusted valuation of property, nor may occupation taxes exceed 20 mills. Counties may not levy taxes on offices, advertisements on signs or signs supports, or posts of profits, nor on professions or trades in a county collecting a per capita tax. The county may also levy excise taxes of up to 3% on hotel rooms, so long as the tax is employed to market the county has a tourist or business destination, convention promotion, and any projects or programs to increase tourism. The county may also charge a tax on rental vehicles to be dedicated to capital projects costs. The county has a variety of legal investment organs to be used to grow county capital in a risk-free manner, including US bonds and deposits in FDIC insured institutes.

In emergency situations when the county has no money to discharge accounts or to operate, it may

contract indebtedness in anticipation of future tax revenues. All counties have three member sinking fund commissions which manage county sinking funds to discharge contracted indebtedness. The commission may invest sinking funds into safe investment organs to generate revenue to pay off county debt.

The county commission may establish a capital reserve fund to anticipate legal expenditures, including building improvement and construction. The commission may also establish an operating reserve fund to be used to offset revenue shortfalls in the county operations budget. The county may appropriate funds from the operating reserve fund to assist municipalities located within the county to deal with the aftereffects of a disaster, including cleanup and reconstruction.

## **Contracts:**

The county may make any contract necessary to lawfully execute any statutory power. The commissioners are the sole contractor for the county, with their signatures constituting legal agreement to any contract or compact with another entity. The commission may appropriate money for contracts, including money for institutions of higher education and nonsectarian universities which provide the county with a service under contract. The county may similarly appropriate money to any political subdivision, from a municipality to the federal government, to cooperate in extending federal health and welfare programs to county residents.

## **Zoning and Land Use:**

The commission has complete authority over county and public lands, including the acquisition by purchase, lease, or eminent domain, and care of public land. The county may sell any personal or real property held in the county's name by public auction or privately if the value of the real or personal property is less than \$1,000. The credit of the county is available for the purchase, acquisition, construction, or repair of any public building. Permissible public buildings include courthouses, hospitals, jails, prisons, and workhouses, among many other buildings which promote the public good. The county may expand these buildings,

even if such buildings sit on public squares. The commission is charged with maintaining public buildings in suitable and convenient order, as well as ensuring orderly conduct around the courthouses by hiring one or more watchmen. In conjunction with the municipality, the county may operate comfort stations and restrooms in public buildings within the boundaries of the county.

The county commission may enter into covenants with owners of farms, water supplies, and open spaces to promise not to develop the land. Reciprocally, the owner of the land must agree to similarly restrict the use of the land so as to prevent the unnecessary disappearance of green space in the county.

The county may acquire an industrial development area and spend money to develop it into a suitable site for manufacturing, commerce, or other industrial pursuits. The county may annually appropriate money to any organization which is committed to industrial development. County funds may be used for operations, surveying, and the compilation of data for use in carrying out promotional programs. The county may also issue non-debt revenue bonds to provide sufficient money for the extension, equipping, and improving of an industrial development project. The county or the industrial development organization may subsequently lease industrial development lands to interested parties and may include in the cost of the lease the amount of debt on the bond.

The county may appropriate money for and otherwise cooperate with county agricultural and home economics extension services to introduce best practices to county farmers and to provide research services to county residents. The county may also appropriate up to \$1500 for county agricultural and horticultural societies in the county.

The county may acquire land by purchase, lease, or eminent domain and may borrow or appropriate money to expend to cleanse, regulate, and control rivers. This is intended to allow the county to control and abate flood disasters by preempting the problem. The county commission may enter into agreements with other entities, including the federal government, to exercise this power and protect county residents from the damaging effects of floods.

The county commission may appropriate money, acquire land and facilities, and furnish utilities at no charge to armories of the Pennsylvania National

Guard. The county may also appropriate funds (\$750 for dismounted unit and \$1500 for motorized or mounted units) to support the maintenance and training of National Guard units in the county. In time of war, the county may appropriate similar funds to rifle associations for maintenance and operation.

Any county resident who died serving or having served the United States or the State of Pennsylvania in a war is entitled to county assistance with burial. The county may appropriate \$75 to the family of a deceased serviceperson, provide burial plots, and make appropriations for appropriate gravestones or markers. The county is charged with maintaining gravestones and markers on such burial sites.

### **Public Safety, Health, and Sanitation:**

The county commissioners may appoint a fire marshal for the county, as well as any deputy marshals as may be necessary, to preserve public safety in the face of fire hazards. The county commission may acquire land, facilities, and equipment, as well as make appropriations, to fund a fire training school. Such a school will provide firemen with the skills to combat fires effectively and rapidly. Certain counties may ban burning open fires within the county, a provision to be enforced by the fire marshal.

The county commission may offer rewards to individuals who apprehend a subsequently convicted criminal. In the case of a misdemeanor, the county must receive the court's permission to offer a bounty.

The county may abate mosquitoes, mosquito breeding grounds, and other insects dangerous to the public health. The Pennsylvania Secretary of Agriculture is empowered to assist counties in any way possible to achieve this abatement. No procedure used for abatement may affect any public water supply which might be used for human consumption.

Counties may operate single-department health boards upon approval of the state Secretary of Health. Such departments may be operated by one county or by many local governments in cooperation. The board and director of the board of health shall have the power to maintain programs which promote the public health, examine and abate potential threats to public health, ensure healthcare services reach county residents, and may cooperate with general and tuberculosis hospitals to maintain public health.

The county may annually appropriate such funds as may be necessary to provide for the public health, cleanliness, convenience, comfort, and safety of all county residents. To that end, the county may acquire or construct, either alone or jointly with another county, a hospital for contagious diseases and/or a general hospital. Counties may also plan for joint operation of hospitals with a municipality. The county may fund both out of the county's general fund. The county may hold a separate election for a county tuberculosis hospital for individuals with tuberculosis. The commission must create a tuberculosis hospital advisory board to manage the daily affairs of the hospital and to request money from the county commission to provide funds for the hospital's operation and management. The county may also appropriate money to general public and private nonsectarian hospitals to provide services to county residents with chronic diseases. If the county chooses not to operate its own general hospital or tuberculosis hospital, it may appropriate funds to other organizations engaged in preserving public health and providing healthcare to county residents, from tuberculosis sanitarium to county homes.

The county may also provide a morgue for recently deceased individuals. The county may promulgate rules about its operation, the handling of dead bodies, and the burial of the recently deceased. The county may purchase an ambulance or other conveyance to move the deceased to the county morgue.

The county commission may appropriate money to societies which have been operating at least two years and which are engaged in stopping cruelty to animals. The county may also make appropriations to abate plant and animal disease in the county.

The county must by law provide care for any indigent, at-risk child, or county dependent. Counties may appropriate funds for food service and distribution programs which provide county residents in need with food. Commissioners may also by resolution adopt a food stamp program and pay the Department of Public Welfare a percentage of the sum cost of the food stamps issued in the county. The county may also run county farms for the care of dependents and may appropriate funds for the farm's operation and maintenance. This includes dependent children at risk of neglect or delinquency. If on trial for delinquency, the county must maintain separate facilities to keep juveniles. If seeking assistance from the Department of Public Welfare, the county must pay monthly for the department's assistance.

The county commission may acquire land and facilities for an orphanage or indigent children's home. The county may accept gifts and appropriate money for the home, appoint a superintendent to oversee the home, and maintain the home to a standard such that the children are well-supported. The county may contract indebtedness in order to fund such a home.

The county commission may appropriate funds to purchase or may exercise eminent domain to acquire lakes, reservoirs, and other water resources. The county may also construct treatment facilities and distribution systems to provide water to county residents. The county may additionally contract to provide water to other political subdivisions. Whenever the county provides its facilities or distribution system to any individual or political subdivision, it may assess fees on the use of the system.

In the interest of preserving public health, the county may operate a plant or incinerating furnace for the disposal of solid waste. The county may acquire land, facilities, and equipment to provide this service to residents. The county may assess fees on the use of county solid waste disposal services. The county may contract indebtedness in order to purchase land or exercise eminent domain for garbage disposal facilities.

The county may create a water supply authority established to provide water to county residents. The authority has the power to perform all actions the county might perform related to the acquisition of land, construction of water supply facilities, distribution of water, and sale of water to county residents. The authority may issue bonds to pay for facilities in addition. Any political subdivision may contract with the authority for water, including boroughs, towns, and cities.

Any county in which there is known to be natural gas may contract with other entities to extract the resources and lay gas lines. The county may then use the fuel to generate light and heat for county buildings.

### **Roads, Bridges, and Transportation:**

The county may lay out, establish, construct, and maintain roads within the county. The county may act alone or jointly to construct a road between two contiguous counties. The commission is charged with the maintenance and repair of all county roads, for which purpose they may levy a tax, contract indebtedness, and assess a benefit fee for connecting

property to the county road system. The county must appoint a county road caretaker to oversee the repair and maintenance of county roads, to erect snow fences, and to eliminate narrow or dangerous curves in the road. The commission may take over any abandoned rail road or right-of-way and operate it on behalf of the county. The county may beautify streets with sidewalks and may provide lighting. The county may establish a system of main thoroughfares and provide certain roads which connect large population centers with each other with priority funding on the roads which receive the most use. The commission may also contract indebtedness and levy a tax for this purpose. Vacation of a county road requires appeal to a court which may hear grievances of individuals who lose road access when the county leaves the road.

County commissioners may provide aid to municipal roads which serve county residents, including roads which serve as a county road terminus or municipal roads which link two county roads. The county may appropriate funds to provide for the repair and maintenance of such roads.

The county commission, if they deem it necessary, may also operate underground roads, tunnels, and subways to provide expedient transportation around the county. The expenses thereof shall be paid by county tax levies and contracted indebtedness. The county may contract the operation or construction of such a system to another entity.

The county may join with a municipality to improve roads around county buildings, including repaving and repainting. The county shall not bear obligation on road improvements unless the commission approves the municipality's expenditures on improving the roads. The county may also provide ornamental illumination around county buildings with the municipality's express permission.

The county may acquire land for bridges or already existing bridges by purchase, lease, or eminent domain. The county must maintain the bridge in good repair and provide lighting on it, though it may share costs with municipalities if the bridge sits within the municipality. Counties may jointly operate bridges which span bodies of water between them. Counties may change the course of an un-navigable stream in order to build a bridge across it. When abandoning bridges, counties must make arrangements for another route to take its place, sell or otherwise convey the bridge to a municipality, or

contract repair of the bridge with another entity. The county may levy taxes or contracted indebtedness to fund bridge construction and repair.

The county may enter agreements with railroad lines running through the county to relocate, change, or elevate their rails as may be in the best public interest or to preserve public safety. Counties may also enter into agreements with and appropriate money for other political subdivisions to provide and facilitate transportation across county lines.

The county may appropriate funds to create a county motor vehicle parking facility. Alternately, the county may create a municipal authority to perform the same function. If there already exists a municipal authority, the county may appropriate money to expand an existing parking facility or construct a new one.

The county has the authority operate an airport. The commission may acquire, by purchase lease, or eminent domain, and hold land for this purpose, including land in contiguous counties which might be necessary to the operation of an airport. The county may hire engineers to construct airport facilities or may enter into contracts for construction or repair of facilities.

### **Recreation, Leisure, and Culture:**

The county commission may appropriate funds to any township or municipality for the purpose of operating a park, open space, or other recreation area. If such lands are no longer in use, then the county may sell them. Counties may also acquire land for public auditoriums. Once constructed, the county may rent out the auditorium for a fee. The county may acquire a space and set it aside for public parks, walkways, gymnasias, sports fields, and other outdoor and indoor recreation facilities. The county may additionally acquire the equipment and facilities to make such recreational spaces beneficial to the health and welfare of county citizens. The county may also create fair, park, and/or recreation boards vested with the power to carry out all county functions with regard to recreation save for the generation of revenue. The county commission may levy a tax and contract indebtedness to raise revenue for recreational activities and facilities. Counties may create park police departments to enforce order in county recreational areas. Counties may execute these powers solely, through a board, or jointly with another political subdivision of Pennsylvania.



The county may appropriate money to any veterans association operating within the county to celebrate Memorial Day. This includes providing flags for the decoration of veterans' graves, as well as maintaining records of the location of veterans' burial places. The county may also work with a local historical society to compile the history of the county's role in any war. If the county sees fit, it may supply meetings rooms to veterans' associations and may also fund memorials to commemorate county veterans' service to the United States. Memorials may only be erected upon petition of 50 county residents and approval in court by two grand juries. To erect a memorial hall, the county must hold an election to use an existing building or to acquire property for the hall. A board of control composed of veterans and commissioners shall oversee any memorial hall the county may create. The commissioners may levy taxes on county residents and increase indebtedness to fund a memorial. If the county does not wish to erect the memorial alone, it may provide funds to municipalities or private agencies.

The county commission may also appropriate money to a county historical society to compile a general history of the county, publish the same, and distribute it to interested parties. The commission may also work with the historical

society or any nonprofit to restore historic sites in the county, whether that involves appropriations or some other service. The county may acquire any historic property by purchase or gift and may repair and maintain said property without a nonprofit organization's assistance if the county commissioners so choose.

The county may appropriate an amount of money not to exceed one mill of real estate tax to county nonprofit art corporations, including organizations committed to painting, dancing, photography, architecture, theatrical productions, and writing.

Counties with a fair association may receive up to \$5,000 in appropriations from the county. The association must be a nonprofit organization. The appropriation may be used for building maintenance and for exhibitions of county agricultural products and natural resources, whether or not the county owns the land on which the fair association operates.

The county may establish a tourist promotion agency to generate interest in vacationing or visiting the county. The county may also appropriate thirty-five cents for every resident of the county to a tourist promotion agency engaged in attracting non-residents to visit the county.



# South Carolina

## **Introduction:**

South Carolina counties derive their authority from the state constitution and Title 4 of the South Carolina Code of Laws, which outline their powers and responsibilities. Counties are bodies politic and corporate under South Carolina statute, run by district-elected council members who elect their own chairman. The General Assembly is the only body which can approve changes in political boundaries, order consolidation of counties, or the creation of new counties. The General Assembly may permit local governments to provide financial assistance to regional governing bodies to advise larger areas of the state about public health, safety, welfare, education, utilities, recreation, pollution control, and other matters. They may additionally appoint individuals to any county board and conduct advisory referenda to determine electors' wishes with regard to county matters. Coastal county authority extends out into the ocean up to the low tide so long as the beach is not part of any incorporated territory. In 1975, South Carolina enacted the Home Rule Act, which empowers counties to enact regulations and ordinances not inconsistent with the South Carolina Constitution or state statute in order to preserve public health, order, and good government. This statute is liberally construed in favor of counties. South Carolina is not a Dillon's Rule state.

## **County Finance:**

The county council has responsibility for the county's finances, and may make and keep any records or reports necessary to determine the county's financial solvency and for purposes of setting future taxes. Counties have the authority to generate revenue, make appropriations and spend money, and to contract debt.

Counties may levy ad valorem and property taxes on all assessable property in the county, as well as assess uniform service charges for utilities provided. The county may assess different service charges in different zones based on the level of government service provided. Counties may also, upon petition of 15% of the electors in an area, create the area as a special tax district and may levy additional taxes to render additional services. If the petition consists of 75% of the landholders of the area, then the county

may skip the referendum necessary to create a special tax district. The county may operate the district as either an administrative division of the county or as a district with a special service district board of 3-5 members. The county may not establish a county-wide tax to provide any service simultaneously being provided by a municipality. County property is exempt from property tax.

The county may levy a 1% sales tax on all real and personal property sold within the county not subject to an exemption under state code. The tax is subject to approval by referendum. Gross receipts tax also applies to sale of real property. A petition of 15% of electors and a majority vote may rescind the tax.

Counties which collect more than five million dollars in taxes must return some of it—not to exceed 5% of all taxes collected—to the state. The state will subsequently distribute the portion of taxes received among all counties based on population, with a floor on minimum funds distributed. The counties collecting less on local option sales taxes than the minimum are eligible to receive funds through this program.

Counties may levy a 1% sales and use tax on a temporary basis to raise funds for a capital improvement project. The county may create a three-member commission to administer this tax and to provide a referendum to the county's voters on the tax. The tax may be used for a variety of capital improvements, but the county may not use the fund for anything other than the purpose specified on the ballot during the referendum. The county may follow the same procedure outlined above and collect a 1% sales and use tax to support public education.

Counties may levy a sales and use tax in increments of .1% and not to exceed 1% for the purpose of providing property tax credits. Counties may also replace motor vehicle taxes with a sales and use tax in increments of a tenth of a percent and not to exceed 2%. This tax may not exceed the revenue generated from the tax of motor vehicles, airplanes, boats, and other transportation devices. Like the other sales and use taxes, it is subject to voter approval. A petition of 15% of qualified voters and a majority vote of electors voting in the referendum is sufficient to rescind the tax.

The above taxes are unique in that the state revenue department collects and distributes them. Counties do not administer the taxes solely, but receive them from the state after their collection.

The county may levy uniform licensing taxes on any businesses operating wholly within the unincorporated county, except for rabbis and preachers, individuals operating an electrical, gas, telephone, or telegraph utility, and any other profession which is exempt from licensing taxes by law. Taxes shall be based on the gross income of the business. County councils may also set the millage rate for school boards, provided the school board did not have a tax in place prior to the adoption of the county's millage rate.

The county may levy taxes and appropriate the money generated by the same to rehabilitate low- or moderate-income housing, as well as historic neighborhoods. The county must certify the project before it begins and after it is completed to meet historic or low- and moderate-income standards. Upon completion, the county may assess the value of the property.

Counties may make appropriations for any public purpose, including general public works, roads, lights, sidewalks, water treatment and distribution, public health, and a long list of other allowable appropriations. Money in the County Revenue Fund must be distributed based half on the location of sale and half on the population concentration of the county. The county must pay all the fees for expert witnesses, juries, magistrates, constables, and coroners. Counties must provide for a centralized purchasing system for all county agencies and departments.

Counties may contract debt and provide for regulations on general obligation and revenue bonds. The county may issue a bond to defray the cost of any lawful purpose so long as debt does not exceed the constitutional limit. The county must hold a referendum to approve the bond. Bonds are exempt from taxes but are pledged at the full faith and credit of the county. Counties may invest their sinking funds in US Defense Bonds and Defense Securities. The council must approve disbursements to discharge all claims against the county. Any claim against the county which appears to be incorrect may be disallowed by the council.

## **Contracts:**

Any county may enter into an agreement with South Carolina or a political subdivision thereof to share the costs and administrative responsibilities associated with the exercise of a particular function, such as contracting with municipalities for service provision. Counties may jointly exercise their power with other counties, municipalities, and special districts. This includes the joint creation of a commercial or industrial park in land straddling the line between two or more counties. Counties retain the power to make and execute contracts with other private individuals and corporations as well.

Counties which lease land to municipalities, counties, or other political subdivisions of the state must provide an exemption on property taxes and instead agree on a payment to be made from the lessee to the county leasing the property. Counties leasing land to developers, as when counties create industrial parks, may also establish a fee in lieu of property taxes; however, if the industrial park is located partly in another political subdivision, both parties must agree to accept a fee in lieu of tax.

## **Zoning and Land Use:**

The county, as a body politic and corporate, may purchase and hold property for county use and may do all acts in relation to the property and concerns of the county necessary. The county has the power to exercise eminent domain over land so long as it is not already being put to a public use. The county must maintain a courthouse with appropriate office space, furniture, and supplies for the proper functioning of the county government and a jail which must meet minimum humane standards. The courthouse and the jail may be improved at any time deemed advisable by the council. The county residents may petition to move the courthouse, and, subject to the governor's approval and an election in which two-thirds of electors voting in the election vote to move the courthouse, the county may move it. Such a move may not place the courthouse within eight miles of the county line.

