LOCAL GOVERNMENT CODE

TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES, AND RELATED ACTIVITIES

SUBTITLE C. REGULATORY AUTHORITY APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 244. LOCATION OF CERTAIN FACILITIES AND SHELTERS

SUBCHAPTER A. CORRECTIONAL OR REHABILITATION FACILITY

Sec. 244.001. DEFINITIONS. In this subchapter:

(1) "Correctional or rehabilitation facility" means a probation or parole office or a residential facility that:

(A) is operated by an agency of the state, a political subdivision of the state, or a private vendor operating under a contract with an agency of the state or a political subdivision of the state; and

(B) houses persons convicted of misdemeanors or felonies or children found to have engaged in delinquent conduct, regardless of whether the persons are housed in the residential facility:

(i) while serving a sentence of confinement following conviction of an offense;

(ii) as a condition of probation, parole, or mandatory supervision; or

(iii) under a court order for out-of-home placement under Title 3, Family Code, other than in a foster home operated under a contract with the juvenile board of the county in which the foster home is located or under a contract with the Texas Juvenile Justice Department.

(2) "Residential area" means:

(A) an area designated as a residential zoning district by a governing ordinance or code or an area in which the principal permitted land use is for private residences;

(B) a subdivision for which a plat is recorded in the real property records of the county and that contains or is bounded by public streets or parts of public streets that are abutted by residential property occupying at least 75 percent of

the front footage along the block face; or

(C) a subdivision for which a plat is recorded in the real property records of the county and a majority of the lots of which are subject to deed restrictions limiting the lots to residential use.

Added by Acts 1997, 75th Leg., ch. 1086, Sec. 46, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1253, Sec. 4, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 139, eff. September 1, 2015.

Sec. 244.002. NOTICE OF PROPOSED LOCATION. (a) An agency of the state, a political subdivision of the state, or a private vendor operating under a contract with an agency or political subdivision of the state that proposes to construct or operate a correctional or rehabilitation facility within 1,000 feet of a residential area, a primary or secondary school, property designated as a public park or public recreation area by the state or a political subdivision of the state, or a church, synagogue, or other place of worship shall:

(1) provide written notice to:

(A) the commissioners court of any county with an unincorporated area that includes all or part of the land within 1,000 feet of the proposed correctional or rehabilitation facility; and

(B) the governing body of any municipality that includes within its boundaries all or part of the land within 1,000 feet of the proposed correctional or rehabilitation facility; and

(2) post the notice required by Subsection (d).

(b) An entity required to give notice under Subsection (a) shall give notice not later than the 60th day before the date the entity begins construction or operation of the correctional or rehabilitation facility, whichever date is earlier. The entity shall include in the notice:

(1) a statement of the entity's intent to construct or operate a correctional or rehabilitation facility in an area

described by Subsection (a);

(2) a description of the proposed location of the facility; and

(3) a statement that this subchapter governs the procedure for notice of and consent to the facility.

(c) For purposes of this subchapter, distance is measured along the shortest straight line between the nearest property line of the correctional or rehabilitation facility and the nearest property line of the residential area, school, park, recreation area, or place of worship, as appropriate.

(d) An entity described by Subsection (a) shall prominently post an outdoor sign at the proposed location of the correctional or rehabilitation facility stating that a correctional or rehabilitation facility is intended to be located on the premises and providing the name and business address of the entity. The sign must be at least 24 by 36 inches in size and must be written in lettering at least two inches in size. The municipality or county in which the correctional or rehabilitation facility is to be located may require the sign to be both in English and a language other than English if it is likely that a substantial number of the residents in the area speak a language other than English as their familiar language.

Added by Acts 1997, 75th Leg., ch. 1086, Sec. 46, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1109, Sec. 4, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1253, Sec. 5, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 119, Sec. 1, eff. Sept. 1, 2003.

Sec. 244.003. PROXIMITY OF CORRECTIONAL OR REHABILITATION FACILITY. (a) Unless local consent is denied under Section 244.004, an agency of the state, a political subdivision of the state, or a private vendor operating under a contract with an agency or political subdivision of the state may operate a correctional or rehabilitation facility within 1,000 feet of a residential area, a primary or secondary school, property designated as a public park or public recreation area by the state or a political subdivision of the state, or a church, synagogue, or other place of worship.

(b) The governing body of a church, synagogue, or other

place of worship may waive the distance requirements of Section 244.002 between a correctional or rehabilitation facility and the place of worship by filing an acknowledged written statement of the waiver in the deed records of the county in which the facility is located.

Added by Acts 1997, 75th Leg., ch. 1086, Sec. 46, eff. Sept. 1, 1997.

Sec. 244.004. LOCAL CONSENT. (a) Local consent to the operation of a correctional or rehabilitation facility at a location within 1,000 feet of a residential area, a primary or secondary school, property designated as a park or public recreation area by the state or a political subdivision of the state, or a church, synagogue, or other place of worship is granted unless, not later than the 60th day after the date on which notice is received by a commissioners court or governing body of a municipality under Section 244.002(a), the commissioners court or governing body, as appropriate, determines by resolution after a public hearing that the operation of a correctional or rehabilitation facility at the proposed location is not in the best interest of the county or municipality, as appropriate.

(b) The public hearing requirement established under Subsection (a) may be met by a public meeting held under Section 508.119 or 509.010, Government Code, if:

(1) the Texas Department of Criminal Justice receives written approval from the commissioners court of a county or governing body of a municipality allowing the public meeting to satisfy the public hearing requirement of this section; and

(2) during the public meeting, a determination is made as to whether operating the facility in the proposed location would be in the best interest of the county or municipality.

