

LOCAL GOVERNMENT CODE

TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES, AND RELATED ACTIVITIES

SUBTITLE A. MUNICIPAL REGULATORY AUTHORITY

CHAPTER 211. MUNICIPAL ZONING AUTHORITY

SUBCHAPTER A. GENERAL ZONING REGULATIONS

Sec. 211.001. PURPOSE. The powers granted under this subchapter are for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 211.002. ADOPTION OF REGULATION OR BOUNDARY INCLUDES AMENDMENT OR OTHER CHANGE. A reference in this subchapter to the adoption of a zoning regulation or a zoning district boundary includes the amendment, repeal, or other change of a regulation or boundary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 211.003. ZONING REGULATIONS GENERALLY. (a) The governing body of a municipality may regulate:

- (1) the height, number of stories, and size of buildings and other structures;
- (2) the percentage of a lot that may be occupied;
- (3) the size of yards, courts, and other open spaces;
- (4) population density;
- (5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and
- (6) the pumping, extraction, and use of groundwater by persons other than retail public utilities, as defined by Section 13.002, Water Code, for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health.

(b) In the case of designated places and areas of historical, cultural, or architectural importance and significance, the governing body of a municipality may regulate the construction, reconstruction, alteration, or razing of buildings and other structures.

(c) The governing body of a home-rule municipality may also regulate the bulk of buildings.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 731, Sec. 2, eff. Sept. 1, 2003.

Sec. 211.0035. ZONING REGULATIONS AND DISTRICT BOUNDARIES APPLICABLE TO PAWNSHOPS.

(a) In this section, "pawnshop" has the meaning assigned by Section 371.003, Finance

Code.

(b) For the purposes of zoning regulation and determination of zoning district boundaries, the governing body of a municipality shall designate pawnshops that have been licensed to transact business by the Consumer Credit Commissioner under Chapter 371, Finance Code, as a permitted use in one or more zoning classifications.

(c) The governing body of a municipality may not impose a specific use permit requirement or any requirement similar in effect to a specific use permit requirement on a pawnshop that has been licensed to transact business by the Consumer Credit Commissioner under Chapter 371, Finance Code.

Added by Acts 1991, 72nd Leg., ch. 687, Sec. 18, eff. Sept. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.81, eff. Sept. 1, 1999.

Sec. 211.004. COMPLIANCE WITH COMPREHENSIVE PLAN. (a) Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

- (1) lessen congestion in the streets;
- (2) secure safety from fire, panic, and other dangers;
- (3) promote health and the general welfare;
- (4) provide adequate light and air;
- (5) prevent the overcrowding of land;
- (6) avoid undue concentration of population; or
- (7) facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.

(b) Repealed by Acts 1997, 75th Leg., ch. 459, Sec. 2, eff. Sept. 1, 1997.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 458, Sec. 1, eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 459, Sec. 2, eff. Sept. 1, 1997.

Sec. 211.005. DISTRICTS. (a) The governing body of a municipality may divide the municipality into districts of a number, shape, and size the governing body considers best for carrying out this subchapter. Within each district, the governing body may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) Zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land in the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

The following section was amended by the 88th Legislature. Pending publication of the current statutes, see S.B. 929, 88th Legislature, Regular Session, for amendments affecting the following section.

Sec. 211.006. PROCEDURES GOVERNING ADOPTION OF ZONING REGULATIONS AND DISTRICT BOUNDARIES. (a) The governing body of a municipality wishing to exercise the authority

relating to zoning regulations and zoning district boundaries shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

(b) In addition to the notice required by Subsection (a), a general-law municipality that does not have a zoning commission shall give notice of a proposed change in a zoning classification to each property owner who would be entitled to notice under Section 211.007(c) if the municipality had a zoning commission. That notice must be given in the same manner as required for notice to property owners under Section 211.007(c). The governing body may not adopt the proposed change until after the 30th day after the date the notice required by this subsection is given.

(c) If the governing body of a home-rule municipality conducts a hearing under Subsection (a), the governing body may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of the public hearing. Notice requirements prescribed under this subsection are in addition to the publication of notice required by Subsection (a).

(d) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the area of the lots or land covered by the proposed change; or

(2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

(e) In computing the percentage of land area under Subsection (d), the area of streets and alleys shall be included.