The county may, by resolution, request annexation of part of an adjacent county. So long as no constitutional provisions are violated, the county may proceed with annexation by appointing a commission to study the transfer of land. The county must then submit plats to the governor, who shall call for an election. If two-thirds of qualified

voters in the area affirm the annexation, then the land may be transferred.

The county is responsible for establishing land use regulation in the unincorporated area of the county. This includes regulating building code, as well as the type, number, size, bulk, height, and occupancy of buildings on any lands within the county. Large counties, i.e. counties with more than 150,000 residents, may adopt rules and regulations, fire prevention codes, electrical codes, and plumbing codes, and may retain the right to license any individual who installs electrical wiring or plumbing. It is the duty of the county to enforce these codes. Counties with cities in excess of 97,000 people may require building permits to construct any edifice, building, or structure with a total cost of more than \$100,000 dollars. They may also hire building code inspectors to enforce the provisions of the building permit. The county may establish districts for services and other special purposes as they see fit and may dissolve the same by referendum. The county must examine the financial impact of the dissolution of a district sixty days after its dissolution and refund all taxes collected by the district.

Counties may appropriate funds for the rehabilitation of slums and other blighted areas. Counties may either rehabilitate the area alone or may sell the area to a private developer or contractor or to a public entity or agency to restore. The governing bodies of all counties may accept any historical property as a gift or may acquire it by purchase or eminent domain. The county may spend such funds as necessary to raise the property to its maximum value.

Counties may create industrial development projects, to include any enterprise for manufacturing, any commercial business, any tourism, sports, or recreational facility, and any improvement to an industrial park or commercial business. The county must seek the approval any municipality a development project might affect. The county may issue bonds to fund any project which it must pay off with profits from the development. The county may additionally enter into contracts with private individuals or public entities to administer a development project, in which case the county may commute property taxes to industrial development fees for an agreed upon duration. A governing board may oversee any district created pursuant to an industrial development project, which may accept

gifts and expend revenue in the interest of making the development project viable. The county, with the consent of any municipality it may affect, may create a joint industrial park with other counties. The agreement must discuss cost and revenue sharing, as well as apportion taxes to taxing entities in the counties in question. The counties in question must be contiguous, and any money raised using revenue bonds must account for debt distributed over all governments in question.

Counties may also create special improvements district designed to facilitate the financially expedient and rapid construction of public works, including roads and rights-of-way, sidewalks, recreational facilities, pedestrian facilities, and any other public building in which county residents have a vested public interest. The county may by resolution create such a district if they find it to meet certain statutory criteria. The district may issue bonds, assess fees, and levy taxes, all to be collected from the district which will benefit from the improvement, to provide funds for the project.

The county may grant franchises for the operation of a public beach. This includes operation, concessions, and other services which the county may provide on any public beach.

### **Public Safety, Health, and Sanitation:**

Counties may appoint or hire as many officers as may be necessary to enforce county code. The code officers may exercise power on all public and private property in the county, though the council may limit the geographic boundaries of the officer's authority. The county may also create litter control officers invested with custodial authority and the power to make arrests for violation of state and local litter laws.

The county may establish fire service areas across the county, provided such services are not already provided in an area by another municipality unless cost-sharing may occur. Pursuant to the goal of protecting individuals from fire hazards, the county may purchase fire equipment, hire fire fighting personnel, construct necessary buildings to house fire fighting personnel and equipment, and exercise any other power necessary to maintaining or operating the system. The county may assess fees for fire protection in areas where the service is provided and may also collect ad valorem taxes on property in a fire district to pay off bonds. Fire district creation requires public hearings and agreement on the

terms of ad valorem taxes and fees. No bond may be issued for fire protection without the collection of ad valorem taxes in the affected area.

The county may also provide medical clinic services and ambulances services in the unincorporated portions of the county, unless municipalities choose to participate, in which case the county may provide the services everywhere. The county may also contract with other governmental entities to provide these services. The council may assess a fee on areas of the county which benefit from the services either to pay for the services itself or to pay fees to the body from which the county receives the services. The county may promulgate rules and regulations about fire protection, ambulance, and medical clinic services to ensure the efficient and smooth operation of these institutions.

Counties seeking to create a police department must first hold a referendum, if the department would duplicate services already provided by a sheriff.

Any county may acquire the land for and subsequently construct, maintain, improve, and operate plants for the provision of water and sewer service and may also operate transportation services. Counties may not operate electric or gas plants.

Counties may grant franchises to corporations and individuals to provide utility service at a reasonable rate and to protect consumers from capricious changes in fees and duplication of services. Counties may grant any franchise save to individuals operating electricity, gas, telephone, or telegraph utilities or suppliers. Counties may not grant franchises to any municipality.

### **Roads, Bridges, and Transportation:**

Counties have charge over public rights-of-way in their jurisdiction, including establishing and maintaining them, as well as discontinuing their use. Counties may open new roads at any time they see a legitimate public interest and may acquire land by condemnation if necessary. The repair of county highways is the responsibility of the county council. Counties may contract with chain gangs or may hire laborers to maintain roads. Counties may levy a mill of tax on all assessable property to pay for road construction, and may assess a second mill on townships if the townships freeholders petition for roads in the township. Counties must construct public walkways through swamps and along the coast, including bridges.

Counties may create a public transportation authority to exercise powers over roads, bridges, easements, rights-of-way, and other forms of transportation. The county may create this authority in conjunction with a municipality or county or may solely exercise this power. The county may either fund the authority and appoint the board members or may create the authority and allow it to fund itself. The authority may acquire land and/or public and private rights-of-way by deed, purchase, conveyance, or exercise of eminent domain. The authority may either levy a sales and use tax on roads or may establish tolls to fund existing roads and create new ones.

Counties have broad powers under the South Carolina County Public Works Improvement Act to pave roads, acquire easements and rights-of-way, construct sidewalks, and make any improvement considered beneficial to the county residents. The county has the power to make assessments and levy taxes—with resident approval—to fund such projects, and may also float bonds. These may be made up of special improvement districts discussed above under Zoning and Land Use. Counties may prohibit wreckers at the scenes of motor vehicle accidents unless specifically requested by emergency medical service responders.

### **Recreation, Leisure, and Culture:**

Counties which do not have a special tax district created to fund recreational purposes may create a "Community Recreation Special Tax District" to fund recreational activities in the county. Creation of the district requires a petition of 15% of electors for counties with populations under 50,000 and 10% in counties with populations over 50,000. An affirmative vote at the referendum initiated by such a petition will empower the council to create the special district (subject to approval from a municipality, if any of the municipality is to be included). The district commission, established by the board, may then determine the disposal of revenue generated by the tax, spending it on parks, gyms, public pools, and other recreational structures and programs that they county may see fit.

Counties must establish a public library system and must provide for the composition, function, and operation of the public libraries. To that end, counties may appoint a board of library trustees of between seven and eleven members to exercise the policies of the library, the foremost of which



is providing books to county residents. The board must appoint a chief librarian, acquire books and other personal property for the library, enter contracts related to library service provision, and expend funds on such purposes as may be necessary to the library's function, including land and building acquisition.

### **Alternative Forms of Government:**

Counties may consolidate with one or more municipalities contained within the county to form a new political subdivision. This subdivision, a consolidated form of government, may adopt a charter with all the powers and responsibilities of the government outlined. The charter may not abrogate certain statutory and constitutional provisions, however. The governing body may create a charter commission to study the government and propose a new entity consisting both of former incorporated

municipal governments and former county governments. The commission may put the charter up to an election and, if adopted by a majority of voters voting in the election, then the government may put into effect the charter's provisions.

Counties may, by referendum, determine how qualified electors believe the county government should be structured under the South Carolina Home Rule Act. The state sets up four different forms of county government. The first, the council form, does not divide legislative and executive power. The other forms divide legislative and executive powers. The Council-Supervisor form provides for an elected council and an elected supervisor who chairs the county council. The Council-Administrator and Council-Manager forms are similar in that the board selects a county administrator, but differ in that the Manager form allows the council to appoint the auditor and treasurer as well.



# South Dakota

## **Introduction:**

The South Dakota Constitution and Title Six and Seven of the South Dakota Statutes Annotated give the legislature complete control over county governments, save that their boundaries may only be changed following a majority vote of the county's residents. Counties are considered bodies politic and incorporate in the State of South Dakota. County commissions are made up of three to seven member boards, with the composition of the board to be determined by votes of the residents of the county. The board has the authority to maintain order in its meetings by charging disruptive attendees with contempt, as well as to appropriate funds for local government research to inform its decisions. Though state code asks that counties submit legislative ordinances to referendum, the commission may opt not to present the ordinance to a referendum. The county may appoint a committee every five years to review county ordinances and revise them as necessary. South Dakota is a Dillon's Rule state.

## **County Finances:**

The county commission is charged with creating and adopting a budget based on information supplied on the amount of taxes and expenditures the county anticipates for the coming fiscal year. The county must hold public hearings before adopting a budget and reporting the budget to the state revenue commissioner. Counties must also adopt a supplemental budget which prepares the county for a disaster or unforeseen emergency. Counties may deposit funds in either a savings and loan or credit union located within the United States, though counties may not deposit more money in the bank than 100% of the capital controlled by that bank. Any excess funds in any special fund may be transferred into the county's general fund.

Counties may acquire funds for capital outlay purposes to fund public improvements. To that end, the county may create a depreciation reserve within a propriety fund which may only be used for capital acquisitions. Counties may also create a fund for public improvements and levy a tax to ensure money is available for public improvement, provided the county's electors agree that public improvements and the accompanying tax are necessary. Whenever

sufficient funds exist, the county commission must use the funds for the purpose of funding a public improvement or capital improvement project. Commissions may appropriate up to 20% of the county's annual budget to provide for economic development.

Counties may contract indebtedness and provide for the retirement of debt by issuing general obligation bonds, as well as issuing crossover refunding bonds backed by a debt service fund that shall serve as an escrow account. In the case of general obligation bonds, the county may levy taxes to discharge the debt. Counties may also authorize credit enhancement obligations if such obligations serve a public purpose. Counties may levy an ad valorem tax to pay off a credit enhancement obligation or may issue credit enhancement obligations in anticipation of revenue. At no time may the county contract any indebtedness beyond the maximum allowable indebtedness, which means that counties may never contract more debt than 100% of anticipated taxes for the coming fiscal year. Any claim against the county may be discharged only by the county commissioners upon presentation of a warrant by the county auditor. The commissioners may seek to compromise any claim against the county without pursuing legal channels to determine the validity of the claim.

## **Contracts:**

The county government may enter into any agreement with another political subdivision for the joint provision and administration of services. Counties may also cooperate with overlapping governmental subdivisions to construct, maintain, and operate a joint public building, including hiring personnel to staff the building. Governments opting to use this power must have simultaneous bond elections to provide funding for the project. The county may also cooperate with the federal and state governments to administer any program which distributes federal surplus commodities, as well as spending money to provide for the program's clerical and administrative needs.

The county may create a local government records destruction board in order to cooperate with the state records destruction board. The purpose of the

board shall be to develop record management plans for the consideration of the state.

Counties may grant a franchise on the construction, maintenance, operation, and improvement of a transportation system for artificial and natural gas located within the boundaries of the county.

### **Zoning and Land Use:**

County commissions have the authority to keep and care for property on behalf of the county and in the county's name. They may acquire property by lease, purchase, or eminent domain, though they may not exercise eminent domain to build a courthouse or jail unless a majority of electors in the county wish to establish a courthouse or jail. If the electors opt not to have a jail or courthouse, the county commission must still provide space for courtrooms and for the detention of criminals. In addition to acquiring property, counties may lease their property to individuals or public entities under the terms of any such lease the commission may establish. Counties may appropriate funds to promote industrial development in the county, and all mineral rights in the county are reserved to the county as a body.

Counties may consolidate with and break away from other counties subject to petition of electors in the counties or electors in a municipality which straddles the boundary of two or more counties. In addition, organized counties may disorganize upon petition of 15% of the electors residing within the county and a subsequent election. Any of these actions must be approved by the state legislature.

Upon petition of electors residing within an area, the county may put to a vote the creation of a special district or special improvement district. If a majority of the electors in the proposed district agree to the creation of the special district, then the county may create such a district. Any board members or commissioners for this special district must be elected by the electors of the district. The special district may involve two or more counties, however elections must be held in both counties in such a case. A special improvement district has additional powers to levy taxes to fund special improvements.

Counties may exchange property with other political subdivisions of the State of South Dakota within the county's jurisdiction in order to allow the subdivision to provide a service or function. The county may transfer property to the government or

to nonprofit entities without requiring any kind of payment, including land for national forests. If the county exchanges land with a private individual, then the county must appraise the land and hold a public hearing first. The county may transfer land and money to any public state agency or subdivision of South Dakota as well. Conversely, the county may procure land by lease from the state or federal government for industrial, recreational, and economic development opportunities.

The county may also establish such zones as may be necessary for the efficient administration of county building code. Building code may apply county wide, or may be limited to regulating the type of building constructed in a particular county zone. Counties may require permits for the operation of temporary camp grounds. Counties may also acquire, operate, and maintain abandoned rural cemeteries.

The county has the authority to acquire land and interest in land to establish structures to prevent flooding. This includes building code and zone ordinances to maintain a certain level of flood preparedness, as well as the authority to enter into agreements with the federal government and the state government to take joint steps to abate floods.

In the interest of conservation, the county may make ordinances to protect public water from pollution. This includes the authority to make agreements with the state to protect wellheads.

### **Public Safety, Health, and Sanitation:**

In addition to the sheriff, county commissions may appoint a constable to serve for two year terms at the pleasure of the commissioners. The commission may divide the county into districts in which the constables may exercise authority, not to exceed eight. The constable shall be held accountable to standards established by the board of commissioners. The constable shall be responsible for enforcing county ordinances; however, counties may not make any ordinance restricting the transport, sale, possession, or manufacture of firearms or ammunition.

The county may establish and fund fire protection service for any part of the county which lacks fire protection service from either a township or rural fire district or volunteer fire department. When the county establishes a fire protection service, it may appropriate such funds as may be necessary to provide adequate fire protection service to the county.

The county commission may also establish public defender and may support that office as the commission sees fit. The public defender may be operated jointly with another county. The county commission has the authority to set bounties and rewards for information which leads to the apprehension and conviction of felons, with the reward not to exceed \$5,000.

The county commission has the authority to make any ordinance declaring a public nuisance. The commission may subsequently abate the nuisance by any means necessary. Livestock feeding barns are not considered public nuisances by that mere fact alone.

The county may transfer public property to any entity for the provision of healthcare, whether by clinic or hospital, to county residents. Such a transfer may constitute a lease or conveyance.

In the interest of preserving public health, the county may acquire land and establish a solid waste management and disposal service facility, sewerage facilities, and water facilities.. The county may also enter contracts or grant franchises to provide the same services. The county may operate the facility solely, or jointly with another county, or may appoint a board to oversee and administrate. The county commission may also establish a police force to ensure that whatever rules and regulations it may promulgate relating to solid waste disposal are followed. The county may contract indebtedness to pay for such a facility, but must ensure sufficient revenues either through taxes or fee assessments for provision of services to pay off any such debt.

The county may create public works program for the purpose of providing work to any individual who is in need of income to pay property taxes on the individual's single-family dwelling.

### **Roads, Bridges, and Transportation:**

South Dakota's counties have the authority to construct, layout, and maintain roads. They may fund these projects with revenue bonds or out of the general fund, as well as enter contracts in order to carry out the construction.

### **Recreation, Leisure, and Culture:**

The county has the authority to promote recreational and touristic activity in the county, and to that end the county commission may receive grant money from the federal government's outdoor recreation bureau to fund any lawful purpose.

Counties operating an auditorium, coliseum, public gym, or other public recreational facility jointly with another local governmental subdivision may collect a fund employing no more than 10% of the admission charged to individuals entering the recreational facility. The money in such a fund shall be used to construct or improve a new or existing coliseum, auditorium, public gym, or other public recreational facility.

The county may also acquire land for fairgrounds, levy taxes to pay for the same, and erect structures on the fairgrounds to support exhibitions on said grounds. The county may either establish a managing board to administer the fairgrounds or may contract operation of the fairgrounds to a nonprofit organization. Like all county property, the county may lease the fairgrounds out to private or public entities. The county may also appropriate up to \$600 to pay for exhibition of county agricultural products and manufactured goods at other fairs in the state, with any prize money being paid to the county general fund.

Counties may appropriate funds to defray the cost of holding an annual Memorial Day celebration, as well as the cost of erecting a monument in honor of the county's veterans. The county commission is charged with the maintenance and upkeep of any such monument.

The county may acquire historical sites and objects in order to display them to educate county residents about the county's history and culture. To properly display the county's artifacts, the commission may acquire land and facilities for a county museum owned either by a nonprofit organization or the state. The county may also erect historic markers to commemorate significant events and buildings in the county. Counties may grant historical artifacts stored in a county museum or other display area to nonprofit organization provided the organization promises to return the collection upon dissolution.

### **Alternative Forms of Government:**

The South Dakota Constitution provides counties with the authority to switch to county home rule by authoring and ratifying a charter, subject to approval by county residents. Home rule authority does not allow counties to regulate civil relationships, to classify crimes and punishments, to abridge education law, to abolish any agency or office necessary to a functional government, or

to regulate any public utility provided by a state commission. Home-rule counties may not increase taxes or change fee assessments without statutory permission.

Counties have the authority to combine offices within the county so long as such a combination will not hamper an officer's ability to perform his or her duties. Aside from majority resolution of the board, the consolidation of offices may be accomplished by a petition of 15% of electors. Contiguous counties

may consolidate offices which exist in both counties, for example, a joint coroner's office, for increased efficiency.

County electors may opt for a county-manager form of government by election. In that form of government, the county commission retains executive and legislative powers but vests administration and supervisory duties in a county manager. The manager, appointed by the commission, serves at its pleasure.

# Tennessee

## **Introduction:**

The Tennessee State Constitution establishes counties and sets three as the minimum number of county commissioners in a traditional government. The three member commission is complemented by a county mayor, who serves as the executive and administrative head of the county. From the constitution and statutes, the counties derive all their powers. Counties are considered bodies politic and corporate for all legal intents and purposes. Counties may enforce their ordinances by charging a monetary penalty not to exceed \$500. Tennessee is a Dillon's Rule state.

## **County Finance: Tennessee Code**

### **Annotated:**

County commissions have complete authority over all fiscal matters within the county. To assist them in managing the county's funds, they must appoint three revenue commissioners, at least one of whom is an expert accountant, to evaluate the county budget and assist the county legislative body in amending it. Counties may also, following approval by two-thirds of the individuals voting in an election in which the question is asked, hire a purchasing agent to purchase all supplies and equipment for county offices. The procedure associated with making purchases does not preclude the agent from making emergency purchases. Counties must have purchasing commissions to evaluate county operations expenditures to attempt to save money.

Counties have a variety of ways to adopt a budget. They may create a six member budget committee to evaluate proposed budgets from monthly department head reports, hold public hearings, and write a final budget to submit to the county legislative body for approval. Alternately, the county mayor and department heads may assemble a budget to present to the legislative body. Following public hearings, the body may approve the budget as it stands.

Counties are authorized to levy any tax which the legislature deems appropriate and make assessments for local improvements. County commissioners may also accept gifts and devise of money, tangible and intangible personal property, and real property on behalf of the county. The county may levy tax to

repair, remodel, or construct any public building. The county may also levy a tax on motor vehicles for the privilege of operating within the county, as well as privilege taxes for certain occupations.

Moreover, the county may contract and incur debt. Contracted debt may take the form of bonds and warrants. The full faith and credit of the county makes all counties liable for any debt they choose to contract.

