

# TML LEGISLATIVE UPDATE



April 14, 2023  
Number 15

## **Density Bills Would Limit City Land Use Authority, Exempt Property Owners' Associations**

Several bills filed this session would impose one-size-fits-all land use regulations designed to increase residential density across the state. These regulations include mandating minimum lot sizes, eliminating certain height restrictions, and requiring cities to allow accessory dwelling units (ADUs) and HUD-manufactured homes in all residential zoning districts.

- **Residential Lot Size – [H.B. 3921 \(Goldman\)](#)/[S.B. 1787 \(Bettencourt\)](#)**

These bills would dictate that the minimum lot size for every city in a county over 300,000 cannot be more than 1,400 square feet, greater than 20' wide x 60' deep, or less than 31.1 homes per acre. They would also prohibit application of certain parking, setback, and building story regulations on small lots.

- **Accessory Dwelling Units – [H.B. 2789 \(Holland\)](#)/[S.B. 1412 \(Hughes\)](#)**

These bills would require that every city allow someone to build, sell, or rent an ADU on any lot in any residential zoning district or an unzoned lot. They would also prohibit a city from imposing certain size, parking, or external ADU feature requirements.

- **HUD-Manufactured Homes – H.B. 2970 (Guillen)**

This bill would require that every city allow someone to build, sell, or rent a HUD-manufactured home in any residential zoning district. The bill would also prohibit a city from imposing other regulations on HUD-manufactured homes that are more stringent than those applied to new single-family or duplex homes. A HUD-manufactured home must be valued equal to or greater than the median value of any single-family home within 500 feet of its location and meet compatible aesthetic standards in the same area.

Some Texas cities have adopted similar policies at the local level, and this is the appropriate level of government for these types of regulations to be considered. City leaders, unlike state legislators, are able to consult with local residents and community groups on a neighborhood level. Local land use regulations are adopted after public hearings and community participation. This local process is vital to develop narrowly tailored policies that balance property owners' rights with the needs and desires of the people these policies directly impact. These bills, however, would bypass this highly participatory local process.

And curiously, while these bills purportedly seek to increase the availability of affordable housing, they all specifically exempt property owners' associations (POAs) and deed restricted communities from these density requirements. These exemptions drastically limit the benefits these policies seek to provide by allowing certain parts of town to avoid complying with these regulations because of restrictions put in place, usually by developers, often before the lots are even sold to some homeowners.

Some have argued that the state cannot interfere with private deed restrictions and POA agreements. This is false. Numerous general state land use laws apply to deed-restricted or POA-regulated properties. State statutes expressly prohibits POAs from enforcing deed restrictions on several different topics. Examples include composting, irrigation measures, solar panels, roofing materials, swimming pool enclosures, security cameras, and perimeter fencing. As these examples demonstrate, there's nothing preventing the legislature from also applying the density provisions in the bills mentioned above from applying within POAs.

Zoning and density issues are a hot topic nationwide that Texas Legislature may need to grapple with eventually, just as Texas cities are already doing across the state. But bills exempting specific neighborhoods from density requirements while mandating density in other city neighborhoods is the wrong approach.

## **Bills on the Move**

### **Significant Committee Action**

**H.B. 5** (**Hunter**), creating a new economic development program for tax abatement agreements between the owner of a new investment project and a school district. Left pending after hearing in House Ways & Means.

**H.B. 276** (**Cortez**), prohibiting cities from regulating the growing of fruits and vegetables and the raising of six chickens or six rabbits, with exceptions. Voted from House Agricultural & Livestock.

**H.B. 1738** (**Leach**), limiting severance pay for city employees to 20 weeks if payment is from tax revenue. Left pending after hearing in House County Affairs.

**H.B. 2266** (**Leach**), allowing a state license holder to bring legal action against a city if city regulation results in adverse economic impact on the license holder. TML provided [written testimony](#). Voted from House Judiciary and Civil Jurisprudence.

**H.B. 2925** (**Martinez**), automatic civil service for cities over 25,000 in population with a paid fire department or police department. TML provided [written testimony](#). Voted from House County Affairs.

**H.B. 3169** (**Landgraf**), prohibiting one specific city in Texas from adopting or enforcing an ordinance that prohibits or limits short-term rentals. TML provided [written testimony](#). Left pending after hearing in House Urban Affairs.

**H.B. 4275** (**Rogers**), authorizing an ESD board to determine whether a city's service plan is sufficient to ensure that the city services for an annexed area will meet or exceed the ESD's level of service. TML provided [written testimony](#). Voted from House Land & Resource Management.

**S.B. 369** (**Campbell**), providing that any area not receiving full municipal services is automatically disannexed as of December 31, 2023, unless the city is not required to provide full municipal services under an annexation service plan or has entered a written agreement. TML provided [written testimony](#). Left pending after hearing in Senate Local Government.

**S.B. 494** (**Hughes**), modifying the platting shot clock. TML [testified](#) in committee. Left pending after hearing in Senate Local Government.

**S.B. 560** (**Springer**), eliminating the ability of a city and building permit applicant from agreeing to a deadline for granting or denying a permit beyond the 45-day building permit shot clock. Left pending after hearing in Senate Local Government.

