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 250. MISCELLANEOUS REGULATORY AUTHORITY

Sec. 250.001. RESTRICTION ON REGULATION OF SPORT SHOOTING RANGES. (a) In this section:

(1) "Association" or "private club" means an association or private club that operates a sport shooting range at which not fewer than 20 different individuals discharge firearms each calendar year.

(2) "Sport shooting range" means a business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting.

(b) A governmental official may not seek a civil or criminal penalty against a sport shooting range or its owner or operator based on the violation of a municipal or county ordinance, order, or rule regulating noise:

(1) if the sport shooting range is in compliance with the applicable ordinance, order, or rule; or

(2) if no applicable noise ordinance, order, or rule exists.

(c) A person may not bring a nuisance or similar cause of action against a sport shooting range based on noise:

(1) if the sport shooting range is in compliance with all applicable municipal and county ordinances, orders, and rules regulating noise; or

(2) if no applicable noise ordinance, order, or rule exists.

Added by Acts 1991, 72nd Leg., ch. 145, Sec. 1, eff. Aug. 26, 1991.

Amended by Acts 2001, 77th Leg., ch. 1050, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 624 (S.B. 766), Sec. 7, eff. September 1, 2011.

Sec. 250.002. REGULATION OF AMATEUR RADIO ANTENNAS. (a) A municipality or county may not enact or enforce an ordinance or order that does not comply with the ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101 FCC 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 C.F.R. Part 97.

(b) If a municipality or county adopts an ordinance or order involving the placement, screening, or height of an amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance or order must:

(1) reasonably accommodate amateur communications; and

(2) represent the minimal practicable regulation to accomplish the municipality's or county's legitimate purpose.

(c) This section does not prohibit a municipality or county from taking any action to protect or preserve a historic, historical, or architectural district that is established by the municipality or county or under state or federal law.

Added by Acts 1999, 76th Leg., ch. 68, Sec. 1, eff. May 10, 1999.

Sec. 250.003. PERSONAL LIABILITY OF NONOWNERS. (a) An individual who is an employee of the owner of real property for which a citation for a violation of a county or municipal rule or ordinance is issued, or of a company that manages the property on behalf of the property owner, is not personally liable for criminal or civil penalties resulting from the violation if, not later than the fifth calendar day after the date the citation is issued, the individual provides the property owner's name, current street address, and telephone number to the enforcement official who issues the citation or the official's superior.

(b) This section applies only to a citation for a violation connected with real property for which a political subdivision has issued a certificate of occupancy or a certificate of completion with respect to the construction of improvements on the

property. This section does not prohibit a municipality or county from issuing to an employee or contractor of the property owner or management company a citation relating to the construction or development of the property.

Added by Acts 2005, 79th Leg., Ch. 1344 (S.B. 399), Sec. 2, eff. June 18, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 841 (S.B. 1945), Sec. 1, eff. January 1, 2010.

Sec. 250.004. AGENT FOR SERVICE; NOTICE OF CITATION. (a) The employee of the owner or management company to whom a citation described by Section 250.003 is issued is considered the owner's agent for accepting service of the citation for the violation of the county or municipal rule or ordinance. Service of the citation on the agent has the same legal effect as service on the owner for the purpose of fines against the owner or the property, including a warrant or capias.

(b) The county or municipality issuing the citation shall mail notice of the citation to the property owner at the address most recently provided to the county or municipality by the property owner or by the employee of the owner or management company under Section 250.003(a). This subsection does not require a county or municipality to mail notice using a service that provides delivery confirmation.

Added by Acts 2005, 79th Leg., Ch. 1344 (S.B. 399), Sec. 2, eff. June 18, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 841 (S.B. 1945), Sec. 2, eff. January 1, 2010.

Sec. 250.005. OTHER REMEDIES UNAFFECTED. Sections 250.003 and 250.004 do not limit the availability of remedies against a real property owner or real property otherwise provided by law, including fines, closure, injunction, and mandamus.

Added by Acts 2005, 79th Leg., Ch. 1344 (S.B. 399), Sec. 2, eff. June 18, 2005.

Sec. 250.006. GRAFFITI REMOVAL. (a) Except as provided by Subsection (h), a county by order or a municipality by ordinance may require the owner of property within the jurisdiction of the county or municipality to remove graffiti from the owner's property on receipt of notice from the county or municipality.

(b) The order or ordinance must provide that a county or municipality may not give notice to a property owner under Subsection (a) unless:

(1) the county or municipality has offered to remove the graffiti from the owner's property free of charge; and

(2) the property owner has refused the offer.

(c) The order or ordinance must require a property owner to remove the graffiti on or before the 15th day after the date the property owner receives notice under Subsection (a). If the property owner fails to remove the graffiti on or before the 15th day after the date of receipt of the notice, the county or municipality may remove the graffiti and charge the expenses of removal to the property owner in accordance with a fee schedule adopted by the county or municipality.

(d) The notice required by Subsection (a) must be given:

(1) personally to the owner in writing;

(2) by letter sent by certified mail, addressed to the property owner at the property owner's address as contained in the records of the appraisal district in which the property is located; or

(3) if service cannot be obtained under Subdivision (1) or (2):

(A) by publication at least once in a newspaper of general circulation in the county or municipality;

(B) by posting the notice on or near the front door of each building on the property to which the notice relates; or

(C) by posting the notice on a placard attached to a stake driven into the ground on the property to which the notice relates.

(e) The county or municipality may assess expenses incurred

under Subsection (c) against the property on which the work is performed to remove the graffiti.

(f) To obtain a lien against the property for expenses incurred under Subsection (c), the governing body of the county or municipality must file a statement of expenses with the county clerk. The statement of expenses must contain:

(1) the name of the property owner, if known;

(2) the legal description of the property; and

(3) the amount of expenses incurred under Subsection (c).

(g) A lien described by Subsection (f) attaches to the property on the date on which the statement of expenses is filed in the real property records of the county in which the property is located and is subordinate to:

(1) any previously recorded lien; and

(2) the rights of a purchaser or lender for value who acquires an interest in the property subject to the lien before the statement of expenses is filed as described by Subsection (f).

(h) An order or ordinance described by this section must include an exception from the requirement that an owner of property remove graffiti from the owner's property if:

(1) the graffiti is located on transportation infrastructure; and

(2) the removal of the graffiti would create a hazard for the person performing the removal.

Added by Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. 2086), Sec. 29, eff. September 1, 2009.

Sec. 250.007. REGULATION OF RENTAL OR LEASING OF HOUSING ACCOMMODATIONS. (a) Except as provided by this section, a municipality or county may not adopt or enforce an ordinance or regulation that prohibits an owner, lessee, sublessee, assignee, managing agent, or other person having the right to lease, sublease, or rent a housing accommodation from refusing to lease or rent the housing accommodation to a person because the person's lawful source of income to pay rent includes funding from a federal housing assistance program.

(b) This section does not affect an ordinance or regulation that prohibits the refusal to lease or rent a housing accommodation to a military veteran because of the veteran's lawful source of income to pay rent.

(c) This section does not affect any authority of a municipality or county or decree to create or implement an incentive, contract commitment, density bonus, or other voluntary program designed to encourage the acceptance of a housing voucher directly or indirectly funded by the federal government, including a federal housing choice voucher.

Added by Acts 2015, 84th Leg., R.S., Ch. 1140 (S.B. 267), Sec. 1, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 12.002, eff. September 1, 2017.

Sec. 250.008. LINKAGE FEES PROHIBITED. (a) A political subdivision may not adopt or enforce a charter provision, ordinance, order, or other regulation that imposes, directly or indirectly, a fee on new construction for the purposes of offsetting the cost or rent of any unit of residential housing.

(b) For purposes of this section:

(1) a fee is imposed indirectly on new construction if a charter provision, ordinance, order, or other regulation allows acceptance by the political subdivision of a fee on new construction; and

(2) new construction includes zoning, subdivisions, site plans, and building permits associated with new construction.

(c) This section does not apply to:

(1) an affordable housing and property tax abatement program:

(A) adopted under Chapter 378 or Chapter 312, Tax Code, by a municipality with a population of more than 700,000; and

(B) for which eligibility is maintained as required under Chapter 312, Tax Code, as applicable; or

(2) an ordinance, order, or other similar measure that permits the voluntary payment of a fee in lieu of other

consideration to a political subdivision in connection with the issuance of a zoning waiver related to new construction that allows a multifamily residential or commercial structure to exceed height or square footage limitations.

(d) A charter provision, ordinance, order, or other regulation adopted by a political subdivision that conflicts with this section is null and void.

Added by Acts 2017, 85th Leg., R.S., Ch. 256 (H.B. 1449), Sec. 2, eff. May 29, 2017.

Sec. 250.009. CERTAIN SALES OF BEVERAGES BY CHILDREN. Notwithstanding any other law, a municipality, county, or other local public health authority may not adopt or enforce an ordinance, order, or rule that prohibits or regulates, including by requiring a license, permit, or fee, the occasional sale of lemonade or other nonalcoholic beverages from a stand on private property or in a public park by an individual younger than 18 years of age.

Added by Acts 2019, 86th Leg., R.S., Ch. 1027 (H.B. 234), Sec. 2, eff. September 1, 2019.

Sec. 250.010. BATTERY-CHARGED FENCES. (a) In this section, "alarm system" means an alarm system for which a permit may be issued under Subchapter F or F-1, Chapter 214, or Subchapter D, Chapter 233.

(b) This section applies only to a battery-charged fence that:

(1) interfaces with an alarm system in a manner that enables the fence to cause the connected alarm system to transmit a signal intended to summon law enforcement in response to a burglary;

(2) is located on property that is not designated by a municipality or county for residential use;

(3) has an energizer that is driven by a commercial storage battery that is not more than 12 volts of direct current;

(4) produces an electric charge on contact that does not exceed energizer characteristics set for electric fence

energizers by the International Electrotechnical Commission as published in the commission's standards on June 29, 2018;

(5) is completely surrounded by a nonelectric perimeter fence or wall that is not less than five feet in height;

(6) is not more than the higher of:

(A) 10 feet in height; or

(B) two feet higher than the height of the nonelectric perimeter fence or wall; and

(7) is marked with conspicuous warning signs that are located on the battery-charged fence at not less than 60-foot intervals and that read: "WARNING--ELECTRIC FENCE."

(c) Notwithstanding any other law, a municipality or county may not adopt or enforce an ordinance, order, or regulation that:

(1) requires a permit for the installation or use of a battery-charged fence to which this section applies that is in addition to an alarm system permit issued by the municipality or county;

(2) imposes installation or operational requirements for:

(A) the battery-charged fence that are inconsistent with the standards set by the International Electrotechnical Commission as published on June 29, 2018; or

(B) an alarm system described by Subsection (b); or

(3) prohibits the installation or use of a battery-charged fence.

Added by Acts 2019, 86th Leg., R.S., Ch. 1176 (H.B. 3371), Sec. 1, eff. September 1, 2019.

Redesignated from Local Government Code, Section 250.009 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(60), eff. September 1, 2021.

Sec. 250.011. THIRD-PARTY FOOD DELIVERY SERVICES. (a) In this section, "third-party food delivery service" has the meaning assigned by Section 118.0001, Business & Commerce Code.

(b) Notwithstanding any other law, a municipality or county may not adopt or enforce an ordinance or regulation to the extent

that the ordinance or regulation affects the terms of agreements between third-party food delivery services and restaurants that meet the requirements of Section 118.0004(a), Business & Commerce Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 305 (S.B. 911), Sec. 7, eff. January 1, 2022.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.002(17), eff. September 1, 2023.

Sec. 250.012. RESIDENTIAL FIRE PROTECTION SPRINKLER SYSTEMS. (a) Notwithstanding any other law and except as provided by Subsection (c), a municipality, county, or emergency services district may not enact an ordinance, bylaw, order, building code, or rule requiring the installation of a multipurpose residential fire protection sprinkler system or any other fire protection sprinkler system in a new or existing one- or two-family dwelling.

(b) A municipality, county, or emergency services district may adopt an ordinance, bylaw, order, building code, or rule allowing a multipurpose residential fire protection sprinkler system specialist or other contractor to offer, for a fee, the installation of a fire protection sprinkler system in a new one- or two-family dwelling.

(c) Subsection (a) does not apply to:

(1) a municipality that has enacted an ordinance, bylaw, order, building code, or rule requiring the installation of a multipurpose residential fire protection sprinkler system or any other fire protection sprinkler system in a new or existing one- or two-family dwelling on or before January 1, 2009; or

(2) an emergency services district:

(A) that before February 1, 2013, has adopted a fire code, fire code amendments, or other requirements in conflict with Subsection (a); and

(B) whose territory is located:

(i) in or adjacent to a general law municipality with a population of less than 4,000 that is served by a water control and improvement district governed by Chapter 51,

Water Code; and

(ii) in a county that has a population of more than 1.2 million and is adjacent to a county with a population of more than 600,000.

Added by Acts 2021, 87th Leg., R.S., Ch. 315 (H.B. 738), Sec. 4, eff. January 1, 2022.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 152, eff. September 1, 2023.

Redesignated from Local Government Code, Section 250.011 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(30), eff. September 1, 2023.

Sec. 250.013. RESIDENTIAL IMMIGRANT OR REFUGEE CHILD DETENTION FACILITIES. (a) In this section, "residential child detention facility" means a private facility other than a facility licensed by this state that operates under a contract with the United States Immigration and Customs Enforcement, the United States Department of Health and Human Services, or another federal agency to provide 24-hour custody or care to unaccompanied immigrant or refugee children.

(b) A municipality or a county may adopt and enforce an ordinance, order, or other regulation that requires a residential child detention facility to:

(1) provide adequate water, wastewater, or other utilities for the facility; and

(2) meet reasonable minimum standards that promote the health, safety, and welfare of the residents of the facility.

(c) A county may not regulate under Subsection (b) a facility that is located in the corporate boundaries of a municipality.

(d) Before entering into a contract with a federal agency to operate as a residential child detention facility, the owner or operator of the proposed residential child detention facility must:

(1) provide notice of the proposed facility:

(A) if the facility is located in a municipality, to the governing body of the municipality; or

(B) if the facility is located in the unincorporated area of a county, to the commissioners court of the county; and

(2) meet any requirements adopted by the municipality or county under Subsection (b).

Added by Acts 2021, 87th Leg., R.S., Ch. 978 (S.B. 2188), Sec. 1, eff. September 1, 2021.

Redesignated from Local Government Code, Section 250.011 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(31), eff. September 1, 2023.