## **Contracts:**

Counties are empowered to enter into all lawful contracts with other public and private entities. Counties may enter into agreements with municipalities contained within the county, as well as with contiguous counties for the joint exercise of power or to provide or receive any service as may be beneficial for county residents. Counties operating a hospital may enter into a contract with a private hospital to provide healthcare services.

## **Zoning and Land Use:**

The county has the authority to hold and care for all public property, including acquiring land by purchase, lease, or eminent domain, and selling or leasing any land which no longer serves the public interest. Public sales must take place by auction but may take place online. Counties are specifically empowered to acquire property outside their corporate limits. Counties must maintain certain public buildings, including a courthouse, a law library in the courthouse, and a jail. Certain buildings, the courthouse among them, must be maintained within the limits of the county seat, while others, like jail and county parking facilities, may be maintained outside the county seat. Counties may appropriate money to erect public market houses to serve as public markets for county functions. The commissioners of all counties have control over all public buildings and may at any time levy a tax for public building improvements or construction.

Counties are charged with supervising all public improvements, including public buildings. To that end, the county may create a local improvements commission and appoint members thereto to oversee any public or capital improvement project.



The county may establish a building code to maintain safety and health for all its residents within such zones as it shall establish in the unincorporated county. Such a code may specify certain characteristics of buildings. Failure to meet the standards as set forth shall constitute a misdemeanor. Counties may not regulate agricultural buildings, as the legislature does not wish to impede normal agricultural development. Counties may, however, regulate zoning of commercial businesses which pose a danger to public health or morality.

Counties may establish soil conservation districts to oversee conservation efforts within the county. The county may appropriate any fund the district governing body needs to prevent erosion and encourage the sustainable use of soil resources. Counties may appropriate money for the University of Tennessee county extension service, which is empowered to assist with soil conservation measures in addition to providing other research and educational services. In addition, counties may appropriate money for watershed conservation authorities created by the legislature.

### **Public Safety, Health, and Sanitation:**

County executives may appoint a fire marshal to oversee all units, equipment, and facilities which provide fire protection services in the unincorporated limits of the county. County commissions may create county-wide fire departments for the purpose of providing fire protection to the entire county by acquiring land, facilities, and equipment, and hiring personnel to abate fires. The county fire department may be headed by a county fire chief appointed by the county legislative body. The county commission may fund the county-wide fire department through appropriations. The county may generate revenue to fund county-wide fire departments by creating fire tax districts and levying taxes, to be included in property tax bills, which shall pay for the receipt of fire protection services.

Counties may create public health boards made up of county health professionals to set public health code, adopt rules to protect public health and safety, and create programs to educate county residents about public health. The county commission may fund the county board of public health as it sees fit. The county may appropriate funds for the acquisition of real estate for nonprofit medical services operating through the National Health Service Corps that provides healthcare to indigent residents of the

county for free and to county residents for a fee. The county may appropriate funds to any nonprofit organization which maintains nonprofit status according to IRS tax code and which provides county residents a service. The county may appropriate funds to help certain disadvantaged residents, including elderly individual who have low or no income.

Counties may enter into mutual aid agreements with any local governmental entity which operates or maintains a police force. The county may provide police force to these other governments or accept assistance from them, as need may dictate. The county is authorized to allow the police officers from other jurisdictions to operate within the county territory.

Counties have the authority to take any action necessary to abate nuisances which threaten public health or safety. The county may establish a public health code and a public safety code to maintain safety and health for all its residents. Such a code may specify certain standards which must be maintained by buildings used frequently by the public, as well as certain rules and regulations which will improve county residents' safety. Failure to meet the standards as set forth shall constitute a misdemeanor.

Counties may abate nuisances, including vegetation and overgrowth, derelict buildings, and vermin infestations on public and private property. When on private the property, the county may serve notice to the owner of the property to ask for abatement of the nuisance. If the owner fails to comply, the county may abate it the nuisance itself and subsequently charge the owner for the abatement. Such a charge shall constitute a lien on the real estate. Stray animals may also constitute a nuisance which the county may abate. The county electors may, however, vote to levy a tax to provide for animal welfare.

Counties may operate solid waste disposal systems to protect public health by abating rubbish within the corporate limits of the county. Counties may create county sanitation boards to oversee any facility which collects and disposes of rubbish of any kind. The board may cooperate with other governments to provide rubbish disposal. The county may levy taxes on individuals who use the rubbish service to pay for the acquisition of land and facilities. The commission, if it does not wish to extend service to

the entire county, may create service districts where it may provide rubbish disposal services to be paid for by taxes levied in the district.

The county may expend county funds to acquire land for and construct, improve, and operate a public utility to provide services to county residents. Alternately, the county may grant franchises on public utilities to private companies, giving the private company the sole right to operate within the confines of the county. The county may also create a public works board which shall consist of a seven member committee and a superintendent, who shall inspect public works and utilities to ensure their proper functioning. The public works board may cooperate with other local governments to inspect services and share best practices in providing services.

Any county which knows of or discovers during any lawful execution of county authority any deposit of oil, natural gas, or mineral byproducts thereof may provide for the extraction of the natural resources. Counties may operate facilities to treat, purify, maintain, and transport the natural resources or may contract with another public or private entity to do the same. Counties may not exercise eminent domain to acquire land rich in natural resources.

### **Roads, Bridges, and Transportation:**

Counties have the authority to lay out, construct, maintain, widen, improve, and otherwise enlarge all roads, avenues, boulevards, sidewalks, bridges, and other public easements or rights-of-way within the boundaries of the county. Counties may take any measure to improve county roads and may subsequently assess the cost of the improvements to the properties which benefit from it. The county has the power to vote the stock of any railroad corporation or in any election thereof. Counties are charged with supervising all public improvements, including roads. To assist with road planning and

construction, the county may establish a county highway commission to oversee the establishment, maintenance, and operation of county highways.

Counties may establish sober ride programs to provide transportation to any individual who does not wish to operate a motor vehicle intoxicated or under the influence of a drug.

### **Recreation, Leisure, and Culture:**

Counties may appropriate funds to advertise the commercial, social, agricultural, industrial, scenic, recreational, historical, and educational advantages of counties, as well as points of interest. The county may spend these appropriate funds on appropriate forms of advertisement, including bill boards. Counties may exercise powers to ensure that they may appropriate advertise their county, including data collection, entering contracts, and accepting gifts of money.

Counties may appropriate funds for county fairs. The funds may support exhibitions of vegetable, animal, and mineral products of the county, as well as the erection of permanent structures for the fairgrounds.

Counties may limit the right to have alcoholic beverages in open containers in public parks located outside the limits of a municipality.

### **Alternative Forms of Governments:**

Counties may, pursuant to the constitution, adopt home-rule by putting the question to a vote of the county's residents. The charter must be written by an elected charter commission, include provisions for the new form of government structure and powers, and be put to a referendum before the county's residents. The county may also consolidate with cities and counties to form more efficient unified governments. No charter shall allow any county to tax incomes, nor may the power of taxation granted to municipalities be increased without the consent of the state.

# Texas

## **Introduction:**

Counties derive their authority from the state constitution and the Local Government Code in Texas Statutes and Codes, which establish county governments as bodies politic and incorporate in the State of Texas. Legislative authority is vested in a five-member commissioner's court, composed of four elected members and a county judge. Texas is a Dillon's Rule state.

## **County Finance:**

The commissioner's court is charged with the adoption of a budget, including an outline tax levies, bond issuance, appropriations, and expenditures. The commissioner's court may only levy a tax if four members of the court are present and three members of the court vote in favor of the tax, which may be paid by check, cash, or credit card. Counties with larger populations have different procedural measures; however, essentially commissioner's courts have identical authority to prepare the budget, issue bonds, and appropriate money. All counties must prepare budgets and financial reports on the county's financial health. The county must also caused to be published the budget of any special district created within the county.

Counties in Texas may not donate money to nor purchase stock in any private company.

The county commissioner's court may appoint a purchasing agent to make purchases on behalf of the county legislative body and ensure all county departments have such supplies as they may need to execute their official functions.

## **Contracts: Texas Statutes and Codes:**

The county commissioner's court may make any contract to execute a lawful county purpose. The commissioner's court may appoint an agent to make contracts on behalf of the county with other governmental subdivisions or the state and federal government, as well as private entities and individuals. The contracting agent may purchase road equipment or participate in cost-sharing programs with other counties. The county contracting agent may also contract with the federal government to obtain land for county purposes.

## **Zoning and Land Use:**

The county may own property, to be held on its behalf by the commissioner's court. The county commissioner's court has the authority to acquire land for the county by purchase, lease, gift, or eminent domain and to sell any land which no longer serves a public purpose. The county commissioner's court may additionally exchange unused public property with other governments for execution of their official purposes. The county may contract debt, levy taxes, and issue bonds for the acquisition of public property. In the case of a sale, the county may take the funds and deposit them into the county's general fund.

Counties must maintain certain public buildings, including courthouses and jails, for public purposes. Jails may be maintained singly, jointly with other counties, or through contract with a private entity. The county may additionally maintain offices for county officers. All counties may fit public buildings with energy efficient fixtures by entering a guaranteed contract which promises savings on operations expenditures following the renovation of the public buildings. Certain counties may maintain other facilities based on their populations, the size of municipalities located within them, their nearness to the Gulf of Mexico, or their nearness to an international border. The sheer volume of exceptions related to these classifications is beyond the scope of this report. Whenever the county seeks to build certain public facilities, it must seek approval from the local residents to place a rehabilitation center, detention center, or jail within 1,000 feet of residential areas. Though the county does not have explicit authority to acquire land alone for certain public improvements, including parks and recreational facilities, it may levy a tax to assist the municipality in the upkeep of the facility.

To finance public buildings, any county may create a nonprofit non-stock corporation known as a public facility corporation. The facility may issue bonds, contract debt, levy taxes, enter contracts, and mortgage public buildings to provide funds to maintain, renovate, construct, improve, enlarge, or operate public buildings.

County zoning regulation varies depending on location, nearness to certain geographic and physical

developments, and population. For example, any county with a military base may establish a military zone and therein regulate the use of photographic equipment, speed, and how close individuals may come to the military base. Counties near certain lakes and other recreational areas may regulate the type, number, height, and other characteristics of buildings within a certain distance of the lakes; however, most of the county's authority is specific to the lake it intends to zone around. Not every county commissioner's court may divide the county into zones and therein regulate buildings. Commissioner's courts may, however, regulate subdivisions of land located within the county's corporate boundaries but outside the boundaries of a municipality by requiring that plats be made before division the property owner divides the land into two or more zones or seeks to build roads or other public rights-of-way on it. The county may require roads, drainage, solid waste disposal, electric and gas service, water and sewerage facilities, and surveying of the land prior to approval of any plat or rental home community. If the county commissioner's court requires any of the above utilities, it may additionally require connection to them. The county's ability to regulate plats increases if the county is within fifty miles of the Mexican border.

In certain economically distressed counties, the commissioner's court may make additional requirements concerning the platting and additional regulations about the ownership of subdivisions. These requirements and regulations provide for the economic development of an area by providing low- and moderate-income housing for economically distressed residents or additional infrastructure to attract industry and commerce to the county. In addition, in counties with chronic unemployment and families who make their living primarily from farming, the county commissioner's court must establish and assist a housing authority to contract debt, issue bonds, and otherwise find means to finance affordable housing to individuals who are in danger of homelessness or live in unsanitary, unsafe homes.

To assist the county with planning and zoning, certain county commissioner's court may establish a county planning commission to review and approve plats of subdivisions. The county planning commission may approve or reject the plat based on a plan for the economic and physical development of the county. If the commission rejects the plat, it must provide reasons for doing so to the property owner.

The county commissioner's court may also join with a regional planning commission to promote growth, historic preservation, and economic development regionally rather than merely locally. Counties may also create joint development corporations to fund public improvements and act as a corporate body rather than an extension of the county government.

Though limited in their ability to regulate the type, size, bulk, height, and other characteristics of buildings, county commissioner's courts may regulate building lines and setback lines. To aid them in regulating this, counties may create boards of building line adjustments composed of five members who shall set the setback lines in the county. In addition, the county may establish a residential and commercial building code to require certain minimum safety standards in any building constructed within the county and permit any construction project to certify that the building meets code. As part of the building code, the county commissioner's court may require certain aesthetic standards of flea markets, junkyards, and other eyesores, as well as regulate the location and permitting of slaughterers of meat, massage parlors, and sexually oriented business.

The county commissioner's court may establish a county industrial commission to promote industrial development and advertising the county's advantages. The commission may only be established by approval in a referendum. The commissioners are responsible for executing the commission's task of developing industry by finding grants and county matching funds for public improvements and promoting industry. County commissioner's courts may similarly create development districts in which they may levy a sales and use tax to promote tourism and improve county facilities which attract visitors. Finally, the county may create a county assistance district which shall levy a sales and use tax as well as apply for grants and loans to assist county public facilities, including museums, parks, and utilities, in the execution of their function.

Counties on the Gulf of Mexico may levy a tax to fund seawalls, breakwaters, and other necessary public structures to prevent erosion, protect land and property from hurricanes, and prevent flooding. The county commission may additionally cede any of its eminent domain powers on the Gulf to a state or federal agency to accomplish a similar task of protecting Texan land from flooding.



## **Public Safety, Health, and Welfare:**

In the interest of preserving public safety, the county commissioner's court may purchase firefighting equipment, hire firefighting personnel, and acquire facilities to house firefighting services. Such a force may be volunteer or may be funded by the county. To administer the firefighting service, the county commissioner's court may create an office of the fire marshal and appoint an individual to serve in that capacity. The fire marshal may issue rules about outdoor burning and firework use in the county. In addition, county commissioner's courts may adopt a fire code to regulate commercial, residential, and other buildings in the unincorporated area of the county. The county may issue building permits and inspect buildings to ensure they meet the fire code, which is intended to protect life and property and prevent disaster or tragedy due to fire. Moreover, the county may require alarm systems and permit businesses which provide alarm systems to ensure public safety and consumer trust in purveyor's of alarms.

The county commission may contract for law enforcement services based on geographical areas in the county from municipalities, neighboring counties, and other political subdivisions. The contracting body may charge the county fees for use of the law enforcement officials. The law enforcement authority may establish a curfew for juveniles in the county which is subject to the approval of the county legislative body.

The commissioner's court may support any resident of the county who is unable to support him or herself. The county commissioner's court may also provide relief to the victims of any disaster, natural or otherwise, including hurricanes and wildfires.

The county has the authority to regulate and abate public nuisances. This includes the keeping of any wild animal in the unincorporated area of the county, the removal of graffiti from buildings in the unincorporated area of the county, the disposal of hazardous waste on private property,

The county commissioner's court may acquire by purchase, gift, or lease a county water supply to provide sewage services to the residents of the county singly or jointly with other political subdivisions. If operating jointly, the two political subdivisions must establish a joint public agency to administer the sewerage facilities. The county may acquire sewage mains, treatment facilities, and collection networks to ensure sewage access to all county residents.

The county may contract with another public or private entity to provide sewage service elsewhere. The county may mandate connection to and charge reasonable rates for the sewer service.

The county commissioner's court may acquire by purchase, or lease, a county water supply to provide water to residents of the county singly or jointly with other political subdivisions. If operating jointly, the two political subdivisions must establish a joint public agency to administer the sewerage facilities. The county may acquire water mains, treatment facilities, and distribution networks to ensure water supply to county residents. Additionally, the county may sell surplus water to any political subdivision or public corporation of the State of Texas at a rate to be determined by the county commissioner's court. The county may mandate connection to and charge reasonable rates for the water service. If water becomes scarce, the county may make ordinances to regulate the use of water and promote conservation efforts.

## **Roads, Bridges, and Transportation:**

County commissioner's courts have control over laying out, constructing, maintaining, and vacating all county roads and public rights-of-way. The county may receive assistance from the state and federal government to maintain public infrastructure, highways, and rights-of-way. The county commissioner's court may require public right-of-way or access on a major thoroughfare of a width of no more than 120 feet. The county commissioner's court may provide and regulate parking places near county buildings for a fee, though it may offer free parking to veterans and recipients of the Purple Heart.

Certain counties may contract with transit authorities and transportation companies to provide public transit to the public for a fee. The transportation may include buses and subways, though other types are permitted. Certain large counties may even provide such services for free to senior citizens within the county.

Counties may regulate by zoning any airport located in the unincorporated boundaries of the county. This includes regulating noise, restricting airspace, and regulating the buildings that may be built on and around the airport. The county may delegate this authority to an airport zoning commission to permit buildings and make and enforce zoning regulations.



## **Recreation, Leisure, and Culture:**

In counties with populations in excess of 5,000, the county commissioner's court may maintain parkland or may establish a county park board to maintain and administer parkland. Either the county commissioner's court or the board may adopt rules related to the use of the park, as well as take steps to maintain parks through revenue bonds. County commissioner's courts may assess reasonable fees for the use of county park land, including recreational facilities constructed in parklands. Whenever any petitioner may request that a county park be closed, the commissioner's court must hold a hearing to determine if the parkland shall be closed.

A Texan county and any municipality contained therein may jointly operate a recreational or cultural facility, to be financed by general appropriations from the county and city's respective legislative bodies. The county may delegate the authority to manage such a facility to a board of managers, which shall receive funds from both the city and the county to operate recreational or cultural facilities.

Any county may create a sports facility district headed by a board. The board shall oversee the district, issue bonds to fund construction projects, enter into contracts to construct facilities, and make rules regarding the use of the facility. Sports facilities include stadiums, auditoriums, gymnasiums, and other courts, fields, and facilities for sports.

Commissioner's courts are authorized to exhibit county agricultural and horticultural products at any fair or building where such an exhibition is being held. The county may additionally establish a museum to maintain a permanent exhibition, which it may do singly or jointly with another county.

The county commissioner's court may establish a historical commission in the county to initiate and conduct programs to preserve the county's and Texas' cultural history. The commission must strive to provide educational resources county-wide. The commission may manage any county museum, acquire artifacts related to the county's cultural history, or historic property owned by the county. In addition, the historical commission may contract with a private or public entity to manage a historic site.

Upon petition of a majority of county electors or by motion of the county commissioner's court, the county may maintain a free public library for county residents. The county may fund the library by taxing land at a rate not to exceed twelve cents on every \$100 of property. The commissioner's court must hire a librarian to oversee the library and provide information services to patrons. Counties may alternately create library districts in underserved rural or suburban areas of the county without access to library systems and subsequently partner with municipal libraries to provide library access.

Whenever the county holds a special event, including fairs, sports events, and other one-time or recurring events, the county may conduct an economic impact study to determine what effect the event will have the county's infrastructure and ability to maintain public improvements. The county commissioner's court may take the impact study into account when decided what funds of the sales tax revenues from the event to keep in trust until such time as the county may need them to fund the infrastructure which was constructed or used in conjunction with the special event.

# Utah

## **Introduction:**

County commissions may exercise all legislative and executive powers necessary to the function of the local government, including those enumerated in Title 17 of Utah Code and the Constitution of Utah. Moreover, county commissions may exercise reasonable powers not expressly granted by the state of Utah to carry out their charged duties.

## **County Finance:**

County budgets are established on an annual basis unless the commission opts to establish a budget on a biennial basis. Counties may levy and collect taxes for all county purposes pursuant to their duties as a board of equalization, borrow money, and make assessments as prescribed by law. Counties must maintain a general fund, special revenue funds, debt service funds (for long-term indebtedness), capital project funds (as a place to maintain the proceeds of the sales of general obligation bonds or long-term service funds), a separate fund for each utility/enterprise (e.g. airport or sewer funds), intergovernmental service funds, trust and agency funds (e.g. retirements funds), a separate fund for each special improvement district, a fund for salaries or other county operations, and a municipal services fund. Taxes for the general fund must go to the general fund, whereas taxes for other special funds must go to the other special funds. These funds are to be administrated by the county auditor under the supervision of the county commission.

In addition to the required funds, counties may establish tax and stability trust funds to be maintained by a tax not to exceed .0001 on every dollar of taxable property (with excess money to go to the general fund) for the purpose of providing financial stability in years with unfavorable tax revenue. Counties may also establish reserve funds for the establishment, construction, maintenance, improvement, rehabilitation, or acquiring capital improvements and public buildings. Money in such a fund may only be spent on the purpose originally established by the county commission.

County governments may issue negotiable bonds to pay all or part of the cost of acquiring, constructing, and maintaining, either alone or jointly with

another political subdivision, such buildings as it is permitted by law to administer, including but not limited to county courthouses and jails, sewer systems, recreational facilities, and infrastructure such as roads and bridges. Counties may accrue indebtedness provided they follow the procedure outlined in 11-14A-1 on the issuance of debt notice and inform at least 95% of the county by mail of their intention to hold a public hearing and that they hold a public hearing. Such a plan must include the maximum principal, the interest rate, and how the debt shall be repaid following the issuance of a bond. Said bonds may be issued in either US dollars or in foreign currencies, provided the county intends to enter into a foreign exchange agreement.

Counties may contract bonded indebtedness provided the revenue from the sale of such bonds go solely to the purpose prescribed by the county commission in issuing the bond. Debt may never exceed 2% of the taxable property contained within the county. Counties may, by resolution of the commission, provide for the issuance of refunding bonds to discharge any debts incurred by issuing bonds, to achieve a savings, or to achieve another objective the legislative body finds beneficial to the public body. Interest rate regulations in the State of Utah do not apply to county issued refunding bonds. Counties may challenge the validity of a bond in court, naming taxpayers, property owners, and citizens of the body politic as defendants. Following the injunction of the court, no allowance is made for litigation on behalf of either the county or the defendants, whether the bonds be declared valid or not.

Counties may not collect sales, use, or sales and use taxes on utilities, other taxes greater than 6% of gross revenue, or other charges or fees for the provision of public utilities. If a majority of voters choose to ignore this restriction by referendum, the county commission may exercise greater freedom in imposing taxes on public utilities. Additionally, counties may not charge sales and use taxes when entering into any kind of agreement with another public or private corporation.

A county commission wishing to provide an improvement—including water, sewage, gas, electricity, or any other beneficial improvement—

may create an assessment area which encompasses the area impacted by the improvement. In said area, the county may levy an assessment fee by appointing a board of equalization to oversee the application of the fee to pay for operation and maintenance costs, to pay for actual or estimated economic promotion costs, or to pay for both. Commissions may issue bonds in expectation of revenue arising out of an assessment fee to pay costs related to the capital improvement. Any commission that plans to issue bonds in expectation of assessment fees must create a guarantee fund to secure their debt. To establish this fund, they may levy a tax of two mills per dollar of taxable property.

Counties may not lend money or give credit to any private corporation unless they are a registered nonprofit organization. Counties may provide funds to nonprofit corporations registered in the State of Utah which provide services the county deems beneficial to the health, welfare, prosperity, moral well-being, or convenience of county residents.

County legislative bodies may impose a tax on transient rooms for the purpose of establishing, constructing, operating, and maintaining facilities designed to attract tourism to the county, including attracting conventions, maintaining convention facilities, exhibit halls, museums, and sports and recreational facilities. In addition, the tax may be used to mitigate the impacts of recreation, including funding emergency medical services and solid waste management in large counties. Any county which imposes this tax on transient rooms must establish a tourism tax advisory board to analyze the impact of transient tax and to advise the county commission on what to construct with funds generated by such a tax. Counties may additionally tax for the establishment of an exhibit of county agricultural and industrial products for use to encourage trade and economic development.

Counties may expend any funds available, individually or in association with other counties, to order a study on the processes and methods of the county government with the intention of improving operation. The results of the investigation may be presented to either the United States Congress or to the Utah Legislature with an eye toward effecting change in county governance regulations.

County commissions must receive and certify every claim made against the county to be accurate in charge and to be just compensation for services

rendered. Following certification of the legality of a claim against the county by the county attorney, the county commission may authorize payment. Commissions may opt to keep bids for purchases, constructions, and other purposes requiring the expenditure of funds and proof of advertisement for three years.

County governments may establish a nonprofit corporation known as an interlocal finance authority with the power to acquire delinquent tax receivables, or unpaid ad valorem tax on tangible property, to finance public agencies. The public agency has liberal power to pursue and adjudicate tax delinquency in order to provide funding to public agencies in the most expedient manner possible.

### **Contracts:**

As bodies politic and corporate in the State of Utah, counties have the authority to enter into contracts with other political and private bodies. Political subdivisions of the State of Utah may also enter into agreements with other political subdivisions to provide the mutual benefits of economies of scale and efficient exercise of power. When contracting jointly with a public agency or political subdivision, county commissions have the authority to exercise all powers, privileges, and authorities enjoyed by the public agency or political subdivision pursuant to the agreement. Public agencies, municipalities, and counties may enter into agreements to provide or exchange services they are authorized to provide by statute and to provide or exchange law enforcement services. Counties may enter into agreements to construct, acquire, operate, and maintain facilities with other political subdivisions of the State of Utah that they would be allowed to operate individually. To that end, they may share their tax revenues as the county commission sees fit. County governments may not, however, expand their powers to create, administer, or operate cable television or public telecommunications services. Such cooperation necessitates the creation of an interlocal entity, or a body politic and corporate and a political subdivision of the state of Utah consisting of a board of commissioners to administer the agreement.

### **Zoning and Land Use:**

County commissions have the authority to hold real and personal property on behalf of the county. They may acquire property by purchase, sale, or lease, and sell or lease out any property which no

longer benefits the interest of the county's residents. The commission is required to maintain certain buildings, including jails and courthouses.

County commissions have a general grant of power to provide a service, exercise a power, or perform a function related to public safety, welfare, morals, and health except where state law disallows such an action. This grant includes the ability to construct and maintain a transportation infrastructure, to construct and maintain hospitals, to exercise the power of eminent domain, and to provide water systems in addition to many other functions. Counties may provide for the preservation of mineral, water, historical, industrial, and cultural resources located on county land. Notably, counties may not acquire water rights through the condemnation of land, but only through purchase or lease.

County commissions, under the County Land Use, Development, and Management Act, may exercise any power to create ordinances, rules, and resolutions and to enter into agreements for the purposing of regulating land use in the unincorporated areas of a county. This includes the power to create ordinances and enter into agreements governing land use, density, open space, structures, buildings, energy-efficiency, air quality, transportation, public transportation, public buildings and facilities, and landscaping requirements, so long as such ordinances and agreements are expressly forbidden by law. Permissible public buildings include hospitals, whereas required public buildings include courthouses and jails. A county may impose stricter standards than those required by state law and must establish a planning commission to make recommendations to the county commission.

Pursuant to their duties to regulate land use, counties may establish Agricultural Protection Area Advisory boards to assist the county commission in establishing agricultural and industrial protection areas, regulating the nature of agricultural production or industrial use within the area, and in determining the relationship between agricultural production and industrial use with the county's economy. A county, however, may not make any law that would unreasonably restrict agricultural production or industrial use in an agricultural or industrial protection area.

County commissions may provide any service to the unincorporated area of the county which would normally be provided by a municipality, including

fire protection services, waste collection and garbage disposal, planning and zoning, street lighting, advanced life support and paramedic services, detective investigative services, and all other services required by law to be provided. County commissions may levy taxes or charge service fees to provide funds to establish, maintain, and enlarge these services.

Counties may contract with the United States in order to construct any project aimed at the abatement of flood damage and control of flood waters. Counties may then operate and maintain that project without the financial assistance of the United States, including the authority to construct public roadways and other infrastructure as may be necessary to the maintenance of the project. Two or more counties may act jointly in the construction of a flood project, with or without the contractual assistance of a US agency. Counties may levy taxes on real and personal property to fund such a project or may institute an emergency tax in the case of an emergency drought to abate the problem.

Among other purposes, bonds may be issued for the acquisition, improvement, or extension of public libraries, incinerators and solid waste disposal facilities, auditoriums, sports facilities, convention facilities, or any public building a county may lawfully own. Counties may enter into an agreement with municipalities to float bonds to fund joint projects, which may thereafter be jointly operated. When issuing a bond for a sports facility, convention facilities, or auditoriums, counties must establish a board of directors for the public building to administer and maintain the facility. Revenue from said facilities must be used to discharge the bonded debt used to construct them unless being used to maintain or make reasonable improvements to the facility.

Counties may not establish an interest rate to be charged by pawnbrokers.

Counties may levy a tax not to exceed .00004 on the dollar value of taxable property for the establishment and maintenance of a county planetarium. Counties may create a board of directors to administer and oversee the planetarium's operation. The county commission retains ultimate authority over taxation and appropriation of funds for the planetarium.

Counties may levy a tax of .0002 on the dollar value of taxable property in order to establish a County Zoo Fund for the establishment and maintenance



of a county zoo. Counties also have the power to create an advisory board to oversee and administer zoo operations. The advisory board may contract with public and private entities to provide services necessary to maintenance.

Counties may operate farmers markets on county land to provide for the agricultural development of the county. They may additionally indemnify farmers selling food there within the scope of an agreement between the food producer and the county.

County governments, in order to provide for the industrial development of the State of Utah, to provide for the public health and welfare to citizens of the county, and to induce job-producing corporations to locate themselves within the county, have the authority to finance, acquire, construct, maintain, or otherwise support any project likely to maintain or enlarge domestic or foreign markets for products from the State of Utah. Pursuant to the mission outlined above, commissions may sell or lease land to public and private corporations and individuals, sell or convey property in the best interest of the county, and establish, acquire, and maintain industrial parks. Commissions may issue revenue bonds for the purpose of financing these projects and may provide infrastructure and utilities to projects undertaken under this law.

In order to foster the rehabilitation of certain residential areas by the provision of long-term, low-interest loans, county commissions may establish public agencies devoted to evaluating residential areas and to providing loans to homeowners in these areas. These agencies may issue bonds to provide capital for investment, may acquire and dispose of property in the interest of spurring development, and may liberally apply all powers necessary to the expedient encouragement of residential rehabilitation. County governments have no obligation dependent upon the bonds issued by the agency, but may provide it with funds by appropriations or from tax revenue. Counties may use an incremental tax generated from a former mobile home park property and paid to a taxing entity to generate funds to assist former residents of the mobile home park to relocate.

Counties may impose impact fees for land use and construction, but to do so must publicize the formula they use and comply with standard accounting practices or the practices set forth by the federal

Office of Management and Budget. Impact fees to mitigate environmental impact are acceptable; however, impact fees may not be charged to cure deficiencies in an existing public agency or improve a public agency, nor may impact fees delay the construction of a charter school, pay for a public safety facility that is a fire suppression vehicle, or be imposed on a school district or charter school for the construction of a park. In addition to the power to charge impact fees, the county officer responsible for procuring office supplies must give consideration to recycled goods.

County governments may enter into energy savings agreements, as well as develop and administer an energy savings program based on the analysis of the county's energy consumption, to diminish the environmental impact of energy use in the county. Permissible agreements include ones aimed at the design and installation of energy efficiency measures and the operation and maintenance of energy efficiency measures, provided that annual cost savings are guaranteed by the entity with which the county adopts an agreement. County commissions may apply for loans to finance these energy efficiency measures from a state board established for the purpose of extending loans.

Counties may additionally pass ordinances to restrict air pollution and mitigate the impacts of air pollution.

Counties may require licensure of adult facilities and escorts and may ban the operation of adult facilities and escorts in the unincorporated area of the county without a license.

Should a county seek to set aside county land as a site for nuclear waste, the county must adopt a plan which specifically outlines the impact to public health and welfare that arise from such a site. Commissions may opt to adopt a blanket ban on any nuclear waste site in their respective county. Should a county lawfully deny the right to construct a nuclear waste site in the county, then the state shall indemnify the county of any claims or damages held against it.

### **Public Safety, Health, and Sanitation:**

County governments may make, maintain, and enforce any local or police regulations as may be necessary to provide for peace in the county and as do not conflict with any state or federal laws. Moreover, counties may command the sheriff



to serve subpoenas for witnesses at commission meetings and may order him or her to stay to maintain order at meetings.

County governments must maintain adequate fire protection within the unincorporated areas of the county and must cooperate with adjacent counties and municipalities to assist in provision of fire protection. To that end, commissions may require burning permits, maintain and support a fire-fighting force and equipment, contract to furnish or receive fire protection, and contract jointly to provide fire-fighting forces and equipment. County governments may install fire protection systems in public buildings and may acquire, operate, maintain, repair, and replace fire protection equipment.

County governments must maintain substance abuse services to mitigate the negative effects of residents who abuse illegal substances and to provide for the prevention of substance abuse and illegal substance distribution. Services must include screenings, assessments, education, and treatment. Such authority must be exercised by the local legislative body and administered by the executive body of each county in Utah, though counties may provide substance abuse services jointly with other counties under an interlocal agreement.

Commissions must regulate the public health so as to provide for its preservation and must establish a health department to administer these provisions. Counties may make any regulation concerning sanitation as are not in conflict with local laws and are deemed necessary to the preservation of public health, including the levy of a tax to care for the poor and indigent in the county.

County legislative bodies additionally serve as mental health authorities, though they may serve jointly under an interlocal agreement, with the duty to evaluate the mental health needs and services and provide such services as the resident of the county, including incarcerated residents, may require. Counties may also establish local mental health advisory boards, either alone or by interlocal agreement with another county, responsible for planning and executing community mental health programs, including educational programs.

County legislative bodies may require the occupant of a residential building to install and maintain a carbon monoxide detector, but may not enforce this regulation against anyone other than the occupant.

County legislatures may not adopt any ordinance which requires the dissemination of nutritional information on the label of any food, menu, or menu board by any restaurant, eating establishment, or other food facility.

Counties may negotiate contracts between other counties, municipalities, or other political subdivisions of the state to provide or to use sewage lines, water systems, and disposal systems. They may enter into similar contracts to jointly construct or operate sewage lines, water systems, and disposal systems. Counties may negotiate with the Utah Department of Environmental Quality for loans to construct, reconstruct, or maintain sewage treatment facilities.

### **Recreation, Leisure, and Culture:**

County authorities may acquire, designate, and set apart land for use as parks, swimming pools, camps, gymnasias, television transmission and relay facilities, and other such recreational buildings as the legislative body may see fit to establish. The commission may employ the appropriate staff to operate such a facility. Moreover, local governments may operate their own television stations when their constituents are so far from a television relay as to make impossible the viewing of other programs. Commissions may also sponsor athletic activities, dramatic productions and pageants, local craft and art fairs, and other wholesome activities for leisure time. Commissions may vest the authority to execute these powers in a recreation board, either a board solely for the county or operated jointly by counties, municipalities, or school districts. Commissions may levy a tax, including a license fee for owning a television in remote areas where the county operates the television relay station, and accept donations in order to pay for the above.

The County and Municipal Fireworks Act allows counties to require permits for vendors of fireworks and collect fees on those permits. Commissions may additionally require permits to discharge fireworks for amateurs or proof of licensure from the State Fire Marshal in the case of professional display operators.

County commissions may authorize the donation or sale of land to erect, maintain, or contribute to the erection or maintenance of a monument to veterans of wars in which the United States was complicit in or to public servants, including firefighters, highway patrol officers, or other public servants, who lost

their lives in the course of service to the county. Commissions may appropriate funds to provide for such memorials and monuments.

Counties may similarly provide support for the cultivation of a county's cultural and artistic resources so as to provide such services to their residents. Moreover, counties may appropriate and expend funds to acquire and preserve historical sites and to protect, develop, and enhance such sites, including by obtaining easements on private property to provide public access to historical sites. Counties may achieve these goals by purchasing, leasing, or otherwise acquiring such sites.

### **Roads, Bridges, and Transportation:**

A county may lay out, plan, construct, control, and manage all public roads, bridges, sidewalks and ferries in the unincorporated parts of the county. To do so, the commission may contract, purchase, or otherwise acquire private land for the construction of public infrastructure. Counties may grant franchises over public roads for a period no longer than 50 years for any public lawful purpose, including toll roads, ferries, and bridges when county funds are not sufficient to otherwise maintain the road. While counties may appropriate special funds to provide for county transportation projects, they may not appropriate funds for state transportation projects unless such a project incorporates a county project. To pursue the goals laid out above, commissions may hire a professional engineer, surveyor, or architect to oversee construction and planning of roads.

Counties have similar powers to construct and operate airports.

### **Alternative Forms of Government:**

The "urban county" form of government allows counties to exercise all powers afforded municipalities of similar size under the Utah Constitution and code. While it does not affect any other political subdivision in the county, it does allow the "urban county" government to divide the unincorporated county into service districts for the provision of any service the government may lawfully extend to residents.

The "community council" form of government unites the largest city (any city whose population meets or exceeds 35% of the county's total population) and the

county government together to provide any service which the city or county may lawfully offer residents. The chief legislative body is composed of a 5-member county council, imbued with all the policy-making powers extended to city and county governments. Each "community" within the consolidated county will then elect a "community council" which shall have the power to create and formulate any local governmental program necessary to satisfy the needs and desires of the community's residents, but not the power to acquire land or personnel for any such program. Instead, the "community council" makes a recommendation to the county council, which then uses its legislative authority to acquire the land and personnel pursuant to the creation of the program. This form of government does not affect other incorporated municipalities in the county unless such a municipality elects to join the community council government.

In the "consolidated city and county" form of government, the largest city (which must have a population equal to or greater than 35% of the entire population of the county) and the county unify their governments to form a single legislative body for both. The consolidated commission has legislative and policy-making powers for the entirety of the county and the municipalities within it, including the power to establish any such programs, create any such political subdivisions, provide any such services, and adopt any such ordinances as either a city or a county government may lawfully adopt. This form of government does not affect other incorporated municipalities in the county unless such a municipality elects to join the consolidated government.

Electors or county legislative bodies in Utah may initiate a plan to alter the form of county government available to them. Counties may expand their commissions, which are required by law to be three members, to five or seven members. In a form of local government known as a "county executive-council" form of government, commissions may additionally surrender their executive power to an elected county executive, who receives all powers and duties commissions may enjoy, to administer local ordinances. Alternately, commissions may appoint a county manager to administer local ordinances in a government known as a "council-manager" form of government.

# Vermont

## **Introduction:**

Vermont's counties derive power from the constitution and Title 24 of Vermont Statutes Annotated. The governor appoints a superior judge to head each county's superior court and county legislative body. Assistant judges, who are elected at-large in every county, serve with the superior judge as the county's legislative authority. Counties have very limited authority in Vermont, as most authority rests with municipalities. Duties traditionally ceded to counties, including road maintenance and provision of water, rest with municipal governments. Vermont is a Dillon's Rule state.

## **County Finance:**

The assistant judges are responsible for the formulation of an itemized budget, including predicted costs for capital improvements and construction. Subject to approval by a majority of voters in the county, the budget shall be paid for by an assessment on towns and gores. The county may not in and of itself levy any taxes or assess any fees directly on property in the county, but must instead distribute the assessment proportionally over the entire county. When the assessment is made, the county treasurer serves warrant to the town selectmen, who administer the tax and supply the revenue to the county. The tax may at no time exceed five cents on every \$100 of taxable property in the county. The county may charge rent on public lands being rented by another public or private entity, however.

When considering the cost of capital improvements, the board must make a preliminary cost estimate to

determine an amount to be assessed on the equalized grand list of property in the county. Before the county may contract debt, it must submit the question to the voters, who must approve the measure by a majority vote. If there is an execution against the county and the county lacks sufficient funds to discharge the debt, then the county treasurer must go to the town selectmen, who may levy a tax and provide the county with the funds to pay.

## **Zoning and Land Use:**

Counties may acquire and own such lands as the assistant judges consider necessary to county function. Legal acquisition includes purchase and lease, as well as exercise of eminent domain. Counties must maintain certain buildings, facilities, and resources on public land for government use, including a courthouse, law library, jail, and sheriff's department, to be operated at the county's expense. The assistant judges must oversee all county property and facilities. When land is not necessary to any county purpose, the assistant judges may sell, rent, lease, or otherwise convey it into another's ownership.

## **Public Safety, Health, Sanitation, and Utilities:**

Counties may not operate police departments, fire departments, community justice centers, hospitals, waterworks, or sewage facilities. Only cities, townships, and incorporated villages may provide these services, to which county residents may have access. Counties may not levy any tax or appropriate any funds to provide these services.

# Virginia

## **Introduction:**

The Constitution of the State of Virginia and Title 15.2 of the Code of Virginia provide by law for the structure and powers of Virginia's counties. Virginia has six forms of county government; the procedure for adopting alternative government is outlined more extensively below. Counties have the same powers as cities as towns for all intents and purposes of the state statute. Virginia is a Dillon's Rule state.

## **County Finance:**

Counties may generate revenue in a variety of ways. They are empowered to sell franchises on county service provision and to establish reasonable rates for the same franchises and to sell or lease public property following a vote of the county legislative body. Counties may pass an ordinance for a license tax on automobile junkyards and may regulate their operation through passage of the tax. Counties may not, however, tax gross receipts, entertainment, or admission for any form of charitable gambling.

Counties may not contract debt except as provided by state law, unless the county by referendum votes to be treated as a city with respect to debt. In that case, counties may contract debt so long as such debt does not exceed eighteen percent of the assessed valuation of the county subject to taxation. To issue a bond, the county must first hold an election and seek approval from a majority of county electors voting within the election. Additionally bonds may be issued as refunding bonds to discharge any debt the county may owe. The county commission has the final authority to receive, audit, approve, and discharge all claims against the county which may arise out of contracted debt or for any other reason.

The county may receive money from the state government to participate in certain loan programs. The Virginia Shell Building Initiative, for example, provides funds to local governments to build industrial shell buildings and then promote the real estate to manufacturing, processing, technology-related business, or similar industrial establishments.

Counties may appropriate funds to any nonprofit organizations which provide volunteer firefighting services, housing for the elderly or indigent, healthcare to the elderly or indigent, any nonprofit

rescue crew, or other nonprofit recreational and development organization. The county may also appropriate funds to any incorporated municipality within the boundaries of the county.

Counties may establish local consumer affairs offices to investigate any retail operation which may be fraudulent or which engages in price-gouging. If the office finds a discrepancy, it may exercise its authority to seek to rectify it. The office may additionally develop programs of consumer education.

## **Contracts:**

The county legislative body serves as the contracting entity for the county, with the authority to enter into any agreement or contract to execute any lawful county function or exercise any lawful county power. Counties may enter into agreements with other counties, municipalities, or towns for the purpose of mutual provision of services or to furnish any kind of project which will encourage economic growth.

The county may sell franchises for a period not to exceed forty years to any company so long as the county board retains the power to establish reasonable rates and enforce maintenance of the county's property.

## **Zoning and Land Use:**

The county commission has the authority purchase, lease, or exercise eminent domain to acquire land for county use for public buildings or public works. The county may sell, lease, or otherwise convey any developed or undeveloped public property following a three-fourths majority vote of the county legislative body. They may also appropriate funds to promote resources and advantages in the county, including watershed projects. Counties are required to maintain certain buildings on public property, including courthouses, jails, and suitable facilities for Virginia state officers that may require space in the county. The county may acquire land, issue bonds, and appropriate money to facilitate the construction or renovation of any courthouse facility. The county may also rent vacant rooms in the courthouse with the permission of the judge. Any public building which no longer serves the public interest may



be leased out to a private or public entity at the discretion of the county commission and with approval of the circuit court judge.

To provide a comprehensive development plan for the county, the commission may establish a county planning board. Such a board may be specific to the county, or may propose development plans jointly with municipalities or other contiguous counties. Any county with comprehensive development plan may collect impact fees to offset the cost of capital improvements and providing services to residential areas. The commission must propose such a plan annually to the county legislative body or else to all the governments it serves; the commission may also propose zoning ordinances for the review of the county commission. Zoning ordinances allow the county legislative body to determine the best way to effectuate the comprehensive development plan by regulating the type, number, size, and other characteristics of buildings in certain areas of the county. Zoning ordinances may also be used to provide for an affordable housing program for county residents with low- and moderate-incomes. To settle zoning grievances, the county may create a board of zoning appeals to provide arbitration related to zoning.

Counties may, pursuant to their zoning powers, create service districts and, in such districts, establish, construct, maintain, and operate public utilities, including refuse disposal, sewerage facilities, and waterworks. To accomplish the construction, legislative bodies may contract debt and levy taxes, but only within the district to which the benefits accrue. Certain special districts may be ceded to industrial development authorities, created by the county as a body politic and corporate, to foster industrial growth within the district over which the industrial development authority may exercise power.

The county may require that buildings remain in good repair if a structure, wall, or building is likely to pose a threat to life or property. The county may enter the premises and make such repairs as may be necessary to preserve the structure's soundness and may place a lien on the real estate until the owner pays the cost of the repair. If a building has been derelict for 6 months, boarded up in accordance with building code, or remains unconnected to an electrical utility service, then the county may serve notice to the owner and subsequently claim the property if the owner takes no action. The county

may also take action on abandoned structures and boats in public waters if the abandoned bulkheads, piers, pilings, wharves, or ships would hinder the lawful use of the water. If a public or private building, fence, wall, or structure is defaced and is visible from a public right-of-way, then the county may take action to repair the damage or cover up the defacement. If private property and the owner fails to take action after being served a notice, the county may allow the fees for covering the defacement constitute a lien on the property.

County legislative bodies may regulate water consumption in the county. The board may require buildings be retrofitted with water-efficient appliances and fixtures and may also restrict the nonessential use of aboveground water use. Agricultural uses are not considered nonessential. In a state of emergency, i.e. when the water supply becomes threatened, the county may place caps on the amount of water that may be used by private individuals, corporations, or public agencies if it is supplied by a private corporation, public authority, or government for a fee. The county may establish a surcharge for excessive overuse of water resources. Counties may not establish regulations governing nonpoint source pollution unless consistent with state laws.

Counties may restrict the keeping of inoperable motor vehicles on private property as an eyesore through passing local zoning regulations, especially in residential and agricultural zones. The county may remove such vehicles outside of fully enclosed structures if the owner of the premises fails to do so.

Counties may regulate the operation of tattoo parlors and body piercing salons, including the sanitary condition of the personnel, equipment, and facilities. They may also set disease-prevention standards and disclosure procedures to which the parlor or salon must adhere.

Counties may regulate and restrict dance halls, requiring a license not to exceed \$600 for each individual operating a dance hall in addition to regulations about the operation of public dance halls. Any dance held by a religious, charitable, educational, military, or civic organizations are exempt from any ordinance the county may make.

Any individual or corporation operating a pressure vessel or boiler for compensation from the public may be required to obtain a license from the county. Failure to do so can result in misdemeanor fines.



Counties may regulate companies which install and operate alarm systems. This is to ensure public safety by demanding stringent protocol for testing and operating the alarms. The county may also require that smoke detectors be installed in public buildings and private buildings including dwellings, hotels and motels, and transient rooms.

Counties may regulate public lighting within one-half mile of a planetarium.

Counties may require that fences completely surround any swimming pool operated by any public agency, private individual, or corporation. Moreover, the county may require that the entrances through such a fence meet a certain height requirement.

### **Public Safety, Health, and Sanitation:**

Counties are charged with maintaining fire protection for county residents, by both volunteer and county-operated fire departments. The county may assess a fee for the provision of fire protection in the unincorporated areas of the county. Counties may regulate and prohibit the making of fires in streets, alleys, and other public places in addition to private property.

Counties must hold referendums for the establishment and dissolution of a county police force. The county may expend public funds on equipping the police force with the necessary equipment and vehicles to execute their police power.

Counties may take action to abate any nuisance which poses a threat to the public health or an immediate threat to life or property, including the quarantine of people or animals, the adoption of necessary regulation to prevent the spread of infectious disease, and the prevention of pollution in county waters. Public nuisances include dangerous or other unhealthy substances which have been spilled, been released, have escaped, or which have accumulated in any public or private place and any public or private building, wall, or structure which poses a danger to life or property. If the nuisance is on private property, the county may charge the cost of abatement to the individual who failed to act to mitigate the nuisance. In addition, certain noxious weeds and coyotes constitute nuisances. Counties may pay a bounty to any individual who kills a coyote.

When the county has diligently attempted to abate a drug blight on private property, the county may serve notice to the owner of the property and, if

the owner takes no action, may seize the property to terminate the threat to public safety and welfare. If the owner takes action, then the county may not seize the property nor may it charge the owner any assessment or fee aside from any penalty accrued because of the presence of illegal drugs on the property. Similarly, counties may place a lien on a “bawdy place” whenever they have tried diligently to abate the threat to public health and welfare but have failed. The county may also restrict the distribution of obscene materials at public places frequented by juveniles.

The county board may empower the sheriff to restrict the assembly of people, the movement of people, or the movement of vehicles if an imminent danger of riot exists. The county may also restrict loitering around any public or private place at any time. The board may establish a curfew for minors between the hours of 10 PM and 6 AM and prohibit minors from loitering around any place of public amusement.

Counties may not take any action related to the purchase, possession, transfer, transport, or storage of firearms, their accessories, or ammunition. The county additionally cannot sue any firearm owner, maker, or transporter for damages related to the lawful design, manufacture, sale, or transportation of any firearm. The county may disallow individuals from carrying loaded rifles or shotguns on public streets and while traveling down public highways and may punish violations of such an ordinance with a fine not to exceed \$100. Counties may also require fingerprinting before issuing conceal carry handgun permits and may regulate pneumatic guns in areas of sufficiently high population density for them to pose a threat to public safety. Commissions may also vote to restrict the locations where individuals may discharge firearms and shoot bows—counties may even ban bows outright if it is likely that shooting an arrow will damage nearby property. If a county makes a noise ordinance on an existing gun range, such an ordinance shall be considered void and the old regulations will continue to apply.

Counties may make noise ordinances to abate noise as a public nuisance detrimental to their constituents’ health. The county may prohibit air cannons, carbide cannons, or any other percussive instrument meant for repelling birds if the noise is a threat to public welfare. Counties may also regulate motorcycles and mopeds

Counties may establish and operate hospitals within the corporate boundaries of the county. This inherently grants counties the power to construct, establish, improve and maintain hospital facilities by issuing bonds, levying taxes, and charging reasonable fees for use the facilities. If the county legislative body does not wish to exercise administrative power over the hospital, it may cede the supervisory and administrative duties to a board of trustees. If the county legislative body does not wish to be charged with the construction of the hospital, it may create a hospital authority imbued with all the powers counties have regarding the creation and operation of hospitals.

Counties may provide by ordinance for a trash pickup and disposal system. This includes the authority to appropriate money to acquire, construct, and maintain disposal facilities, as well as the authority to maintain collection equipment. The county may assess a fee on all property to which garbage collection and disposal services are provided. Counties may also provide recycling service on all materials deemed recyclable by state code and may order recyclable materials separated from solid waste by ordinance. The county has the authority to site a solid waste disposal facility anywhere within its political boundaries subject to other local governments' approval. Any individual seeking to operate solid waste disposal facility must seek a permit from the county. The county may permit any individual seeking to provide solid waste disposal services and may also contract solid waste disposal services out to private corporations or individuals. The county may not displace private waste disposal services without first holding a public hearing and determining the advisability of such a move. If the county has a composting facility, then it may restrict the dumping of grass clippings and leaves in public and private solid waste disposal systems. Counties may exempt individuals from the garbage collection fee or diminish the fee based on income.

Counties may acquire, construct, establish, operate, and maintain sewerage facilities in the interest of preserving public and mitigating the pollution that arises without a sewer system. To that end, counties may condemn existing sewerage facilities and sewage mains to operate as public sanitation utilities, whether the sewerage facility is being operated privately or by a sanitary district. Additionally, counties may issue bonds, contract debt, and levy taxes to fund such a project. The county may impose fees and charges related to providing sewer service.

Counties may acquire, construct, establish, operate, and maintain waterworks, water distribution networks, and water purification facilities. To that end, counties may condemn existing waterworks and water mains to operate as public utilities, whether the waterworks is being operated privately or by a sanitary district. Additionally, counties may issue bonds, contract debt, and levy taxes to fund such a project. The legislative body may impose fees and charges related to the provision of water service.

### **Roads, Bridges, and Transportation:**

Counties may expend as much of their appropriations budget as the legislative body deems fit on laying out, constructing, improving, and maintaining public roads and rights-of-way, as well as to construct lighting systems on public highways.

Counties which do not join transportation districts may appropriate money to provide public transportation services to county residents and may operate the same. Public transportation may include subways, buses, and other public conveyances.

Counties may regulate safety on public highways. This includes the authority to ban individuals from carrying loaded guns on public highways as well as the authority to prevent trespassing on public highways. Counties may also take steps to control large animals wandering on public highways, whether such highways are fenced or not. Commission may vote to ban the sale of trees, shrubs, and flowers on the sides of highways as well, as well as tracking of mud and other debris on public roads.

Counties may mandate that every resident owning an electric bicycle, scooter, or moped obtain a license for the operation of the vehicle and obtain tags to evidence the vehicle's registration. The county may additionally regulate the use of such vehicles on public roads and enforce a penalty for the unlawful operation of electric bicycles, scooters, and mopeds on public roads.

### **Recreation, Leisure, and Culture:**

The county commission may operate parks, recreational facilities, and swimming pools in any county sanitary district. The power to operate such recreational facilities comes with the power to construct, acquire, maintain, and improve such facilities, issue bonds and levy taxes to fund the construction, and fix a fee for the use of such facilities.

The county may appropriate funds to advertise the county's agricultural and industrial products, as well as advertise county advantages, at any state fair or elsewhere in the state or nation to promote economic development. The county may reserve the right to issue permits to any fairground, amusement park, individual, or group of individuals who wishes to shoot off fireworks.

Counties may provide for the recreation and portrayal of events associated with or having taken place within the county. This includes contracting with nonprofit organizations to stage and put on events, charge admission and charge for the sale of food, license vendors, and restrict traffic. In addition, the county may gift money to an organization that puts on these recreations or portrayals.

Counties may permit zones of at least five acres to be used to maintain historical farms equipped with facsimile, reconstructed, or renovated buildings and tools indicative of an earlier period in Virginia's agricultural history. The museum may charge admission fees, but must be subject to county zoning regulations concerning the historical farm.

Counties may preserve any historical site by acquiring it through any lawful means other than condemnation and subsequently maintain the site for posterity. The county may convey the historical site to any non-stock corporation chartered under Virginia law if the county government is not equipped to maintain the site. Alternately, if the site is owned by a non-stock corporation, then the county may appropriate funds to purchase it.

### **Alternative Forms of County Government:**

Counties may adopt a charter pursuant to Virginia statute. The county must have a charter election in which a majority of the electors voting in such an election approve a new charter or agree to a change in an existing charter. The General Assembly must vote on such a bill to create or amend a charter or else the county must hold another election. Charters may not describe the boundaries of a county, nor may they abolish any office required under the Virginia Constitution.

Counties may adopt alternative forms of government following a similar referendum in which a majority of electors voting in the election decide in favor of alternative government. The County Board Form allows the board of supervisors to appoint a county administrator and purchasing agent, who may be the same individual. The administrator may also serve as the clerk of the board. In the County Executive Form, the board appoints an executive who serves as the administrative head of the county. The individual is responsible for administering all matters about which the county may legislate and also for examining books and papers of county officers to report to the board. The County Manager Form similarly provides for a county manager to oversee all county affairs under the control of the county board.

Two forms of government are subject to population and county size requirements: the County Manager Plan and the Urban County Executive. The County Manager Plan was developed for Arlington County; the Urban County Executive was created for Fairfax. They include a county administrator appointed by the board.

# Washington

## **Introduction:**

The Washington State Constitution and Title 36 of the Revised Code of Washington establish county governments and empowers the state legislature to delineate county authority and the statute defines counties as bodies politic and corporate in the State of Washington. The constitution and state vests legislative authority in a three-member commission unless the county chooses to adopt a home-rule charter. The commissioners are nominated by district and elected by the entire county. From among their membership, commissioners elect a chairman of the board. The county may not make regulations concerning subjects about which the state has already legislated. The county may delegate executive authority to a state agency and may refund the agency for any cost incurred in executing a county function. To facilitate interdepartmental sharing within the county, the commission may establish a county central services department to maintain a comprehensive data processing use plan. Washington is a Dillon's Rule State.

## **County Finance:**

The county commission serves as the budget making authority for the county, with the authority to determine appropriations, bond issuance, and distribution of resources allowed under Washington statute. The county's right to tax may never be suspended, surrendered, or contracted away; the power to tax rests solely with the county commission, who may do so only after approval by its constituents. To increase tax levies, the county must seek a three-fifths majority vote in a referendum. The aggregate tax rate on property may not exceed forty mills; however, counties may also levy a sales and use tax not to exceed five-tenths of one percent of the selling price. Any tax levied on road property may be spent to supply utilities and services to the rural part of the county. The county may deposit general revenue in a general fund and any special revenue or general revenue in a cumulative reserve fund created for a specific county purpose. Money in the cumulative reserve fund may only be spent on the purpose designated at the fund's creation.

No county may become indebted by an amount to exceed one and one-half percent of the total

taxable value of property within the county, nor may the county extend credit or loan money to any individual or corporation. The county must hold an election before issuing any bond or creating any district or authority for any public purpose. Any public expenditure for a private purpose is similarly prohibited; however, the county may loan money to an organization which provides affordable housing to low- and moderate-income residents. The county commission is the only body which may discharge claims against the county and the commission must maintain a claims fund.

## **Contracts:**

The county commission or legislative body serves as the contract-making authority for the county. This includes cooperating with other governmental subdivisions of the State of Washington, as well as the state and federal governments. County officers must cooperate in any action they deem necessary to execute jointly, though they may request that a state agency act as the coordinator between the two offices.

Any political subdivision offering a service may contract with another political subdivision to provide that service based on the terms set forth in an interlocal service agreement. The contract must include the area served, a provision for collecting user fees from county residents, and a procedure for establishment of the interlocal service agreement district where the services will be offered.

## **Zoning and Land Use:**

Counties, as bodies politic and corporate in the State of Washington, may acquire lands by purchase, lease, or eminent domain and may hold such real and personal property for any public purpose. The county commission may additionally sell any public land, though it may sell mineral and timber rights separately and retain mineral rights on any property it chooses to keep. The county may sell or lease land to any other governmental subdivision for affordable housing and airports, convey land to municipalities if it serves the public interest, and lease land to the US government for military bases, flood protection, or for other federal purposes.



County commissions are required to maintain jails and courthouses for use by the county government, though they may provide additional office space or public buildings if necessary. The county is permitted to operate a courthouse jointly as a city hall with the county seat. To acquire, construct, maintain, and operate the jail, the county commission may issue bonds following approval in a referendum.

County commissions have zoning and planning authority within the corporate boundaries of the county. To assist the county in formulating a comprehensive physical development plan, the county commission may establish and appoint planning commissioners. The county may also join a regional planning commission to formulate a regional physical development plan. The county may effectuate this plan by adopting such zoning ordinances as will regulate the type, number, height, bulk, and other characteristics of buildings within the zones. The county commission may adopt any building, electrical, plumbing, or other code related to maintaining safety in buildings and may include such a code in zoning ordinances. The legislature mandates a variety of goals the county must attempt to meet in such development plans, including the reduction of urban sprawl, rural service provision, the provision of affordable transportation and housing, and economic development. Such goals may include developmental regulations designed to protect the environment and foster sustained growth. Because of the proliferation of permits associated with such strict development laws, the county commission must provide an expedited way to review a project, certify that it meets building code, and license any necessary individuals or contractors to continue with construction.