**S.B. 561** (**Sparks**), prohibiting a city from issuing debt to purchase or lease tangible personal property if the expected useful life of the property ends before the maturity date of the public security. TML provided [written testimony](#). Left pending after hearing in Senate Local Government.

**S.B. 1252** (**Bettencourt**), requiring certain language indicating a tax increase on ballot propositions. Voted from Senate Local Government.

**S.B. 1810 (Sparks)**, prohibiting a city council from authorizing an anticipation note or certificate of obligation to pay a contractual obligation under certain circumstances, including if a bond proposition on the same project failed to be approved during the preceding five years. Left pending after hearing in Senate Local Government.

**S.B. 2035 (Bettencourt)**, prohibiting a city council from authorizing an anticipation note or certificate of obligation to pay a contractual obligation under certain circumstances, including if a bond proposition on the same project failed to be approved during the preceding five years. Left pending after hearing in Senate Local Government.

**S.B. 2371 (Campbell)**, requiring certain language indicating a tax increase on ballot propositions to approve city-issued bonds. Left pending after a hearing in Senate Local Government.

### **Significant Floor Action**

**H.B. 2** (Meyer), imposing a five percent appraisal cap on all property. Passed to third reading.

**H.B. 14 (Cody Harris)**, allowing for third party review of plants, plans, permits, and inspections under certain circumstances. Passed the House.

**H.B. 866 (Oliverson)**, modifying the platting shot clock. Passed the House.

**H.B. 1526 (Cody Harris)**, limiting parkland dedication requirements and fees in lieu of dedication for cities over 800,000 in population. TML provided [written testimony](#). Passed the House.

**H.B. 1750 (Burns)**, limiting city regulation of agricultural operations within city limits and ETJ. TML provided [written testimony](#). Passed the House.

**H.B. 2308 (Ashby)**, limiting city regulation of agricultural operations within city limits and ETJ. Passed the House.

**H.B. 2970 (Guillen)**, allowing HUD-code homes in all residential zones under certain circumstances. TML provided [written testimony](#). Passed the House.

**H.J.R. 1 (Meyer)**, imposing a five percent appraisal cap. Passed to third reading in the House.

**S.B. 612 (Johnson)**, allows for an election to reauthorize street maintenance sales tax for a period of eight or ten years instead of four years under certain circumstances. Passed the Senate.

**S.B. 767 (Parker)**, requires a fee schedule of new and increased fees to be on the city's budget cover page and for cities over 30,000 to establish and maintain an email notification service regarding new or increase fees. Passed the Senate.

## **SLFRF Project and Expenditure Report Due April 30**

The State and Local Fiscal Recovery Funds (SLFRF) Project and Expenditure Report is due for SLFRF receipts on April 30, 2023.

The U.S. Department of Treasury has provided the following resources for cities:

- [SLFRF Self Service](#): includes questions on reporting, technical issues, and eligible uses of funds.
- [Compliance and Reporting Guidance](#)
- [Project and Expenditure User Guide](#)
- Simplified [video](#) on how to report for smaller communities.
- Contact the SLFRF help center by email at [SLFRF@treasury.gov](mailto:SLFRF@treasury.gov) or by phone at (844) 529-9527. When reaching out to the help center, it is encouraged to include the city's name, state, unique entity identifier (UEI) number, and federal tax identification number.

The *National League of Cities* has provided [information](#) on best practices, and provided a step-by-step video and PowerPoint on the Treasury portal.

## **Updated Version of Dual Office Holding & Incompatibility Laws Made Easy Now Available**

TML recently posted an updated version of our [Dual Office Holding & Incompatibility Laws Made Easy](#) publication. The updated publication is geared towards city officials and includes recent attorney general opinions and changes in law.

### **City Officials Testify**

When the legislature is in session, nothing compares to the effectiveness of city officials testifying at the Capitol. City officials who take the time to travel to Austin to speak out on important city issues should be applauded by us all. The League extends its thanks to all those who have vigilantly represented cities during this session. If we missed your testimony let us know by an email to [alyssa@tml.org](mailto:alyssa@tml.org), and we'll recognize you in next week's edition.

- Thomas Blauvelt, Mayor, Village of Volente
- Sereniah Breland, City Manager, City of Pflugerville
- Sean Brown, Councilmember, Village of Volente
- Andrew Fortune, Director of Policy & Governmental Affairs, City of Plano
- Rick Guerra, Mayor, City of San Benito
- Chris Hillman, City Manager, City of Irving

- Cliff Keheley, City Manager, City of Mesquite
- Daniel N. Lopez, Commissioner, City of Harlingen
- Tim McMillan, Councilmember, Village of Volente
- Shannon Miller, Historic Preservation Director, City of San Antonio
- John Muns, Mayor, City of Plano
- Gerald Roznovsky, Mayor, City of Lake Jackson
- Marco Sanchez, Mayor, Town of Combes
- Norma Sepulveda, Mayor, City of Harlingen
- Charlie Skaggs, Captain, City of McKinney Fire Department
- Michael Vargas, Assistant Director of Public Affairs, City of Pharr
- Javier Villalobos, Mayor, City of McAllen

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