



Local Land Use Regulation *Outside Cities*

REID WILSON
WILSON CRIBBS + GOREN

2022 UT LAND USE LAW
APRIL 2022



Local Land Use Regulation *Outside Cities*

- Texas = LOW regulation, dev. friendly
- *LIMITED* land use regulation *outside* cities
- Where are we today?
- My perspective: *Private*

CONTEXT: REGULATION *OUTSIDE* CITIES

History (& Demise) of Non-Consent Annexation

- PRE 1963 – ANNEXATION TO THE NEXT TOWN
- 1963-2017 – ETJ ANNEXATION
- 12/31/96 -- KINGWOOD ANNEXATION
- 2017-2019 – TIER ONE/TIER TWO
- 2019 – POST UNILATERAL ANNEXATION

CONTEXT: REGULATION *OUTSIDE* CITIES

PROHIBITIONS from subdivision platting rule making authority:

- ▶ "...the **use** of any building or property for business, industrial, residential, or other purposes;
- ▶ ...the **bulk, height, or number of buildings** constructed on a particular tract of land;
- ▶ ...the **size of a building** that can be constructed on a particular tract of land, including without limitation any restriction on the ratio of building floor space to the land square footage;
- ▶ ...the number of **residential units that can be built per acre** of land..."

CONTEXT: REGULATION OUTSIDE CITIES

- **A city's authority to regulate land development in its ETJ is wholly derived from a legislative grant of authority.** *FM Props. Operating Co. v. City of Austin*, (Tex.2000)
- **If no municipal ordinances are legislatively authorized to be extended to a municipality's ETJ, then only county land-use regulations apply.** *FM Props. Operating Co.*
- County authority is similar to a general law city; only what is granted by the legislature. *Canales v. Laughlin* (Tex. 1948)

CASE LAW

***Town of Lakewood Village v. Bizios* (Tex. 2016)**

NO BLDG CODE/PERMITS IN ETJ OF GEN. LAW CITY

City Arguments:

- Express Statutory Authority
- Implied Authority
- Public Policy

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Local Land Use Regulation Outside Cities

Also available as part of the eCourse

[2022 Land Use eConference](#)

First appeared as part of the conference materials for the
26th Annual Land Use Conference session

"ETJ Municipal Regulatory Authority in the ETJ"