Counties may use their zoning authority to recuperate from the Mt. St. Helens eruption by cooperating to dredge streams of ash and by re-zoning to facilitate recovery operations. In addition, the county has zoning authority over any water course, navigable or not, within the corporate boundaries of the county; however, the county may not construe its zoning authority to give it the power to place controls on rent unless the county enters into a private contract to do so. The county may permit mobile and manufactured homes and may establish separate zoning regulations for them than for regular homes.

The county may create an aquifer protection area for the protection and rehabilitation of subterranean water. The area may only be created following approval by referendum. The area may impose fees on

withdrawal of subterranean water and on-site sewage disposal, which it may use to develop and execute a comprehensive plan for aquifer protection and rehabilitation. Around beaches and lakes, counties may put a question to county electors to create lake or beach protection districts where the county may charge assessments on property to clean up and preserve Washington's lakes and beaches.

The acquisition of port facilities by purchase, lease, or gift, whether or not the county contracts debt in doing so, shall be declared a public purpose pursuant to the goal of industrial development. The county may finance any public improvement to revitalize a community.

Any county which provides water, sewer, storm water drainage, or any other utility for public consumption may assist residents who employ such services in equipping their home with fixtures to conserve resources. In addition, counties operating utilities may engage in activities or programs to mitigate county carbon footprints and greenhouse gas emissions until the county achieves no-net emissions from all public sources. The county may adopt evergreen ordinances on the construction of new public buildings and improvements to maintain no-net emissions and may additionally acquire an interest or acquire totally a conservation area for the county to maintain.

The county commission is authorized to establish economic development programs, as well as contract with nonprofit organizations to administer or execute economic development programs. For example, the county may request permission to establish a foreign trade zone on the border between Washington and Canada.

### **Public Safety, Health, and Sanitation:**

The county may make police and sanitation regulations to preserve public safety and health, and the commission may take steps by ordinance and resolution to enforce them. An example of a public safety ordinance is the power of the commission to establish a juvenile curfew. In addition, the county may appropriate money to assist a municipality providing emergency medical, fire, or public safety services.

Pursuant to county interest in the preservation of public health, the county may provide emergency medical services. The commission may fund the services by charging a fee associated with use of the service unless the county makes an additional tax levy to fund it. Any part of the county which



receives service from private ambulance service may not be served by the county. If the county wishes, it may create emergency medical services districts in which to provide ambulance and other emergency service. The district shall be an independent taxing authority and may levy a tax to fund its activities.

The county commission may also establish a hospital in the county to provide healthcare to county residents or may establish a joint hospital to provide regional healthcare services. To construct the facilities and acquire land, the county must hold an election on bonds. Once the bonds are issued, the county may create a board of trustees to oversee the hospital and appoint a superintendent to manage its day to day affairs. The hospital may annually submit a budget to the county commission to request funds.

The county commission has the authority to declare public nuisances, including “litter” and “potentially dangerous litter” and to take steps to abate it on public and private land. Whenever the county removes or abates a public nuisance on private land, it may charge the cost of the abatement to the property owner in the form of a lien on the county’s real estate. The county may additionally abate wild or stray animals in the county as public nuisances. To distinguish between strays and domestic pets, the county may require pets to be licensed. The treasurer shall collect a reasonable fee for the licensure and place the money in a county animal license tax fund.

The county is authorized to provide general public assistance in a manner similar to the code provided for in Title 74 of the Revised Code of Washington. For in depth information about the variety of programs counties may fund, reference Title 74. In addition to that Title, counties may bury the remains of indigent residents. Counties may also provide educational and recreational programs to senior citizens, as well as long-term care ombudsman programs to be coordinated with other long-term care programs. The county may expend its own money to achieve any of the above goals, or it may contract with another public or nonprofit entity.

Counties may acquire solid waste disposal facilities to eliminate the buildup of solid waste within the corporate bounds of the county. The commission may issue bonds, levy taxes, and acquire, construct, maintain, and operate solid waste disposal facilities within the county’s corporate boundaries. Alternately, the county may establish solid waste disposal districts to provide the same services at the

district level by levying excise taxes. Washington counties are additionally empowered to operate and maintain recycling services and to require that county residents recycle their recyclable trash.

The county may preserve public health by acquiring, operating, and maintaining sewerage and water facilities. The county may additionally keep treatment facilities, water mains, storm drains, other drainage facilities, and sewage mains in good repair to provide service to the county residents. The commission may levy taxes, assess reasonable fees, and issue bonds to fund any activity related to providing any of these services. To provide these services in a more limited area, the commission may establish a local improvements district to maintain the facilities and collect fees on behalf of the county.

Any county may operate a plant to consume lignin, wood pulp, or other unused biomass for the generation of electricity. The power generated by the county’s plant may be sold to any public entity or individual at a rate to be determined by the county commission.

### **Roads, Bridges, and Transportation:**

County commissions are granted the authority to lay out, construct, maintain, and vacate county roads located within the corporate boundaries. In addition, the county may dedicate public land for use as streets and rights-of-way in cities and towns and fund improvements to state highways which will benefit county residents. The county commission may grant franchises to construct pipes, wires, and cattleguards on public roads as well as general franchises on county bridges. If the county experiences unnecessary congestion, it may create a transportation benefit district to improve travel time, air quality, and reduce transportation risk by imposing fees on vehicles, tolls on overused roads, and a fee for any transportation or infrastructural improvement the district might undertake.

In addition to a public infrastructure, counties are authorized to acquire transportation authorities to provide public transportation to the county’s residents. The authority may charge reasonable fees for use of public transportation to refund revenue bonds issued to acquire public transportation systems, including railways. The county commission may create rail districts inside the county’s corporate boundaries and therein provide rail service by levying a tax in excess of the legal limit on property taxes.

Counties may construct, operate, and maintain parking facilities convenient to the county courthouse or a city-county public building. In addition, the county commission may charge rents on the use of parking spaces.

Any private ferriage service may be regulated by the county commission, which shall require that all private ferries have licenses. The county may collect a tax on ferry licenses, as well as establish the rates which private ferries may charge. When the county licenses a private ferry, such a license is considered the exclusive right to provide ferry service on whatever body of water the ferry is located. Alternatively, the county may operate a public ferry service across any body of water located within the county or a joint ferry service across any body of water which divides two counties. This includes the authority to establish ferry districts which can construct, maintain, and operate ferry services, levy taxes, contract debt, and establish a schedule of charges for the provision of ferry service.

### **Recreation, Leisure, and Culture:**

Counties may establish public improvements districts, headed by boards of directors, which may acquire, construct, operate, own, and maintain sports facilities, entertainment facilities, convention facilities, or regional facilities except ski facilities. The board may collect an ad valorem tax and a lodging tax to fund its activities, as well as tax admissions into any event in a building owned by the board. If the county wishes to delegate its supervisory authority, it may grant broad powers to a stadium authority to construct stadiums and exhibition centers. Though the authority may not receive funds from the county, it may levy its own taxes, issue bonds, contract debt, and enter contracts to construct any facility it is empowered to operate. The authority may charge fees for entrance into any event held in a building it owns.

Any county in the state may expend money and conduct the promotion of resources and facilities by advertising, publicizing, and otherwise encouraging visitors to come to the county. The county commission is also authorized to take action to encourage tourism within the county. The county may lease land to a nonprofit organization for the operation of a county fair where the county may display county resources and encourage tourism.

The county may additionally hold a fair for the exhibition of artistic, cultural, industrial, commercial, and agricultural products in the county. The commissioners may acquire property for a fairground to operate a fair singly or with other counties. If the county receives a petition of 25 electors in the county with an interest in poultry, it may set aside up to \$500 every year to hold a poultry show. The county may charge an admission tax on entry to the fair or to another event in the county, including a tax on parking at stadiums and exhibition centers. The county may cooperate with the county extension service to provide education and research services for county residents at such functions.

The county commission may acquire property for any public recreation or cultural purpose, including for parks, viewpoints, greenbelts, conservation, historic, or scenic purposes. When the property is acquired, the county may establish a system of county parks and playgrounds and put on recreational programs and activities in those parks. The county commission may annually allocate funds for the operation of the county park system. The county may additionally create park and recreational districts in which to levy property taxes and issue bonds to provide parks within the district.

A county commission is authorized to acquire property by purchase, gift, or lease and finance the acquisition by issuing bonds or borrowing money. The county may manage, lease out, preserve, restore, or maintain any historic property it owns for the public.

### **Alternative Forms of Government:**

Any county may adopt a home rule charter or may join with one or more municipalities located within its corporate boundaries to form a home-rule city-county consolidation. In either case, the county's electors must elect charter commissioners to author a home-rule charter. The charter must frame a new governmental structure, but it does not take effect until the county's electors approve it. In the case of a city-county consolidation, both the county and city must approve the charter.

For counties with populations in excess of 300,000, the commission may put to a vote the question of whether or not the county should adopt a five-member commission. If the county electors affirm the measure, then the county government may divide the county into five districts and elect five commissioners.

# West Virginia

## **Introduction:**

West Virginia's counties derive their authority from Article IX of the state constitution, which establishes the legal framework within which counties may exercise their powers. The state allows for three member commissions which serve terms of six years. Commissioners have custody of all deeds through their clerks. The county has the authority to establish many advisory councils which lack legislative power, including a coordinating council to collect data on state and federal projects to coordinate them with the county commission to yield the best advantage to the county. The county may also create a wage and benefits review board to advise the county commission on what employees should be paid and whether or not certain employees meet the standards for a promotion. The county has similar powers with respect to a civil service commission for deputy sheriffs and for corrections officers. The county has the power to investigate matters in which it has a legitimate local or legislative interest and may charge contempt fines not to exceed \$50.

Counties do not have home rule authority nor the opportunity to draft a charter; however, the legislature has passed a law which allows counties to exercise powers they otherwise would not have. The commission must appeal to the Secretary of Commerce to allow the county to exercise a certain power. If the governor approves the application, then the county may exercise the power which was otherwise barred by state statute. West Virginia is a Dillon's Rule state.

## **County Finance:**

The county commissioners have complete authority to supervise county fiscal affairs. This includes the authority to collect and disburse county levies. The county commission must review all assessed lists of property and inspect county real and personal property. The county commission may create any special fund for any specific purpose in which the county has a legitimate interest to provide funds. The county may also create a special fund in which to deposit federal and states grants. The county may also create a sinking fund in which to place surplus tax revenue to discharge debt incurred in the future.

The county may also, by majority vote, create a budget stabilization fund and deposit within it a sum not to exceed 30% of the previous year's general budget. The stabilization fund, like the sinking fund, is intended to allow counties to maintain stable budgets, tax levies, and fees while discharging debt. The county commission may invest the stabilization fund as it sees fit, a power it does not have over the sinking fund.

The county may tax individual keeping animals, one dollar for male or spayed female dog, two dollars for every un-spayed female dog, one dollar for every breeding age sheep, and one dollar for every breeding age goat. The taxes on dogs must go to a kennel fund, while the taxes on sheep and goats go to fund a cooperation with the State Department of Agriculture to prevent livestock predation.

The county may also charge a hotel tax to be uniformly imposed throughout the county. The tax may not be imposed if a consumer occupies a room more than thirty days. The tax shall be levied at 3% of the rate of the room to be charged to the consumer. Fifty percent of the tax must be spent on tourism for the county, the rest may be placed in the county general fund for general expenses.

Any county undertaking any new development may assess fees at a value which shall not generate revenue for the county, but only fund the development project. This includes the establishment of impact fees. The county may also assess a fee on employees or self-employed individuals who work at least one week within the boundaries of the county. The county must use revenue generated by such a project to fund new capital improvements.

The county has the authority to contract debt up to five percent of the value of taxable property in the county for any legitimate purpose. To pay off this debt, the county may raise levies up to 50% of their former value in order to discharge it efficiently. Such levies must be submitted to a vote of the county electors. Any claim against the county must be submitted to a county clerk, who shall submit it to the commission. All discharges of claims must be approved by the commission.

The county may appropriate money and provide financial assistance to individuals who attend

workshops designed to increase financial literacy among county residents.

### **Contracts:**

Counties have the authority as bodies politic and corporate in West Virginia to make contracts to execute any power granted them by the State of West Virginia. This includes agreements and compacts with other political subdivisions, including counties, municipalities, and the state and federal government. The county may also enter into reciprocal agreements with neighboring state agencies if any part of the county border abuts another state. The county may create a board on intergovernmental relations to examine the nexus between state and county authority and advise the county commission on how to proceed in cooperation with the state and federal governments. The county is also authorized to enter into agreements with public and private entities to institute energy-saving measures in county buildings for the purpose of saving money on electricity.

### **Licenses:**

West Virginia's counties have the authority to license and regulate a variety of adult entertainment facilities. No county may issue a license for the sale of alcohol without the consent of municipal authorities. In addition, county commissions may by ordinance reserve the right to license massage parlors and personnel, including sanitary conditions, hours of operation, and requirement that personnel be eighteen years old.

### **Zoning and Land Use:**

The county commission has control over all public land, including the right to acquire more by eminent domain, purchase, or lease. In addition, the county may sell or lease any of its public land to the state or federal government for any lawful state or federal purpose. The county may hold an auction to sell county real or personal property to any other public or private entity. The county may lease public land with known deposits of gas, minerals, or other natural resources and may deposit the revenue thereof in a general county fund. The county must operate certain buildings, including a courthouse and jail, on public lands at the expense of the county. The county must purchase flags to display on the lawn before the courthouse. The county may alternately rent or lease a courthouse and jail if it chooses not to

acquire the land and facilities necessary to do so. If choosing this option, the county must include a levy for rentals in the county budget. The county may contract debt to pay for public buildings and lands.

The county's responsibility to provide a working jail empowers the officials to acquire land and construct facilities for that purpose. In addition, the county must provide toiletries, food, clothes, and adequate accommodations for all inmates. The county must also provide a physician for mentally handicapped inmates. The county may use the sheriff's fund to pay for all expenses related to the county jail. In conjunction with the jail, the county may acquire land and facilities to operate a county work farm to be paid for by the general fund. The county may also establish, construct, improve, and enlarge a workhouse jointly with a municipality for the same purpose as a work farm. The joint workhouse must be managed by a board of directors, who shall administer and set a budget to be approved by the commission for the workhouse. The workhouse may accept inmates from other counties and cities as well.

The county is responsible for establishing and maintaining a minimum building code to provide for the safety of its residents. The code may be universal for the county, or may apply only to a small area or zone established by the commission. The county building code may not affect any building within a municipality with a municipal building code. The county must meet minimum standards issued by the state fire marshal. The county may require permits for mobile home placement and occupation. The county may require visible address posting both in the unincorporated county and inside any municipality. The county may also restrict the location of establishments providing exotic entertainment.

The county commission may establish an appraisal-assessment board to review the work of the State Tax Commissioner and inform the public generally about assessments. The board may also advise the board of adjustments when grievances regarding appraisals are brought before it.

Counties are authorized to dredge and change the course of streams within the county to remove accumulated debris as a measure protecting county residents and property from floods. The county may also participate in re-sedimentation programs to protect land from erosion that might lead to flooding. The county may set a uniform county levy



to fund these measures. To the extent permissible by Congressional act, the county may set building code standards to prevent damage related to floods in areas of the county susceptible to flood. The county may require licenses to build in areas where flooding is likely.

Any county designated a “growth county” by the State of West Virginia may cede development rights following a vote of the commission and public to establish a program to encourage the preservation of natural resources, protect scenic and historic land in the county, and facilitate orderly development and growth. This program shall be considered a county-wide zoning ordinance.

The county may create economic opportunity development districts and provide for the financing and administration of such districts. The county commission shall create a board to oversee the district and administer all improvement programs. The county may appropriate funds so that the district may spend the money to provide support for beautifying the district, expanding infrastructure, making capital improvements, and maintaining all of the projects it undertakes. The county commission may levy a special district excise tax to raise funds for the aforementioned improvements.

The county may become a member of a community action organization and contribute money to any organization which qualifies that it might more easily carry out its public purpose rather than create an economic opportunity development district. The program must encompass the entire area of a political subdivision, be it municipality or county, and must work under the federal Economic Opportunity Act to increase economic and employment opportunities for county residents.

The county may, upon petition of sixty percent of individuals owning property on either side of an abandoned road, create a maintenance association to maintain the road for use by the petitioners. The maintenance association may maintain any water main, sidewalk, sewage line, or other public utility or right-of-way, though it may not maintain highways without the approval of the state. The maintenance association may levy fees on the individuals who receive benefits from the maintained public easements and utilities.

Counties are permitted to create county development authorities and invest all powers attributed to that authority to a board. No county may create a board

when a regional development authority exists. The authority exists to promote industrial development, advance business welfare, foster economic growth, and provide maximum employment opportunities to county residents. The authority may apply for grants, receive gifts and money from the county commission, issue bonds, and make contracts with other entities to carry out its mission. In addition, the authority may acquire property by purchase, lease, or eminent domain itself and develop it for the purposes listed above. The authority may lease or sell any developed property to an interested party. The authority may also cooperate with other county development authorities in contiguous counties.

The county may also join an area development corporation, which must be a non-stock, nonprofit organization. The area development corporation brings together counties and municipalities to promote industrial development, advance business welfare, foster economic growth, and provide maximum employment opportunities to county residents. The county may appropriate funds to contribute to the cost of the corporation’s programs and may additionally make zoning ordinances to promote growth and contribute to the area development corporation’s plans.

### **Public Safety, Health, and Sanitation:**

The county commission has the authority to erect, operate, and maintain fire stations and fire prevention units and to equip the same. The county may levy taxes to provide for fire protection services, including paying volunteer fire companies and public fire protection facilities operated by other governmental subdivisions. Fire protection services may assess fees for use of their equipment, personnel, and time, provided no fee exceeds \$500 except in cases involving hazardous material.

To preserve public health, the county commission may acquire land for a county hospital by purchase, lease, or eminent domain. The land may also be used for long-term care facilities and public clinics. The county must provide such a facility with all the equipment, personnel, and funds it needs to function. The county may make levies or contract debt to fund the institution. The county must vest administrative authority in a board of trustees, who shall employ personnel and provide proposed budgets to the county commission.



The county commission must provide emergency ambulance services to all unincorporated areas of the county. The commission may make a levy or assess use fees to ensure the services are funded adequately. The commission may purchase any equipment and hire any personnel to make provide this service; the statute allows the commission any necessary power to ensure the provision of such a service.

The county may also establish a county fire association to discuss fire protection services and address fire protection issues at the county level. The association is headed by a board, created by the county commission as a public corporation. The fire association has the authority to take steps to allow for the continuation, expansion, and creation of fire protection services and may assess reasonable fees on fire protection service to fund operations and expansions. The association additionally has the authority to contract indebtedness to fund the fire association; the county commission may appropriate funds to the association.

To deal with hazardous waste, the county may create a hazardous material response program. The team shall include emergency medical response personnel, firefighters, and other individuals with expertise handling hazardous waste. Any owner, generator or carrier of hazardous waste who uses the services may be charged a use fee for any assistance the team must provide him or her.

The county must have a county commission on crime, charged with keeping data on crimes in the county and making recommendations to the commission on how to improve the criminal justice system. The county commission on crime may also work closely with a state commission charged with similar duties to encourage cooperation between state and local criminal justice systems. To protect public safety and in the interest of discouraging juvenile delinquency, the county may create a curfew for children under the age of 18. The county commission may also establish rewards for reports on activity that lead to the apprehension and conviction of a criminal.

