

BILL ANALYSIS

Senate Research Center

H.B. 2212
By: Mowery (Madla)
Intergovernmental Relations
5/23/2003
Committee Report (Amended)

DIGEST AND PURPOSE

Current law prohibits a municipality that annexes land from changing the land use of the area as it existed prior to annexation. No similar provision exists that applies to newly-incorporated areas. H.B. 2212 extends to newly-incorporated areas the same protections afforded to newly-annexed areas.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 211, Local Government Code, by adding Section 211.016, as follows:

Sec. 211.016. CONTINUATION OF LAND USE IN NEWLY INCORPORATED AREAS. (a) Prohibits a municipality incorporated after January 1, 2003, from prohibiting a person from using land in certain ways.

- (b) Provides that for purposes of this section, a completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant.
- (c) Provides that this section does not prohibit a municipality from imposing certain regulations or ordinances.
- (d) Provides that a municipal ordinance or rule in conflict with this section is void.
- (e) Provides that this section does not affect the application of a law prescribing a buffer zone.

SECTION 2. Effective date: upon passage or September 1, 2003.

LIST OF COMMITTEE AMENDMENTS:

Amends H.B. 2212 by striking everything below the relating to clause and substituting the following:

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 211, Local Government Code, is amended by adding Section 211.016 to read as follows:

Sec. 211.016. CONTINUATION OF LAND USE IN NEWLY INCORPORATED AREAS. (a) A municipality incorporated after September 1, 2003, may not prohibit a person from:

(1) continuing to use land in the area in the manner in which the land was being used on the date of incorporation if the land use was legal at that time; or

(2) beginning to use land in the area in the manner that was planned for the land before the 90th day before the effective date of the incorporation if:

(A) one or more license, certificates, permits, approvals, or other forms of authorization by governmental entity were required by law for the planned land use; and

(B) a completed application for the initial authorization was filed with the governmental entity before the date of incorporation.

(b) For purpose of this section, a completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant.

(c) This section does not prohibit a municipality from imposing:

(1) a regulation relating to the location of sexually oriented businesses, as that term is defined by Section 243.002;

(2) a municipal ordinance, regulation, or other requirement affecting colonias, as that term is defined by Section 2306.581, Government Code;

(3) a regulation relating to preventing imminent destruction of property or injury to persons;

(4) a regulation relating to public nuisances;

(5) a regulation relating to flood control;

(6) a regulation relating to the storage and use of hazardous substance;

(7) a regulation relating to the sale and use of fireworks; or

(8) a regulation relating to the discharge of firearms.

(d) A municipal ordinance or rule in conflict with this section is void.

SECTION 2. Effective date: September 1, 2003.