



Zoning:

A Primary Means to Protect Property Values and the Welfare of City Residents

Zoning is the division of a city into districts that permit specific land uses, such as residential, commercial, industrial, or agricultural. Zoning authority empowers a city to protect residential neighborhoods, promote economic development, and restrict hazardous land uses to appropriate areas of the city. It is designed to reduce

street congestion; promote safety from fires and other dangers; promote health; provide adequate light and air; prevent overcrowding of land; and facilitate the provision of adequate transportation, utilities, schools, parks, and other public services and facilities.

As with all issues that affect the residents of a city, the power to zone is best exercised by the level of government that is closest to the people. For example, a person from a small town in the Panhandle cannot possibly know what type of zoning is best for a large coastal city.

Chapter 211 of the Texas Local Government Code contains many procedural requirements that must be followed when zoning property, including strict notice and hearing provisions. The requirements ensure that residents of the city and affected neighborhoods have a strong voice anytime a zoning change is considered. In addition, Chapter 211 provides for the creation of a planning and zoning

Zoning Changes and Property Values

Because zoning is an essential power, statutes that require compensation when a property's value is affected by a zoning change are extremely rare in the United States. Rather, the U.S. Supreme Court and various state courts have set forth tests that are used to determine whether a government regulation requires compensation to a property owner.

In fact, the Supreme Court of Texas upheld a city's authority to make reasonable zoning changes. In that case, a city rezoned a residential area to provide for larger lot sizes. The rezoning was designed to create more open space, less traffic, greater setbacks, less noise, and similar results. The Court concluded that a city has a legitimate governmental interest in such results and in preserving the rate and character of community growth. The Court also found that no "taking" of the owner's property occurred, because the regulation did not impose a great economic impact on him.

Any legislative requirement that compensation should be paid when a zoning change reduces property value would create an untenable situation under which cities would either: 1) go bankrupt; or 2) be forced to give up the local power to zone property in the best interests of the community as a whole. And the reality is that most zoning changes are initiated by a property owner and increase the value of land.

commission to make recommendations on the adoption of initial regulations and to consider proposed amendments. Also, a board of adjustment may be appointed to hear requests for variances from the regulations.

Zoning authority is generally demanded by the residents of cities, and citizens, through neighborhood and preservation groups, who support it wholeheartedly.

In essence, zoning grants a city the authority to prohibit detrimental uses and to promote beneficial uses. For example, zoning authority allows a city to prohibit lead-smelting plants or junkyards from being located in or near residential areas, thereby protecting the quality of life and property values for residents. Without zoning authority, the property values in a city would certainly drop.

Appropriate Use of Manufactured and Modular Housing

The Texas Manufactured Housing Standards Act allows cities to regulate the location of "manufactured homes," which must meet federal construction regulations. The Texas Industrialized Housing Act allows cities to require that "modular homes," which meet the more stringent requirements of the International Residential Code, have an appearance and value similar to nearby homes. Many cities take advantage of these provisions to protect property values and the safety of residents, while at the same time offering viable housing alternatives for lower income families. "Manufactured and modular housing provides a solution to affordable housing in appropriate areas under consciously adopted, well-thought-out regulations," says David Gattis, deputy city manager in Benbrook. **The Texas Municipal League is not by any means opposed to this type of housing, but strongly advocates the authority of cities to retain local control over when, where, and how this type of dwelling is installed. ★**



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