County commissions may not regulate the keeping of gunpowder or the storage of guns, nor may they abrogate the right of any individual to purchase, possess, transport, or sell any type of pistol, handgun, rifle, shotgun, or ammunition for any of the above weapons.

Counties may adopt reasonable rules and regulations about the treatment of animals in the county. In addition, they may establish shelters to provide food, water, veterinary care, and shelter to abused or neglected animals. The county may hire humane officers to seize any animal which appears to be treated cruelly or neglected. In addition, deputy sheriffs may serve as humane officers. Individuals who treat animals cruelly are subject to punishment under county law.

Counties may acquire public refuse dumps and landfills by purchase, lease, or eminent domain. The county may also contract for otherwise provide garbage pickup and disposal services, whether by lease of equipment or contract with a public or private entity. The county may not operate disposal services within the boundaries of any municipality. Any contract the county enters into to provide solid waste disposal services must be approved by the state Public Service Commission.

Alternately, the county may create a solid waste authority headed by a board which may perform any function a county may perform to provide solid waste disposal services, including the acquisition of land, facilities, and equipment by purchase, lease, or eminent domain. The authority may issue bonds, assess fees, and accept grants from any government to which it is answerable.

Counties have the right to investigate and abate any and all nuisances on public and private property. Violation of any nuisance ordinance shall constitute a misdemeanor. Counties retain the authority to regulate unsafe or unsanitary structures on private land. The county has the authority to abate any nuisance caused by the lack of sanitation in the interest of the preserving public health. The county may establish an enforcement agency and litter officers to ensure any provision the commission may make is carried out. Any abatement carried out on private land shall constitute a lien on the real estate. The county may sell the real estate if the owner is either gone or unable to pay for the fee.

Counties may also acquire sewerage facilities and sewage lines by purchase, lease, or exercise of eminent domain. The county may establish a special fund to pay for the operation of sewerage facilities derived from fees paid by users. The county may not operate such services within municipalities, sewer districts, or public service districts. If the county has a public service district within it, it may grant county

revenue to the district to fund sewage service.

County commissioners have the authority to install, construct, repair, and maintain waterworks, water mains, and any facility associated with the purification and distribution of water. The county, to ensure fire protection, must provide water mains which connect to above ground hydrants so that any fire department detachment may rapidly combat and abate any fire. The cost of any improvement to the waterworks at the behest of a county resident shall be borne by the resident who receives the benefit. A petition of residents, corporations, or freeholders is also sufficient to improve the county waterworks. The county may assess fees for use of the water system. If the county has a public service district in which it cannot operate water service, the county may appropriate revenue to fund the district by grants.

### **Roads, Bridges, and Transportation:**

County commissioners are charged with control of all roads, bridges, ferries, and other rights-of-way within the jurisdiction of the county. This includes construction and maintenance, as well as promulgating rules and regulations about using county roads. The county must enforce these regulations. Before a county may vacate a road, it must verify the application of the landowner whose property abuts the road and seek permission in a hearing at a county court.

The county also has the authority to construct, maintain, and operate county parking facilities and transportation terminals for public transportation. The county may exercise these powers alone or may create boards and commissions to exercise them on the county commission's behalf. The county commission may issue bonds following a bond election to pay for any public transportation terminal or county parking facility.

### **Recreation, Leisure, and Culture:**

The county may create a recreation commission as a body politic and corporate in the State of West Virginia. The recreation commission may acquire, establish, create, construct, purchase, improve, expand, and operate county parks and recreational facilities. The recreation commission may receive funds from the county commission, which may contract debt to operate the recreation commission. County parkland is exempt from taxation. The recreation commission may generate revenue itself by renting or leasing land to be used for instruction in fire prevention and protection. The recreation commission may also promulgate rules about park use and conduct in the park, with the authority to establish a park police office to enforce such rules.

The county may also create museum commission to oversee county museums. Such commissions are also bodies politic and corporate, with the power to exercise eminent domain. Both the county commission and the municipal government may provide funds to the commission to carry out its purpose.

The county may establish a beautification council, but the commission may not be obligated by any debt it creates. The council is charged with improving the aesthetic qualities of the county landscape, including but not limited to planting and maintaining shrubbery and other vegetation around public roads.

### **Alternative Forms of Government:**

Though no home rule or charter provision exists in the West Virginia Constitution or statute, the constitution does give counties the power to alter their government according to a specific procedure. The county may elect to alter the number of county commissioners to four or more, or may opt to add a county administrator to the government. The county must ask the legislature to make the changes.

# Wisconsin

## **Introduction:**

The Wisconsin Constitution and Sections 59 and 66 of Wisconsin Annotated Statutes create county governments as bodies corporate and politic, along with establishing the framework of their government. Dividing legislative and executive authority, the constitution vests legislative power in a board and executive power in an executive or administrator. The county executive shall have veto power over any ordinance which the board may pass, though county administrators lack that power. County boards may elect a chairman from among the commissioners who may establish committees by resolution to execute functions described in the resolution. Wisconsin is a Dillon's Rule state.

## **County Finance:**

In counties with an elected executive, the county commission has authority to approve the executive budget. In counties without the elected executive, the county commission may establish the budget based on recommendations from department heads and the county administrator. The county commission also has the authority to levy taxes and appropriate money to carry out county functions. Counties may not exceed an operating levy to exceed .001 or the levy from fiscal year 1992, whichever is greater, without a referendum and approval by county electors. While counties may levy a room tax to fund tourism, they may not levy an income tax.

County boards may issue bonds and revenue bonds for the construction of public improvements and for other purposes enumerated in state statute. At no time may a county contract indebtedness to exceed 5% of the assessed value of taxable property contained within the county's corporate limits, unless the county is contracting debt to fund the construction of a public building, work or utility.

The county may establish a department of consumer protection to investigate potential fraudulent retail activity and prosecute the same.

## **Contracts:**

The county commission is the contracting authority for county governments, with the authority to make contracts to execute any county function or exercise

any county power which is granted to the county by the constitution or state statute. The state allows counties to cooperate with other local governments in sharing duties and authority to provide services.

## **Zoning and Land Use:**

The county clerk is authorized to hold and care for county property in the county's corporate name, as well as accept conveyances of property. The county commission is required to construct and maintain a courthouse and a jail on public land for use by the court and sheriff's department in the interest of preserving public safety and welfare.

Counties retain zoning and planning authority, and may create a planning and zoning commission to assist in the execution of that duty. The zoning commission may receive and expend funds to create a comprehensive development plan, which it may recommend along with zoning ordinances to the county board. The county board may adopt the development plan and execute such zoning ordinances, which may include building codes, as may be necessary to effectuate the terms of the plan. The county may issue special ordinances near navigable waters requiring more stringent building codes to ensure buildings are flood resistant.

The county must establish a land conservation committee to determine the conservation impacts of county zoning ordinances. The committee shall investigate soil and water resources and develop a conservation program which the county board must approve. The program must include measures to prevent soil degradation and water degradation due to county zoning ordinances. The county may do conservation work on both publicly and privately owned land.

Counties may establish housing authorities to establish affordable housing for the county's low- and moderate-income residents. The county may not establish such housing in the boundaries of a municipality, though it may allow private developers to provide affordable housing in the county pursuant to federal regulations.

The county may also create and appropriate money for a county department of industrial development. The department shall engage in industrial

development projects and may borrow money and issue bonds to fund said projects. Lawful projects include the creation of industrial development districts in which the department may provide infrastructure to industry in the county.

### **Public Safety, Health, and Sanitation:**

County commissions may jointly operate safety buildings with cities located within the county. The safety building may house all law enforcement and fire protection officers as well as any safety program the county may undertake. The county may appoint a board to oversee the county safety programs, including fire protection and law enforcement.

Counties may not regulate the purchase, sale, transportation, possession, or manufacture of firearms or ammunition; however, counties may impose sales taxes on firearms.

The county commission may engage in comprehensive health planning, which includes appropriating money to nonprofits for the provision of healthcare services, joining surplus commodity plans to provide healthcare to the needy, managing relief programs, and operating rehabilitation facilities under jurisdiction of the sheriff as an extension of the jail. The county may operate healthcare programs like the one above alone or jointly with a municipality, as when counties choose to operate city-county hospitals. The county may additionally establish a commission on aging or programs for senior citizens and may appropriate money to fund both of these activities.

To provide county residents with rapid emergency assistance, the county may operate an ambulance service and rescue equipment, or may appropriate money to organizations which already offer such services to county residents. The legislative body may by resolution establish a local emergency planning committee to develop contingency plans for emergency situations.

The county may take steps to identify and abate public nuisances, including mosquitoes, worms, insects, noxious weeds and vegetation, and animals with diseases. For mosquitoes in particular, the county may establish districts with commissions charged with the abatement of the public nuisance. County boards may charge each resident in the district the cost of mosquito abatement and appropriate that money to the commission. To handle noxious weeds and vegetation, the county

board may appoint a weed commissioner to abate the nuisance.

Counties may additionally establish solid waste disposal facilities and collection service to pick up trash in the county and dispose of it. The board may acquire or construct facilities for the disposal of waste, adopt rules and regulations appropriate to the disposal of such waste, and assess a fee on trash collection. To fund the initial construction, the county may issue bonds and levy taxes to pay off said bonds. Along with solid waste disposal, the county may operate and require that county residents use recycling facilities.

### **Roads, Bridges, and Transportation:**

County commissions have control over roads and bridges, including laying them out and constructing them. However, counties may not work on roads located inside corporate boundaries of municipalities without the express permission of the municipality.

To manage local transportation and public transportation, the county may either exercise transit power itself or establish a county transit commission. The commission shall have such jurisdiction and power over public transit as the county board delegates it. The commission may have charge of public buses, school buses, taxicabs, and underground transportation facilities, including the authority to construct or acquire the necessary facilities and equipment to operate any of the above. Counties may create joint transit authorities to manage public transportation in multiple counties.

Counties may purchase, operate, acquire, expand, improve, and maintain airports and airport service. Counties may lease out any building on airport property and may issue revenue bonds to fund the construction or maintenance of airports.

### **Recreation, Leisure, and Culture:**

The county may appropriate funds in aid of a veteran's service officer or commission to assist such bodies with the execution of their respective duties. In addition, the county may cause to be published any war records within the county. Upon petition of five county residents, the county commission may provide an appropriate metal grave marker for any armed service member buried within the boundaries of the county.

Counties are authorized to acquire and restore or rehabilitate historic property. The county may

subsequently lease the property to another entity or individual, so long as the lessee promises to maintain a certain standard of historic preservation on the property.

Counties may provide public restrooms and comfort stations in public places free to the public at the expense of the county.

**Alternative Forms of Government:**

Wisconsin statute provides for various forms of government for the county to employ. While required to have an executive, counties may operate under three different types of executive structures: administrative coordinator, county administrator, or elected executive. County administrators are similar to a city manager in that the administrator

is appointed, serves at the pleasure of the board, and has all the powers of an executive save for veto. Administrative coordinators are similar to county administrators, excepting that administrative coordinators may be consolidated with other offices in the county. The county executive form provides for an elected executive who wields veto power and who establishes an executive budget.

Wisconsin statute also provides for the consolidation of cities and counties by a voting process; however, no county in Wisconsin has yet consolidated with a city government. The county legislative body may nevertheless exercise authority jointly with the municipality with regard to the administration of certain services.



# Wyoming

## **Introduction:**

The Wyoming Constitution and Title 18 of Wyoming Statutes establish the legal framework for county authority in Wyoming. The legislature has the power to change county boundaries and establish county officers. County legislative authority is vested in a board of three members, elected for four year terms; however, the county may increase membership from three to five if a majority of qualified electors in the county agree to the increase. Wyoming is a Dillon's Rule state.

## **County Finance:**

County legislative bodies have complete authority over the establishment of the budget, the contracting of debt, and the levying of taxes. The department heads of all county agencies must submit a budget to the commission, which shall subsequently hold a public hearing and adopt a budget. Money received by public officers must go into the county fund. Counties may not levy property taxes in excess of twelve mills for county revenue purposes, except to discharge public debt and interest thereon, nor may they contract debt for which the county lacks revenue to pay off.

The county commission may contract debt on behalf the county, so long as the debt does not exceed the maximum allowed indebtedness. Counties may issue coupon bonds which adhere to standards of general obligation bonds—i.e. they generate interest and do not exceed the maximum allowed indebtedness—to generate funds to construct, maintain, expand, and improve public buildings. Any contracted debt in excess of county revenue is considered void. The county may, however, issue bonds in anticipation of revenue. Counties may also levy taxes specifically for the purpose of paying off contracted indebtedness. To refund indebtedness, counties may issue funding bonds and may levy taxes to pay off funding bonds.

Counties may hold an election for the establishment of a building fund, an account meant to save money for the construction, improvement, renovation, or expansion of any public building. The county electors must vote on a tax levy to generate revenue for the fund, to be retired when the county has accumulated the necessary money to execute the project. The estimated time to raise the funds may not exceed ten years.

Whenever any claim is issued against the county by a court, the county must levy a tax to pay for the claim unless other funds are available to discharge it. Claims must be presented to the county commissioners, who shall determine the validity of the claim, and then discharge it with monies in the county fund or by issuing warrants.

In adopting the budget, the county commission authorizes appropriations by itemizing expenditures. The county may appropriate funds for industrial development, so long as the funds do not benefit a single person, corporation, or private entity.

## **Contracts:**

Counties, as bodies politic and corporate in the State of Wyoming, may enter into contracts to execute any power lawfully delegated to them by state statute. The county commissioners have the responsibility to oversee these contracts.

For the purposes of greater efficiency in government and joint exercise of power, counties may enter agreements with public entities, as well as the state and federal government, to execute functions jointly. Local governments may specifically agree to jointly construct, fund, and operate hospitals, recreational facilities, public schools, transportation systems, fire departments, courthouses and jails, and other administrative offices. Cities and counties may jointly acquire and operate an airport. Any two governments entering an interlocal agreement for the provision of services may establish a board of no more than five members to oversee the agreement and the financial outlay for the project in question. The county may demonstrate preference for any contract which uses labor or products of Wyoming, provided the contract's cost is no more than 5% greater than the lowest responsible bidder.

## **Zoning and Land Use:**

The county legislative body has the authority to acquire property in the name of the county by purchase, lease, or eminent domain. The commission has the care of all public land. When holding such land is no longer in the best interest of the county, the commission may convey or sell public land. Counties must maintain a courthouse and a jail on

public land, in addition to any other public buildings they view as necessary. Counties may receive by gift or may otherwise acquire and construct public buildings. The sheriff maintains the county jail, though the county may make contracts about the placement of prisoners if the jail is overfull. The county may also contract with municipalities to provide a jail for municipal prisoners.

Counties may establish planning commissions to develop a comprehensive zoning and development plan. County commissions may appoint the planning commission members who shall use maps and plats to develop the plan, which the county commission may then adopt. To establish a zoning district, the county must hold an election and seek approval from a majority of electors residing in the district. The county may also establish sanitary districts in which they may regulate sanitary facilities, including sewer facilities. Alteration or construction of a sanitary facility requires a building permit. County commissions have the authority to hear grievances related to zoning issues.

The county may also, upon petition, create special service districts to execute other functions on a smaller scale, primarily acquiring, maintaining, and operating improvements of local necessity and convenience. The governing board of the special district may contract debt, issue bonds, and levy taxes to fund the special improvement district's activities. The county commission has the responsibility to levy and collect any tax the board may require.

To protect public health, safety, and morals, the county may regulate the type and number of buildings which may be established in zoning districts, as well as establish a building code to maintain minimum safety standards in buildings within the county. To construct, alter, or renovate any kind of building, individuals must seek permits from the county commission.

Counties may establish, regulate, and control a conservation design process for the unincorporated areas of the county. No developer may construct a cluster development without first seeking the approval of the county commission if there is a conservation design process in the county.

The county may establish senior citizen service districts with a tax levy not to exceed two mills to provide transportation and recreational programs to senior citizens living within the district. Counties

may also appoint senior citizens' commissions to act in an advisory capacity to assist county commissions in making decisions which benefit senior citizens.

The county may establish a surface water drainage utility to design, plan, construct, maintain, improve, and operate a surface water drainage system or storm water drainage system. The utility must construct the water drainage system on county land and may finance the utility by issuing revenue bonds and assessing fees. The legislative body may execute these powers itself or may establish a drainage utility board to oversee the utility and to execute any function which the county legislative body may execute.

### **Public Safety, Health, and Sanitation:**

Counties may provide fire protection services to individuals living within the unincorporated areas of a county. The county commission may contract for fire protection services from a private or public entity, may cooperate with a municipality located within the boundaries of the county, or may contribute toward the operation of any fire department for fire protection service. Counties may levy a tax of one mill to pay for fire protection service contracts.

Counties may declare and regulate public nuisances on any property within the county. The county may abate any nuisance on public property. If the commission declares private property to be a nuisance, they must serve notice to the owner. If a court upholds the declaration that the property is a nuisance, the owner or the county may abate the nuisance. If the county abates the nuisance, then it may charge the owner for the cost of the service.

The county may establish memorial hospitals to provide for the care of the sick, injured, and chronically ill. Memorial hospitals are considered public hospitals which may charge reasonable fees for services. The county may appoint a board of trustees whenever the hospital is worth more than \$25,000 dollars to oversee the hospital and administer the hospital's finances. The county may contract indebtedness for the construction of the hospital and may levy an annual tax for maintenance. Hospitals are under the control of the board of trustees, which is appointed by the county. The trustees may contract the operation of the hospital to another entity. The county may contract for treatment and preventative services for the mentally disabled, substance abusers, and the developmentally disabled. County commissions may

also establish rural health and public health districts in which to provide public health and hospital services. The county may establish a fund for the improvement of the county hospital.

Counties may establish senior citizens centers on public land for the purpose of providing transportation, information, and recreational services to senior citizens in the county. These institutions may be provided by the county or under contract with another public or private entity.

Counties may establish solid waste disposal districts, sewerage districts, and water provision districts, as well as appoint between three and nine residents of the county to oversee the district. The board has all the powers attributed to counties as bodies politic and corporate. The board may levy a tax not to exceed three mills to fund the solid waste management program, sewerage facilities or waterworks.

Counties may permit the location, construction, maintenance, and operation of wind energy facilities in the county. The county may charge a reasonable fee for permitting wind energy facilities.

### **Roads, Bridges, and Transportation:**

County commissions are charged with laying out, constructing, maintaining, and discontinuing public roads. In addition, they may grant franchises or licenses to operate ferries and toll bridges. Counties may also construct viaducts beside and subways underneath any public road in the county or in the municipality if the two governments agree to the construction. The county may contract indebtedness to fund such projects and levy taxes to discharge indebtedness.

Counties may also acquire land, contract indebtedness for, levy taxes for, construct, and operate an airport. The county may establish a five member board of trustees to oversee the airport and provide administrative oversight. When the commission or the board of trustees contracts debt to construct an airport, they may create a sinking fund to discharge the debt as fast as possible.

The county may enter into a regional transportation authority with a board of no more than five and no less than nine trustees. The authority may levy taxes, issue bonds, and contract indebtedness to provide regional transportation options, include transportation between

Counties may not purchase equipment for nor engage in any kind of towing service.

### **Recreation, Leisure, and Culture:**

The county has the authority to acquire land to operate fairgrounds, stadiums, convention centers, public auditoriums, and parks. The county may operate these buildings on its own or may create a board of trustees to operate them for it. The board shall have all authority the county would normally have in the administration of the public recreational facilities. When the board or county commission contracts debt, they may establish a sinking fund to discharge the debt as expeditiously as possible. The county may appropriate funds to advertise county resources and advantages at conventions, fairs, and expositions.

