

SimpliCITY™

Municipal Law Training

Alcohol: Fees for permits & licenses are ok, but local rules are prohibited unless expressly allowed by Texas Alcohol & Beverage Code. Cities can prohibit sale of alcohol within distance of a church, school, residential areas, or hospital. TABC Chs. 11, 61 & 109; *Dallas Merchants & Concessionaires Ass'n v. Dallas*.

Annexation: The expansion of the city limits into the ETJ; voluntary (i.e., at property owner's request) or involuntary (i.e., unilateral by city). LGC Ch. 43.

Building Codes: Cities can adopt local amendments to the International Building Codes. LGC Ch. 214.

Comprehensive Plans: Policies on desirable future development of a city. Broad in scope, general in nature, and long-range in perspective. Can be maps, written descriptions and policy statements. Serve as the basis for ordinances. LGC Ch. 219.

Concept Plan: Informal development map that conveys overall vision for the proposed project, but has no legal obligation. Illustrates basic layout, building envelopes, roadways, parking, drainage, and landscaping. Roughly to scale, but not necessarily engineered drawings.

Conditional Overlay: An extra layer of rules to modify use and site development regulations to address the specific circumstances presented by a site.

Contract Zoning: When a city agrees to zone land in exchange for owner's promise to use the land in a particular manner. *White Settlement v. Super Wash*.

Deed Restrictions: Generally, cities can't enforce restrictive covenants. Owners are not relieved of restrictions as a result of zoning. LGC §212.151; *Pearson v. Fort Worth Nat'l Bank*.

Development Agreements: ETJ contracts between cities and ETJ property owners providing for annexation and land use regulations. LGC §212.172.

Dilapidated Buildings: City can order the repair, removal or demolition of a substandard structure and assess such costs against the property. LGC Ch. 214.

Due Process: Owner can sue for arbitrary and irrational denial of a permit under 42 U.S.C. §1983 for interference with private property rights. *Crown Point Dev. v. Sun Valley*.

Exactions: Land, money or off-site improvements required as a condition of granting permit can be 5th Amendment "taking" of property. The exaction must be: (a) clearly related to a legitimate government interest, and (b) proportional to the use's impact. *Nollan v. California*; *Dolan v. Tigard*.

Exterior Appearance: Rules for single-family homes, such as building materials and landscaping can't apply until the 2nd anniversary of plat approval, or the date city accepts the subdivision improvements. LGC §211.016.

Extraterritorial Jurisdiction: The ETJ is an area outside the city limits where a city has limited authority. Annexations can only occur in the ETJ unless the land is already owned by the city. LGC Ch. 42 & 43.

Grandfathering: The rules that govern a project are those in effect when the 1st complete application was filed for the 1st permit. LGC Ch. 245.

Group Homes: Requirements must be applied uniformly to all residents of all dwellings in order to protect health and safety by preventing overcrowding. *Edmonds v. Oxford House*; *Elderhaven v. Lubbock*.

Historic Preservation: Restrictions on new construction, alteration and demolition are appropriate. LGC Ch. 211; *Penn Central v. City of New York*.

Impact Fee: Charge on new development for off-site roads, water, wastewater, or drainage improvements attributable to the new development. LGC Ch. 395.

Junked Vehicles: Prohibitions on vehicles on public or private property with expired registration or licenses, and wrecked or dismantled. Tex. Transp. Code Ch. 683.

Manufactured Homes: A city may prohibit the installation of a "Mobile Home" (pre-'76) as a residence. "HUD-Code Manufactured Homes" (post-'76) can go anywhere designated by city. Tex. Rev. Civ. Stat. 5221f, §4A; 42 U.S.C. §5403(d); 24 C.F.R. §3282.11(a).

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Moratoriums: Temporary time-outs to preserve the status quo and allow cities time to conduct research, confer with experts, solicit community input, prepare rules and administrative procedures. LGC Ch. 212; *Tahoe-Sierra Preservation Council v. Tahoe RPA*.

Nonconforming: A use or structure that doesn't conform to current rules, but was lawful when the rules were enacted. *Bd. of Adjustment of San Antonio v. Wende*; *Southlake v. Hanson Aggregate Central*.

Nuisances: Keep land free of weeds, rubbish, brush and other objectionable, unsightly, or unsanitary matter. LGC Ch. 217; Tex. Health & Safety Code Ch. 342.

Oil & Gas: Cities can regulate mineral production, including the drilling of wells within the city limits. *Unger v. Texas*; *Trail Enterprises v. Houston*.

Parkland Dedication: Developers must dedicate parkland or pay money in lieu as a condition of plat approval. *College Station v. Turtle Rock*.

Planned Development Districts: A negotiated, customized zoning classification that allows site-specific approval for projects that may not fit standard zoning categories and require negotiation to ensure community interests are protected. *Weatherford v. San Marcos*.

Preemption: Cities cannot apply zoning to school or county facilities. There are also limitations on the ability to regulate aspects of state and federal buildings. *Austin I.S.D. v. Sunset Valley*.

Religious Facilities: When cities attempt to limit churches or related operations, the city can't "substantially burden" a person's free exercise of religion. Tex. Civ. Prac. & Rem. Code Ch. 110.

Sexually-Oriented Businesses: Despite constitutionally protected 1st Amendment Free Speech, Adult Entertainment Facilities have a deleterious effect on surrounding areas. LGC Ch. 243; *Barnes v. Glen Theatre*.

Signs: Rules for the erection, relocation, reconstruction, or removal of signs within the city limits and ETJ. LGC §216.003; *Metromedia v. San Diego*; *Valley Outdoor v. Riverside, California*.

Site Plan: Engineered drawing of horizontal development, including building footprints, driveways, parking, drainage facilities and easements.

Spot Zoning: An illegal practice singling out a small tract for treatment differing from similar nearby land without proof of changes in conditions. Courts frown on "piecemeal zoning" that constitutes preferential treatment contrary to the comp plan. *Pharr v. Tippitt*.

Subdivisions: Regulations on the division of land by plat for purposes of conveying ownership, or laying out public streets, easements or drainage facilities. LGC Ch. 212.

Towers, Amateur Radio: Law gives cities authority to regulate based on health, safety or aesthetic conditions, and in order to protect and preserve historic and architectural districts. LGC Ch. 250.

Towers, Wireless Communications: Can regulate siting so long as the regulation doesn't prohibit service. 47 U.S.C. §151.

Variiances: Tools that allow the municipality to achieve a just outcome when strict application of the letter of the law would yield an unfair result. LGC §211.009.

Water Quality: Water pollution control and abatement programs. Tex. Water Code §26.177.

Zoning: Rules on size of buildings and other structures; open spaces; population density; and location of specified uses. A valid exercise of police power unless it is "clearly arbitrary and unreasonable, having no substantial relation to public health, safety, morals or general welfare." *Euclid v. Ambler Realty*.

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