(c) If the public hearing requirement established under Subsection (a) is met in the manner described by Subsection (b), the commissioners court of a county or governing body of a municipality may adopt a resolution under Subsection (a) without holding a public hearing under that subsection. The commissioners court or governing body, as appropriate, retains the discretion to hold a

separate public hearing under Subsection (a) as the commissioners court or governing body considers necessary or appropriate.

(d) A commissioners court or governing body of a municipality may rescind a resolution adopted under Subsection (a). Added by Acts 1997, 75th Leg., ch. 1086, Sec. 46, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 119, Sec. 2, eff. Sept. 1, 2003.

Sec. 244.006. EXEMPTIONS. This subchapter does not apply to the operation of a correctional or rehabilitation facility at a location subject to this subchapter if:

(1) on September 1, 1997, the correctional or rehabilitation facility was in operation, under construction, under contract for operation or construction, or planned for construction at the location on land owned or leased by an agency or political subdivision of the state and designated for use as a correctional or rehabilitation facility;

(2) the correctional or rehabilitation facility was in operation or under construction before the establishment of a residential area the location of which makes the facility subject to this subchapter;

(3) the correctional or rehabilitation facility is a temporary correctional or rehabilitation facility that will be operated at the location for less than one year;

(4) the correctional or rehabilitation facility is required to obtain a special use permit or a conditional use permit from the municipality in which the facility is located before beginning operation;

(5) the correctional or rehabilitation facility is an expansion of a facility operated by the correctional institutions division of the Texas Department of Criminal Justice for the imprisonment of individuals convicted of felonies other than state jail felonies or by the Texas Juvenile Justice Department;

(6) the correctional or rehabilitation facility is a county jail or a pre-adjudication or post-adjudication juvenile detention facility operated by a county or county juvenile board;

(7) the facility is:

(A) a juvenile probation office located at, and operated in conjunction with, a juvenile justice alternative education center; and

(B) used exclusively by students attending the juvenile justice alternative education center;

(8) the facility is a public or private institution of higher education or vocational training to which admission is open to the general public;

(9) the facility is operated primarily as a treatment facility for juveniles under contract with the Health and Human Services Commission, the Department of State Health Services, a local mental health authority, or a local intellectual and developmental disability authority;

(10) the facility is operated as a juvenile justice alternative education program;

(11) the facility:

(A) is not operated primarily as a correctional or rehabilitation facility; and

(B) only houses persons or children described by Section 244.001(1)(B) for a purpose related to treatment or education; or

(12) the facility is a probation or parole office located in a commercial use area.

Added by Acts 1997, 75th Leg., ch. 1086, Sec. 46, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1253, Sec. 6, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.129, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 140, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 10.01, eff. September 1, 2023.

Sec. 244.007. CONFLICT WITH OTHER LAW. To the extent of any conflict between this subchapter and Sections 508.119 and 509.010, Government Code, this subchapter prevails.

Added by Acts 1997, 75th Leg., ch. 1086, Sec. 46, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1253, Sec. 6, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 119, Sec. 3, eff. Sept. 1, 2003.

SUBCHAPTER B. SHELTER FOR HOMELESS INDIVIDUALS

Sec. 244.021. DEFINITION. In this subchapter, "shelter for homeless individuals" means a supervised private facility that provides temporary living accommodations for homeless individuals.
Added by Acts 1999, 76th Leg., ch. 1253, Sec. 3, eff. Sept. 1, 1999.

Sec. 244.022. APPLICATION OF SUBCHAPTER. This subchapter applies only to construction or operation of a shelter for homeless individuals that is located or proposed to be located within the boundaries of a municipality with a population of 1.6 million or more.
Added by Acts 1999, 76th Leg., ch. 1253, Sec. 3, eff. Sept. 1, 1999.

Sec. 244.023. RESTRICTION. Unless municipal consent is granted under Section 244.025, a person may not construct or operate a shelter for homeless individuals within 1,000 feet of another shelter for homeless individuals or a primary or secondary school.
Added by Acts 1999, 76th Leg., ch. 1253, Sec. 3, eff. Sept. 1, 1999.

Sec. 244.024. NOTICE. (a) A person who intends to construct or operate a shelter for homeless individuals subject to Section 244.023 shall:

(1) post notice of the proposed location of the shelter at that location; and

(2) provide notice of the proposed location of the shelter to the governing body of the municipality within the boundaries of which the shelter is proposed to be located.

(b) The person shall post and provide the notice required by Subsection (a) before the 61st day before the date the person begins construction or operation of the shelter for homeless individuals, whichever date is earlier.

Added by Acts 1999, 76th Leg., ch. 1253, Sec. 3, eff. Sept. 1, 1999.

Sec. 244.025. MUNICIPAL CONSENT. (a) Municipal consent to the construction or operation of a shelter for homeless individuals subject to Section 244.023 is considered granted unless, before the 61st day after the date notice is received by the governing body of the municipality under Section 244.024(a)(2), the governing body determines by resolution after a public hearing that the construction or operation of a shelter at the proposed location is not in the best interest of the municipality.

(b) The governing body of the municipality may rescind a resolution adopted under Subsection (a).

Added by Acts 1999, 76th Leg., ch. 1253, Sec. 3, eff. Sept. 1, 1999.

Sec. 244.026. DISTANCE MEASUREMENT. For purposes of this subchapter, distance is measured along the shortest straight line between the nearest property line of the shelter for homeless individuals and the nearest property line of another shelter for homeless individuals or a primary or secondary school, as appropriate.

Added by Acts 1999, 76th Leg., ch. 1253, Sec. 3, eff. Sept. 1, 1999.