

By: Guillen

H.B. No. 3701

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 for land use developed under Subchapter D, including a comprehensive plan or part of a plan that is associated with public infrastructure or mass transit, 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.

(b) A comprehensive plan for land use developed under Subchapter D must allow the sale or development of property in accordance with the plan before the fifth anniversary of the date the plan is adopted or amended.

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

3 SUBCHAPTER D. COMPREHENSIVE PLAN FOR LAND USE

4 Sec. 211.101. DEFINITIONS. In this subchapter:

5 (1) "Land use" means one or more uses of land
6 designated for a tract or an area under a comprehensive plan for
7 land use or a current or future land use plan or map.

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

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

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

18 (b) In this subchapter, a comprehensive plan for land use
19 includes a comprehensive plan or part of a plan that is associated
20 with public infrastructure or mass transit.

21 (c) The governing body of a municipality may amend the
22 comprehensive plan for land use from time to time in accordance with
23 this subchapter.

24 (d) The governing body of a municipality shall review its
25 comprehensive plan for land use not less than every five years.

26 Sec. 211.103. INCORPORATION OF LAND USE ASSUMPTIONS. Land
27 use assumptions adopted in a manner that complies with Subchapter

1 C, Chapter 395, may be incorporated in a comprehensive plan for land
2 use.

3 Sec. 211.104. NOTATION ON MAP OF COMPREHENSIVE PLAN. A map
4 of a comprehensive plan for land use illustrating future land use
5 must contain the following clearly visible statement: "A
6 comprehensive plan does not constitute zoning regulations or
7 establish zoning district boundaries."

8 Sec. 211.105. ADVISORY COMMITTEE FOR ADOPTION, AMENDMENT,
9 AND REVIEW OF COMPREHENSIVE PLAN FOR LAND USE. (a) The governing
10 body of a municipality shall appoint an advisory committee to make
11 recommendations regarding the adoption, amendment, or review of its
12 comprehensive plan for land use.

13 (b) The advisory committee is composed of at least five
14 members appointed by a majority vote of the governing body. At
15 least 40 percent of the membership of the advisory committee must be
16 representatives of the real estate, development, or building
17 industries who are not employees or officials of a political
18 subdivision or governmental entity.

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

22 (d) The municipality shall make available to the advisory
23 committee professional reports concerning municipal planning and
24 land uses.

25 (e) In making recommendations regarding or while reviewing
26 a comprehensive plan for land use, the advisory committee may
27 receive information from the municipality, any interested

1 landowner, or the general public.

2 Sec. 211.106. ADVISORY COMMITTEE REPORT. (a) The advisory
3 committee shall issue a written report to the governing body of the
4 municipality detailing its findings and recommendations as to the
5 adoption, amendment, or review of the comprehensive plan for land
6 use.

7 (b) The advisory committee's written report shall be made
8 available to the municipality, each interested landowner, and the
9 general public as soon as practicable after its receipt by the
10 governing body of the municipality.

11 Sec. 211.107. GOVERNING BODY ACTION ON ADVISORY COMMITTEE
12 REPORT; PUBLIC HEARING. (a) Except as provided by Section 211.108,
13 the governing body of the municipality may not adopt or amend the
14 comprehensive plan for land use until the governing body conducts
15 at least one public hearing on the recommendations made by the
16 advisory committee.

17 (b) Except as provided by Section 211.108, the governing
18 body of the municipality may not adopt or amend the comprehensive
19 plan for land use before the 30th day after the date the governing
20 body receives the advisory committee's report, unless each of the
21 landowners affected by the plan or amendment consents to the plan or
22 amendment.

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

26 Sec. 211.108. PETITION TO GOVERNING BODY BY AFFECTED
27 LANDOWNER FOR LESS INTENSE USE. (a) If a landowner's tract has not

1 been sold or developed in conformity with a comprehensive plan for
2 land use within five years after adoption or amendment of the plan,
3 a landowner may petition the governing body of the municipality to
4 designate the landowner's tract on the comprehensive plan for land
5 use for a less intense use or uses chosen by the landowner.

6 (b) The governing body of the municipality shall amend its
7 comprehensive plan for land use in conformity with a landowner's
8 petition under Subsection (a) not later than the 60th day after the
9 date the landowner files the petition.

10 (c) For purposes of this section, "less intense use" means a
11 lower use on the following descending scale:

- 12 (1) an industrial use;
- 13 (2) a retail use;
- 14 (3) an office use;
- 15 (4) a multifamily residential use; and
- 16 (5) a single-family residential use.

17 Sec. 211.109. ENFORCEMENT OF LANDOWNER'S PETITION. (a) If
18 the governing body of the municipality fails or refuses to amend the
19 comprehensive plan for land use in accordance with a landowner's
20 petition under Section 211.108, the landowner may file suit in the
21 district court in the county where the tract is located to enforce
22 the landowner's rights under that section.

23 (b) The landowner's rights under Section 211.108 may be
24 enforced by mandamus or declaratory or injunctive relief.

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

27 SECTION 3. Section 213.002(b), Local Government Code, is

1 amended to read as follows:

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

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

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

7 (3) incorporate the comprehensive plan for land use
8 required by Subchapter D, Chapter 211 [~~be used to coordinate and~~
9 ~~guide the establishment of development regulations~~].

10 SECTION 4. Sections 213.002(c) and (d) and 213.005, Local
11 Government Code, are repealed.

12 SECTION 5. A landowner affected by a land use under a
13 municipality's comprehensive plan for land use may file a petition
14 under Section 211.108, Local Government Code, as added by this Act,
15 on or after September 1, 2015, regardless of whether the land use
16 provisions are incorporated in a comprehensive plan that was
17 adopted before or after that date and regardless of whether the land
18 use provisions are incorporated in a comprehensive plan that was
19 adopted under Chapter 213, Local Government Code, as it existed
20 before the effective date of this Act, or under Subchapter D,
21 Chapter 211, Local Government Code, as added by this Act.

22 SECTION 6. This Act takes effect September 1, 2015.