

By: Mowery

H.B. No. 2212

A BILL TO BE ENTITLED

AN ACT

relating to the continuation of legal land use in newly incorporated areas.

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 January 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, provided that the person may not change the manner in which the land is used without obtaining municipal approval; 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 licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and

(B) a completed application for the appropriate initial authorization was filed with the governmental entity before the date of incorporation and the authorization is still pending before the governmental entity on the effective date of the

1 incorporation or the person receives the appropriate initial
2 authorization by that date.

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

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

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

11 (2) a municipal ordinance, regulation, or other
12 requirement affecting colonias, as that term is defined by Section
13 2306.581, Government Code;

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

16 (4) a regulation relating to public nuisances;

17 (5) a regulation relating to flood control;

18 (6) a regulation relating to the storage and use of
19 hazardous substances;

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

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

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

26 (e) This section does not affect the application of a law
27 prescribing a buffer zone.

1 SECTION 2. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2003.