*(f) The governing body by ordinance may provide that the affirmative vote of at least three-fourths of all its members is required to overrule a recommendation of the municipality's zoning commission that a proposed change to a regulation or boundary be denied. Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

The following section was amended by the 88th Legislature. Pending publication of the current statutes, see H.B. 1381, 88th Legislature, Regular Session, for amendments affecting the following section.

Sec. 211.007. ZONING COMMISSION. (a) To exercise the powers authorized by this subchapter, the governing body of a home-rule municipality shall, and the governing body of a general-law municipality may, appoint a zoning commission. The commission shall recommend boundaries for the original zoning districts and appropriate zoning regulations for each district. If the municipality has a municipal planning commission at the time of implementation of this subchapter, the governing body may appoint that commission to serve as the zoning commission.

(b) The zoning commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the governing body. The governing body may not hold a public hearing until it receives the final report of the zoning

commission unless the governing body by ordinance provides that a public hearing is to be held, after the notice required by Section 211.006(a), jointly with a public hearing required to be held by the zoning commission. In either case, the governing body may not take action on the matter until it receives the final report of the zoning commission.

(c) Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail. If the property within 200 feet of the property on which the change is proposed is located in territory annexed to the municipality and is not included on the most recently approved municipal tax roll, the notice shall be given in the manner provided by Section 211.006(a).

(c-1) Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification affecting residential or multifamily zoning shall be sent to each school district in which the property for which the change in classification is proposed is located. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail.

(c-2) Subsection (c-1) does not apply to a municipality the majority of which is located in a county with a population of 100,000 or less, except that such a municipality must give notice under Subsection (c-1) to a school district that has territory in the municipality and requests the notice. For purposes of this subsection, if a school district makes a request for notice under Subsection (c-1), the municipality must give notice of each public hearing held following the request unless the school district requests that no further notices under Subsection (c-1) be given to the school district.

(d) The governing body of a home-rule municipality may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of a public hearing held jointly by the governing body and the zoning commission. If notice requirements are prescribed under this subsection, the notice requirements prescribed by Subsections (b) and (c) and by Section 211.006(a) do not apply.

(e) If a general-law municipality exercises zoning authority without the appointment of a zoning commission, any reference in a law to a municipal zoning commission or planning commission means the governing body of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 640 (H.B. 674), Sec. 1, eff. September 1, 2013.

Sec. 211.0075. COMPLIANCE WITH OPEN MEETINGS LAW. A board or commission established by an ordinance or resolution adopted by the governing body of a municipality to assist the governing body in developing an initial comprehensive zoning plan or initial zoning regulations for the municipality, or a committee of the board or commission that includes one or more members of the board or commission, is subject to

Chapter 551, Government Code, regardless of whether the board, commission, or committee has rulemaking or quasi-judicial powers or functions only in an advisory capacity.

Added by Acts 1993, 73rd Leg., ch. 381, Sec. 1, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(82), eff. Sept. 1, 1995.

Sec. 211.008. BOARD OF ADJUSTMENT. (a) The governing body of a municipality may provide for the appointment of a board of adjustment. In the regulations adopted under this subchapter, the governing body may authorize the board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance.

(b) A board of adjustment must consist of at least five members to be appointed for terms of two years. The governing body must provide the procedure for appointment. The governing body may authorize each member of the governing body, including the mayor, to appoint one member to the board. The appointing authority may remove a board member for cause, as found by the appointing authority, on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(c) The governing body, by charter or ordinance, may provide for the appointment of alternate board members to serve in the absence of one or more regular members when requested to do so by the mayor or city manager. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.

(d) Each case before the board of adjustment must be heard by at least 75 percent of the members.

(e) The board by majority vote shall adopt rules in accordance with any ordinance adopted under this subchapter and with the approval of the governing body. Meetings of the board are held at the call of the presiding officer and at other times as determined by the board. The presiding officer or acting presiding officer may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

(f) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records.

(g) The governing body of a Type A general-law municipality by ordinance may grant the members of the governing body the authority to act as a board of adjustment under this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 126, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 724, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 363, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 820 (H.B. 2497), Sec. 1, eff. September 1, 2019.

Sec. 211.009. AUTHORITY OF BOARD. (a) The board of adjustment may: