

By: Gattis

H.B. No. 4144

Substitute the following for H.B. No. 4144:

By: Homer

C.S.H.B. No. 4144

A BILL TO BE ENTITLED

AN ACT

relating to a municipality's comprehensive development.

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

SECTION 1. Section 211.004, Local Government Code, is amended to read as follows:

Sec. 211.004. COMPLIANCE WITH COMPREHENSIVE PLAN.

~~[(a)]~~ Zoning regulations must be adopted in accordance with a comprehensive plan developed under Subchapter C 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.

SECTION 2. Chapter 211, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. COMPREHENSIVE PLAN FOR LAND USE

Sec. 211.101. DEFINITIONS. In this subchapter:

(1) "Land use" means one or more uses of land designated for a tract or an area under a comprehensive plan for

1 land use or a current or future land use plan or map.

2 (2) "Landowner" means the current owner of record, but
3 also includes a predecessor in interest.

4 (3) "Tract" means all or a majority of the metes and
5 bounds of a tract.

6 Sec. 211.102. ADOPTION, AMENDMENT, AND REVIEW OF
7 COMPREHENSIVE PLAN FOR LAND USE. (a) The governing body of a
8 municipality shall adopt by resolution or ordinance a comprehensive
9 plan for land use that details current and future land uses and
10 serves as a basis for making planning or zoning decisions under this
11 chapter.

12 (b) The governing body may amend the comprehensive plan for
13 land use from time to time in accordance with this subchapter.

14 (c) The governing body of a municipality shall review its
15 comprehensive plan for land use not less than every three years.

16 Sec. 211.103. INCORPORATION OF LAND USE ASSUMPTIONS. Land
17 use assumptions adopted in a manner that complies with Subchapter
18 C, Chapter 395, may be incorporated in a comprehensive plan for land
19 use.

20 Sec. 211.104. NOTATION ON MAP OF COMPREHENSIVE PLAN. A map
21 of a comprehensive plan illustrating future land use must contain
22 the following clearly visible statement: "A comprehensive plan
23 does not constitute zoning regulations or establish zoning district
24 boundaries."

25 Sec. 211.105. ADVISORY COMMITTEE FOR ADOPTION, AMENDMENT,
26 AND REVIEW OF COMPREHENSIVE PLAN FOR LAND USE. (a) The governing
27 body of a municipality shall appoint an advisory committee to make

1 recommendations regarding the adoption, amendment, or review of its
2 comprehensive plan for land use.

3 (b) The advisory committee is composed of at least five
4 members appointed by a majority vote of the governing body. At
5 least 40 percent of the membership of the advisory committee must be
6 representatives of the real estate, development, or building
7 industries who are not employees or officials of a political
8 subdivision or governmental entity.

9 (c) The meetings of the advisory committee shall be open to
10 the public and conducted in accordance with Chapter 551, Government
11 Code.

12 (d) The municipality shall make available to the advisory
13 committee professional reports concerning municipal planning and
14 land uses.

15 (e) In making recommendations regarding or while reviewing
16 a comprehensive plan for land use, the advisory committee may
17 receive information from the municipality, any interested
18 landowner, or the general public.

19 Sec. 211.106. ADVISORY COMMITTEE REPORT. (a) The advisory
20 committee shall issue a written report to the governing body of the
21 municipality detailing its findings and recommendations as to the
22 adoption, amendment, or review of the comprehensive plan for land
23 use.

24 (b) The advisory committee's written report shall be made
25 available to the municipality, each interested landowner, and the
26 general public as soon as practicable after its receipt by the
27 governing body.

1 Sec. 211.107. GOVERNING BODY ACTION ON ADVISORY COMMITTEE
2 REPORT; PUBLIC HEARING. (a) The governing body of the municipality
3 may not adopt or amend the comprehensive plan for land use until the
4 governing body conducts at least one public hearing on the
5 recommendations made by the advisory committee.

6 (b) The governing body of the municipality may not amend or
7 adopt the comprehensive plan for land use before the 30th day after
8 the date the governing body receives the advisory committee's
9 report, unless each of the landowners affected by the plan or
10 amendment consents to the plan or amendment.

11 (c) At the public hearing, a landowner may object to any
12 land use applied to the landowner's tract by the comprehensive plan
13 for land use.

14 Sec. 211.108. PETITION TO SPECIAL COMMISSIONERS BY AFFECTED
15 LANDOWNER. (a) A landowner may petition the commissioners court of
16 the county to appoint three disinterested persons who reside in the
17 municipality and county as special commissioners to assess the
18 reasonableness of a land use applied to the landowner's tract under
19 the comprehensive plan if:

20 (1) the landowner objects in writing to the land use;
21 and

22 (2) the landowner has been unable to sell or develop
23 the tract in conformity with the land use for a period of three
24 years.

25 (b) The special commissioners shall swear to assess fairly
26 and impartially the reasonableness of the land use applied to the
27 tract by the comprehensive plan for land use. The special

1 commissioners shall conduct their proceedings and shall have the
2 same powers as special commissioners under Subchapter B, Chapter
3 21, Property Code.

4 (c) A special commissioner:

5 (1) must be a resident of the municipality and county
6 in which the tract is located;

7 (2) must be impartial and have no conflict of interest
8 in the matter that is the subject of the petition;

9 (3) may not be connected, employed, or affiliated with
10 real estate development, real estate sales, or the construction
11 industry or reside in a household with a person who is connected,
12 employed, or affiliated with real estate development, real estate
13 sales, or the construction industry; and

14 (4) may not be a municipal official or employee or
15 serve on a municipal board, or reside in a household with a person
16 who is a municipal official or employee or serves on a municipal
17 board.

18 (d) The commissioners court may appoint a replacement for
19 any special commissioner who fails or refuses to serve.

20 Sec. 211.109. AMENDMENT OF COMPREHENSIVE PLAN FOR LAND USE
21 IN RESPONSE TO SPECIAL COMMISSIONERS' RECOMMENDATION. If a
22 majority of the special commissioners determines that a land use
23 applied to a landowner's tract by the comprehensive plan for land
24 use is unreasonable, a majority of the special commissioners may
25 determine a reasonable land use for the tract and order that the
26 comprehensive plan for land use be amended to reflect that use.

27 Sec. 211.110. PETITION FOR ENFORCEMENT OF SPECIAL

1 COMMISSIONERS' ORDER. (a) If the governing body of the municipality
2 refuses to amend the comprehensive plan for land use in accordance
3 with a special commissioners' order, the landowner may file suit in
4 the district court in the county where the tract is located to
5 enforce the special commissioners' order.

6 (b) The special commissioners' order may be enforced by
7 mandamus or declaratory or injunctive relief.

8 (c) A prevailing landowner may recover reasonable
9 attorney's fees, expert witness fees, and costs of court.

10 SECTION 3. Section 213.002, Local Government Code, is
11 amended to read as follows:

12 Sec. 213.002. COMPREHENSIVE PLAN. (a) The governing body
13 of a municipality may adopt a comprehensive plan for the long-range
14 development of the municipality. A municipality may define the
15 content and design of a comprehensive plan.

16 (b) A comprehensive plan under this chapter may:

17 (1) include [~~but is not limited to~~] provisions on
18 [~~land use~~] transportation[~~7~~] and public facilities;

19 (2) consist of a single plan or a coordinated set of
20 plans organized by subject and geographic area; and

21 (3) incorporate the comprehensive plan for land use
22 required by Subchapter C, Chapter 211 [~~be used to coordinate and~~
23 ~~guide the establishment of development regulations~~].

24 [~~(c) A municipality may define, in its charter or by~~
25 ~~ordinance, the relationship between a comprehensive plan and~~
26 ~~development regulations and may provide standards for determining~~
27 ~~the consistency required between a plan and development~~

1 ~~regulations.~~

2 ~~[(d) Land use assumptions adopted in a manner that complies~~
3 ~~with Subchapter C, Chapter 395, may be incorporated in a~~
4 ~~comprehensive plan.]~~

5 SECTION 4. Section 213.005, Local Government Code, is
6 repealed.

7 SECTION 5. A landowner affected by a land use under a
8 municipality's comprehensive plan for land use may petition a
9 commissioners court of a county to appoint special commissioners
10 under Section 211.106, Local Government Code, as added by this Act,
11 on or after September 1, 2009, regardless of whether the land use
12 provisions are incorporated in a comprehensive plan that was
13 adopted before or after that date and regardless of whether the land
14 use provisions are incorporated in a comprehensive plan that was
15 adopted under Chapter 213, Local Government Code, as it existed
16 before the effective date of this Act, or under Subchapter C,
17 Chapter 211, Local Government Code, as added by this Act.

18 SECTION 6. This Act takes effect September 1, 2009.