Counties may establish resort districts to provide local conveniences and furnish or perform services on a local level. The commission may levy a tax of three mills inside the district to fund these services. These districts may only be established in a county which has a resort.

Counties may receive money by gift or appropriation for the establishment of a local library fund. The library fund shall be used to construct, equip, improve, and maintain a local library with all necessary employees. The county may collect a property tax to fund the library on an annual basis. The county may appoint a library board to oversee the administration of the library.

The county may purchase, construct, or otherwise acquire archaeological, geological, and historical museums as well as collections of articles to exhibit in those museums. The county may make appropriations and levy taxes to fund these museums. The county may appoint a board of trustees to oversee the county museums to employ necessary personnel and to make necessary regulation concerning the artifacts. The county commission may also create special museum districts with a board to oversee multiple museums, contract debt, and issue bonds for several museums at once.

The county commission may provide funds for the preservation and restoration of historic sites in the county. The county may acquire works of art, including frescoes, friezes, paintings, and sculptures, to display in public buildings. The county accepts the cost of purchasing and maintaining such works of art.

# Section II:

## Tables







# Table

The following tables summarize the information presented in narrative form. The tables are much less comprehensive than the narrative, largely because they may show states which have similar powers but exercise them in various ways. For example, many states can provide some kind of indigent care and many can provide food centers for county residents. In that case, each would fall under the category Social Welfare/Indigent Provisions. Therefore, the tables should be used as a general sort of reference and to facilitate comparison, but the narrative should be used to extract more specific details about the nature of the county's powers and programs.

Simply because a box doesn't have an "x" in it does not mean that the county lacks the authority or cannot execute that function. The chart merely summarizes what is explicitly enumerated in state code. For Dillon's Rule states or states which permit counties to contract with municipalities to provide certain services, the box may not be checked.

In the following report, the following words have the following meanings:

**Authority:**

Refers to a county's ability to create public corporation or authority as defined at the beginning of the book.

**Power:**

Refers to a county's ability to execute a certain function. When the chart says "Public Park Power" for example, that means that a county has the power to create public parks. "Park and Recreation Authority," conversely, refers to a public corporation or board set up to oversee public parks.

# Dillion's Rule State & Alternative Forms of Government

State	Dillon's Rule State	Alternative Forms of Government				
		Can Adopt Limited Home Rule	Charter Adoption Procedures	County Manager Form	County Executive Form	City-County Consolidation
Alabama	x	x				
Alaska		x	x			
Arizona	x		x			
Arkansas	x					
California	x		x			
Colorado	x	x				
Delaware	x					
Florida	Unclear		x			
Georgia	x					x
Hawaii	x	x				
Idaho	x		x	x	x	
Illinois	x	x				
Indiana	x					x
Iowa			x	x	x	
Kansas	x	x				
Kentucky	x		x			x
Louisiana	x		x			
Maine	x		x			
Maryland	x	x	x			
Massachusetts			x			
Michigan	x		x	x	x	
Minnesota	x		x	x	x	
Mississippi				x		
Missouri	x		x			

\* Boxes marked with an asterisk indicate that counties or boroughs have the authority to undertake the listed action contingent on meeting certain requirements. These requirements range from population minimums to minimum taxable property values.

## *Dillion's Rule State & Alternative Forms of Government (continued)*

State	Dillon's Rule State	Alternative Forms of Government				
		Can Adopt Limited Home Rule	Charter Adoption Procedures	County Manager Form	County Executive Form	City-County Consolidation
Montana		x	x	x	x	
Nebraska	x					
Nevada	x					
New Hampshire	x	x	x			
New Jersey			x	x	x	
New Mexico			x			
New York	x			x	x	
North Carolina	x			x		x
North Dakota	x	x	x	x		x
Ohio		x	x			
Oklahoma	x		x			
Oregon		x	x			*
Pennsylvania	x					
South Carolina				x	x	x
South Dakota	x	x		x		
Tennessee	x		x			
Texas	x					
Utah				x	x	x
Vermont	x					
Virginia	x		x	x	x	
Washington	x	x	x			x
West Virginia	x					
Wisconsin	x			x	x	x
Wyoming	x					

\* Boxes marked with an asterisk indicate that counties or boroughs have the authority to undertake the listed action contingent on meeting certain requirements. These requirements range from population minimums to minimum taxable property values.

# Zoning and Land Use

State	Debt Contracting Authority	Public Works Commission	Separation of Development and Resource Rights	Zoning Power	County Development Plan	County Forest Zones	Flood Control Zone Power
Alabama	x	x		x		x	
Alaska				x	x		
Arizona	x	x		x	x		x
Arkansas	x	x		x			x
California	x	x		x			
Colorado	x		x	x	x		x
Delaware	x			x	x		
Florida	x			x	x	x	
Georgia	x			x	x		
Hawaii	*			x			x
Idaho	x			x			
Illinois	x	x		x	x		
Indiana	x	x		x	x		
Iowa	x	x	x	x	x		
Kansas	x	x	x	*			
Kentucky	x	x		x			x
Louisiana	x			x	x		x
Maine	x			x	x		
Maryland	x			x			
Massachusetts	x			x			
Michigan	x			x			
Minnesota	x			x	x		
Mississippi	x			x	x		x
Missouri	x			*	*		

\* Boxes marked with an asterisk indicate that counties or boroughs have the authority to undertake the listed action contingent on meeting certain requirements. These requirements range from population minimums to minimum taxable property values.

## Zoning and Land Use (continued)

State	Debt Contracting Authority	Public Works Commission	Separation of Development and Resource Rights	Zoning Power	County Development Plan	County Forest Zones	Flood Control Zone Power
Montana	x		x	x	x	x	
Nebraska	x	x		x	x		x
Nevada	x	x		x	x		x
New Hampshire	x			x			
New Jersey	x	x		x	x	x	x
New Mexico	x			x	x		x
New York	x			x	x	x	
North Carolina	x	x		x			x
North Dakota	x			x	x		
Ohio	x			x	x		
Oklahoma	x			*			
Oregon	*		x	x	x		
Pennsylvania	*			x			x
South Carolina	x	*		x			
South Dakota	x			x	x		x
Tennessee	x	x		x			
Texas	*	x		*	*		x
Utah	x			x	x		x
Vermont	*			x			
Virginia	*	x		x	x		
Washington	x		x	x	x		x
West Virginia	x	x		x	x		x
Wisconsin	x			x	x		x
Wyoming	x			x	x		

\* Boxes marked with an asterisk indicate that counties or boroughs have the authority to undertake the listed action contingent on meeting certain requirements. These requirements range from population minimums to minimum taxable property values.



## Zoning and Land Use (continued)

State	Environmental Protection Districts	Public Housing Authority	Economic Development Authority	Urban Renewal Districts	Industrial Development Authority	Port Authority	Adult Establishment Zoning Power
Alabama		x	x		x	x	
Alaska							
Arizona	x	x	x		x		x
Arkansas	x	x	x		x	x	
California	x	x	x				
Colorado		x	x				
Delaware		x	x				
Florida	x	x		x	x		
Georgia		x	x	x		x	x
Hawaii		x		x			
Idaho	x	x	x		x		
Illinois		x	x				
Indiana		x	x	x	x		
Iowa	x	x	x	x			
Kansas					x		
Kentucky	x	x	x	x		x	x
Louisiana		x	x		x	x	
Maine							
Maryland		x	x				
Massachusetts							
Michigan	x		x				
Minnesota							
Mississippi			x				
Missouri							

\* Boxes marked with an asterisk indicate that counties or boroughs have the authority to undertake the listed action contingent on meeting certain requirements. These requirements range from population minimums to minimum taxable property values.

## Zoning and Land Use (continued)

State	Environmental Protection Districts	Public Housing Authority	Economic Development Authority	Urban Renewal Districts	Industrial Development Authority	Port Authority	Adult Establishment Zoning Power
Montana	x	x	x		x		
Nebraska	x						x
Nevada	x	x					x
New Hampshire							
New Jersey	x	x	x			*	
New Mexico	x						
New York	x	x					
North Carolina			x	x			
North Dakota			x		x	x	x
Ohio	x	x	x			x	
Oklahoma		x	x	x	x		
Oregon	x		x		x		
Pennsylvania	x		x		x		
South Carolina		x	x	x	x		
South Dakota	x	*					
Tennessee	x						x
Texas		*			x		
Utah	x		x	x	x		x
Vermont							
Virginia		x			x		
Washington	x	x	x		x	x	
West Virginia	x		x		x		x
Wisconsin		x			x		
Wyoming					x		

\* Boxes marked with an asterisk indicate that counties or boroughs have the authority to undertake the listed action contingent on meeting certain requirements. These requirements range from population minimums to minimum taxable property values.

# Public Health, Safety, and Sanitation

State	County Police Department	Curfew Ordinance Power	Public Health Authority	Emergency Response Service	Hospital Authority	County Farm/County Home for the Aged	Fire Protection Authority	Fire Protection Districts	Volunteer Fire Departments	Social Welfare Services
Alabama			X	X			X			X
Alaska			*	*	*		*	*	*	
Arizona		X	X		X	X				X
Arkansas				X	X			X	X	
California	X		X	X	X		X	X		X
Colorado	X			X			X	X		X
Delaware				X	X		X			
Florida			X	X	X		X			
Georgia	X		X	X	X		X	X		X
Hawaii			X	X			X		X	
Idaho		X	X	X	X			X		X
Illinois			X		*		X			
Indiana	X						X			
Iowa				X	X		X			X
Kansas			X	X	X	X		X		X
Kentucky	X		X	X			X	X	X	
Louisiana		*	X	X	X	X		X		
Maine	X		X	X						X
Maryland			X	*	*	X	X			
Massachusetts					X					X
Michigan				X	X			X		X
Minnesota			X		X	X	X			X
Mississippi			X	X	X	X		X	X	
Missouri				X				X		

\* Boxes marked with an asterisk indicate that counties or boroughs have the authority to undertake the listed action contingent on meeting certain requirements. These requirements range from population minimums to minimum taxable property values.

## Public Health, Safety, and Sanitation (continued)

State	County Police Department	Curfew Ordinance Power	Public Health Authority	Emergency Response Service	Hospital Authority	County Farm/County Home for the Aged	Fire Protection Authority	Fire Protection Districts	Volunteer Fire Departments	Social Welfare Services
Montana				X	X		X	X	X	
Nebraska	X		X	X	X			X		
Nevada				X	X			X		
New Hampshire						X				
New Jersey				*	X	X		X		X
New Mexico			X	X	X			X		
New York			X	X	X		X			X
North Carolina	X		X	X	X	X	X	X		
North Dakota			X	*	X	X		X		X
Ohio			X	X	X			X		
Oklahoma			X	X	X	X	X	X	X	X
Oregon				*	X			X		X
Pennsylvania			X		X		X	X		X
South Carolina	X			X	X		X			
South Dakota	X		*		*		X			
Tennessee	*		X		*		X			
Texas	*	X					X	X		X
Utah	X		X	X	X		X			X
Vermont										
Virginia	X	X	X		X		X		X	X
Washington	X	X	X	X	X					X
West Virginia	X	X	X	X	X	X	X		X	
Wisconsin	X		X	X	X		X			X
Wyoming			X		X		X			X

\* Boxes marked with an asterisk indicate that counties or boroughs have the authority to undertake the listed action contingent on meeting certain requirements. These requirements range from population minimums to minimum taxable property values.

## Public Health, Safety, and Sanitation (continued)

State	Senior Citizens' Services	Family and Children's Services	Animal Control	Nuisance Abatement	Solid Waste Disposal Service	Recycling Services	Water Service	Sewerage Service	Electricity Service	Natural Gas Service
Alabama	x		x	x	x		x	x	x	x
Alaska					*		*	*		
Arizona	x	x	x	x	x	x	x	*		
Arkansas			x	x	x		x	x		
California			x	x	x		x	x	x	
Colorado	x		x	x	x		x	x	x	
Delaware					x		x	x		
Florida					x		x	x		
Georgia			x	x	x		x	x	x	
Hawaii			x	x	x		x	x	x	
Idaho				x	x		x	x	x	
Illinois	x	x		x	x		x	x	x	
Indiana			x	x	x		x	x		
Iowa			x	x	x		x	x		
Kansas	x	x		x	x		x	x		
Kentucky			x		x		x	x		
Louisiana				x	x		x	x		x
Maine		x		x	x		x	x		
Maryland				x	x		x	x		
Massachusetts	x									
Michigan		x			x		x	x		
Minnesota	x	x		x	x		x	x		
Mississippi			x	x	x		x	x		
Missouri	x				x		*	*		

\* Boxes marked with an asterisk indicate that counties or boroughs have the authority to undertake the listed action contingent on meeting certain requirements. These requirements range from population minimums to minimum taxable property values.



## Public Health, Safety, and Sanitation (continued)

State	Senior Citizens' Services	Family and Children's Services	Animal Control	Nuisance Abatement	Solid Waste Disposal Service	Recycling Services	Water Service	Sewerage Service	Electricity Service	Natural Gas Service
Montana			x	x	x		x	x		
Nebraska				x			x	x		
Nevada			x	x	x		x	x	x	x
New Hampshire							x	x		
New Jersey	x				x		x	x	*	
New Mexico					x		x	x	*	
New York				x	x		x	x		
North Carolina			x	x	x		x	x		
North Dakota	x	x	x	x			x	x		
Ohio				x	x		x	x		
Oklahoma				x	x		x	x		
Oregon				x			x	x	x	
Pennsylvania			x	x	x		x	x		x
South Carolina				x	x		x	x		
South Dakota			x	x	x		x	x		*
Tennessee			x	x	x		*	*	*	*
Texas				x			x	x		
Utah				x	x		x	x	x	x
Vermont										
Virginia	x		x	x	x	x	x	x		
Washington	x		x	x	x	x	x	x	x	
West Virginia		x	x	x	x		x	x		
Wisconsin	x		x	x	x	x				
Wyoming	x			x	x		x	x	x	

\* Boxes marked with an asterisk indicate that counties or boroughs have the authority to undertake the listed action contingent on meeting certain requirements. These requirements range from population minimums to minimum taxable property values.

# Roads, Bridges, and Infrastructure

State	Parking Regulations	Public Transit Authority	Water Transportation Provision	Airport Authority	Franchise Authority
Alabama					x
Alaska					
Arizona			x	x	
Arkansas	x			x	
California			x	x	x
Colorado		x		x	
Delaware	x				
Florida					
Georgia	x				
Hawaii	x				
Idaho		x			
Illinois	x				
Indiana		x		x	
Iowa	x	x		x	
Kansas		x		x	
Kentucky		x			
Louisiana		x			x
Maine	x				
Maryland	x		x		x
Massachusetts					
Michigan	x				
Minnesota	x	x			
Mississippi	*	x			
Missouri	x				

\* Boxes marked with an asterisk indicate that counties or boroughs have the authority to undertake the listed action contingent on meeting certain requirements. These requirements range from population minimums to minimum taxable property values.

## Roads, Bridges, and Infrastructure (continued)

State	Parking Regulations	Public Transit Authority	Water Transportation Provision	Airport Authority	Franchise Authority
Montana		X			X
Nebraska	X			X	
Nevada	X	X		X	X
New Hampshire					
New Jersey		X		X	X
New Mexico		X		X	
New York	X				
North Carolina	X			X	
North Dakota	X	X	X		X
Ohio	X	X	X	X	
Oklahoma	X				
Oregon		X			
Pennsylvania	X	X		X	
South Carolina		X			X
South Dakota					*
Tennessee					
Texas		X	X	X	
Utah		X	X	X	X
Vermont					
Virginia		X			X
Washington	X	X	X	X	X
West Virginia	X	X	X		
Wisconsin		X		X	
Wyoming		X	X	X	X

\* Boxes marked with an asterisk indicate that counties or boroughs have the authority to undertake the listed action contingent on meeting certain requirements. These requirements range from population minimums to minimum taxable property values.

# Recreation, Leisure, and Culture

State	Public Park Power	Park and Recreation Commissions	Juvenile Recreation Services	County Fair Management	County Product Advertisement	Tourist Services
Alabama					X	
Alaska						
Arizona	X	X	X	X		X
Arkansas	X	X				X
California	X	X		X	X	
Colorado	X	X				
Delaware	X					
Florida						
Georgia	X					
Hawaii						
Idaho	X	X				
Illinois	X					
Indiana	X					
Iowa	X			X		
Kansas	X	X	X	X		
Kentucky	X					
Louisiana	X			X		
Maine						
Maryland	X					
Massachusetts						
Michigan	X	X		X	X	
Minnesota	X	X	X	X	X	
Mississippi				X	X	
Missouri	X					

\* Boxes marked with an asterisk indicate that counties or boroughs have the authority to undertake the listed action contingent on meeting certain requirements. These requirements range from population minimums to minimum taxable property values.

## Recreation, Leisure, and Culture (continued)

State	Public Park Power	Park and Recreation Commissions	Juvenile Recreation Services	County Fair Management	County Product Advertisement	Tourist Services
Montana	x			x	x	
Nebraska	x			x		
Nevada	x		x	x	x	
New Hampshire	x	x				
New Jersey	x	x	x			
New Mexico	x				x	
New York	x	x				
North Carolina		x				
North Dakota	x	x				
Ohio	x	x				
Oklahoma	x	x				
Oregon	x	x				
Pennsylvania	x	x		x	x	x
South Carolina	*	*				
South Dakota	x	x		x	x	
Tennessee				x	x	
Texas	*	*		x	x	
Utah	x	x	x	x		x
Vermont						
Virginia	x	x			x	
Washington	x	x		x	x	x
West Virginia	x	x				
Wisconsin						x
Wyoming	x	x		x	x	

\* Boxes marked with an asterisk indicate that counties or boroughs have the authority to undertake the listed action contingent on meeting certain requirements. These requirements range from population minimums to minimum taxable property values.



## Recreation, Leisure, and Culture (continued)

State	Monument Construction Power	County Museum Power	Historic Commissions and Zones	Public Library Authorities	Stadium/Sports Authority	Convention Center Authority
Alabama						X
Alaska						
Arizona			X	X		
Arkansas			X	X		
California	X	X	X		X	X
Colorado	X		X			
Delaware				X		
Florida						
Georgia		X		X		
Hawaii			X			
Idaho		X	X			
Illinois	X		X	X	X	X
Indiana		X	X	X	X	X
Iowa	X			X		
Kansas		X				
Kentucky	X		X			
Louisiana	X		X			
Maine						
Maryland						
Massachusetts						
Michigan			X			
Minnesota	X					
Mississippi	X			X	X	X
Missouri					X	

\* Boxes marked with an asterisk indicate that counties or boroughs have the authority to undertake the listed action contingent on meeting certain requirements. These requirements range from population minimums to minimum taxable property values.

## Recreation, Leisure, and Culture (continued)

State	Monument Construction Power	County Museum Power	Historic Commissions and Zones	Public Library Authorities	Stadium/Sports Authority	Convention Center Authority
Montana		x		x	x	x
Nebraska			x		x	x
Nevada	x	x	x	x	x	x
New Hampshire						
New Jersey	x	x	x	x		
New Mexico			x	x		x
New York	x					
North Carolina	x	x	x	x		x
North Dakota	x		x			
Ohio	x		x	x		x
Oklahoma			x	x		
Oregon					x	x
Pennsylvania	x		x	x	x	x
South Carolina				x		
South Dakota	x	x	x		x	x
Tennessee						
Texas		x	x	x	*	*
Utah	x	x	x	x	x	x
Vermont						
Virginia		x	x			
Washington			x		x	x
West Virginia		x				
Wisconsin			x			
Wyoming		x	x	x	x	x

\* Boxes marked with an asterisk indicate that counties or boroughs have the authority to undertake the listed action contingent on meeting certain requirements. These requirements range from population minimums to minimum taxable property values.

*For your notes:*

