WHF | WYATT HAMILTON FINDLAY

To: City Council

From: Nicole A. Hamilton Corr, City Attorney

Cc: Ben Williamson, City Manager
Jawaria Tareen, Deputy City Manager

Date: September 9, 2025

Re: 89th Texas Legislature - Significant Municipal Legislation Summary

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Below are significant municipal law updates from the most recent Texas legislative session. Additionally, a brief summary of H.B. 2127 from the 2023 legislative session, known as the "Death Star" bill, is also included.

BIDDING THRESHOLD

S.B. 1173, which took effect September 1, 2025, increases the bidding threshold from $50,000 to $100,000. Under previous law, most expenditures of public money of at least $50,000 required a city to engage in one of the competitive procurement procedures outlined in state law. The bill also increases the range that triggers the requirement that a city must contact at least two historically underutilized businesses on a rotating basis when making expenditures of public money. Under previous law, that requirement was triggered when a city spends between $3,000 and $50,000. After this bill, that requirement is triggered when a city spends between $3,000 and $100,000.

ZONING NOTICE AND PROTEST PROCEDURES

H.B. 24 revises the definitions, protest procedures, and notice requirements associated with different types of zoning actions.

H.B. 24 adds a new definition, "proposed comprehensive zoning change," which applies to broader zoning actions by cities, including proposals that:

1. Allow more residential development than existing regulations and apply uniformly across one or more zoning districts;
2. Adopt a new citywide zoning code or zoning map; or
3. Establish a zoning overlay district along a major roadway, highway, or transit corridor that permits increased residential development.

Cities are only required to provide the following notice of a proposed comprehensive zoning change:

- Notice to property owners and occupants if the proposed change would cause their current conforming use to become nonconforming; and
- Newspaper notice and website posting at least 15 days before the public hearing, unless the governing body of a home-rule city prescribes a different type of notice for joint hearings held with the zoning commission.

No additional notices—such as posted signs or expanded mailings—are required beyond these statutory minimums for comprehensive changes.

H.B. 24 also amends protest procedures for zoning changes that are *not* considered "proposed comprehensive zoning changes." To file a valid protest, property owners must submit a written petition signed by:

1. Owners of at least 20% of the area covered by the proposed zoning change; or
2. Owners of at least 20% of the area immediately adjoining and extending 200 feet from the area covered by the proposed change; or
3. Owners of at least 60% of the adjoining area extending 200 feet from the proposed change if the proposal:
    - Allows more residential development; and
    - Does *not* allow additional commercial or industrial uses, unless the additional use is limited to the first floor of a residential development and does not exceed 35% of the development's total area.

When calculating the land area percentages, cities must include streets and alleys and calculate the land area as a whole, rather than separately for each affected tract. Once a valid protest is filed under scenarios 1 or 2, above, a zoning change requires a three-fourths vote of the full governing body for approval. However, for scenario 3, only a simple majority vote of the governing body is needed to approve the proposed change.

NO-IMPACT HOME-BASED BUSINESSES

H.B. 2464 limits city authority to regulate "no-impact home-based businesses." H.B. 2464 took effect on June 12, 2025. Under the bill, a city may not adopt or enforce an ordinance, regulation, or other measure that: (1) prohibits someone from operating a no-impact home-based business; (2) requires someone to obtain a license, permit, or approval to operate a no-impact home-based business; (3) requires someone to rezone a property for non-residential use to operate a home-based business; or (4) install a fire-sprinkler system to operate a home-based business within a single-family detached home or multi-family residential property with two or fewer units.

A "no-impact home-based business" is a home-based business that: (1) at any time on the property where the business is operated, has a total number of employees and clients at the property does not exceed a city's occupancy limits; (2) does not generate on-street parking or a substantial increase in traffic in the area; (3) operates in a manner in which none of its activities are visible from the street; and (4) does not substantially increase noise in the area or violate a city noise ordinance, regulation, or rule.

H.B. 2464 chiefly prohibits a city from adopting or enforcing certain regulations for a no-impact home-based business. With regard to a "regular" home-based business, the bill provides that a city may not adopt or enforce a measure that requires a person that operates a home-based business to: (1) rezone the property for a non-residential use; or (2) install a fire sprinkler protection system if the residence where the business is operated consists only of a single -family residence or multi-family residence with not more than two residential units.

H.B. 2464 expressly allows a city to require that all home-based businesses (regular and no-impact home-based businesses) comply with all other federal, state, and local laws, including: (1) city fire and building codes; (2) city health and sanitation regulations; (3) city transportation or traffic control regulations; (4) city solid or hazardous waste regulations; and (5) city pollution and noise control regulations.

All home-based businesses must also be compatible with the residential use of the property, and the business use must be secondary to the residential use of the property. A city may also limit or prohibit a home-based business that sells alcohol or illegal drugs, is structured as a sober living home, or is considered a sexually oriented business.

Additionally, H.B. 2464 expressly does not prohibit homeowners' associations from enforcing private deed restrictions or rules and does not prohibit a city from adopting or enforcing local short-term rental ordinances or regulations.

FOOD TRUCKS AND SMALL-SCALE FOOD BUSINESSES

Most of H.B. 2844 is effective July 1, 2026. The bill creates a state regulatory scheme for mobile food vendors. It also addresses small-scale food businesses.

Small-Scale Food Businesses

H.B. 2844 provides that a city or public health district may not require small-scale food business or an employee of a small-scale food business to obtain a permit or pay a permitting fee to operate a food service establishment, temporary food service establishment, retail food establishment, temporary retail food establishment, or retail food store if the business: (1) holds

a permit issued by the DSHS; or (2) is licensed as a food manufacturer. A "small scale food business" is a legal entity established by a farmer or food producer with less than $1.5 million in annual gross revenue.

Mobile Food Vendors

H.B. 2844 specifically preempts a local authority, including a city or public health authority, from prohibiting or regulating mobile food vendors in a manner that conflicts with the bill. A local authority may not prohibit the operation in its jurisdiction of a mobile food vendor who holds a mobile food vendor license and complies with all other state and local laws not in conflict with the bill. It applies to an ordinance, rule, regulation, policy, or procedure adopted before, on, or after the bill's effective date, thus preempting any city regulation that conflicts with the bill.

However, H.B. 2844 provides that a mobile food vendor must comply with all state and local laws in the jurisdiction in which the mobile food vendor operates, including all fire codes, location restrictions, and zoning codes. This means that a city can still have zoning regulations and/or location restrictions for where a mobile food vendor may operate.

On request by a local authority, DSHS may enter into a collaborative agreement with the local authority for conducting health inspections. DSHS shall reimburse the local authority acting under a collaborative agreement for the cost of conducting a health inspection using money collected for health inspection fees.

The bill also prohibits a person from operating as a mobile food vendor in Texas unless the person holds a mobile food vendor's license issued by DSHS. Each food vending vehicle that a food vendor operates must have a separate license. The executive commissioner of DSHS may adopt rules to implement the bill. H.B. 2844 requires DSHS to establish and maintain a statewide database that includes: (1) names of mobile food vendors licensed under the bill; (2) results of health inspections of mobile food vendors' food vending vehicles, including inspection reports; (3) public complaints made against mobile food vendors resulting in disciplinary or corrective action; and (4) itineraries of the location of a mobile food vendor's food vending vehicles.

NEW REQUIREMENTS FOR IMPACT FEES

S.B. 1883 imposes a new restriction on how often a city may increase the amount of an impact fee, prohibiting any increase for three years following the date the fee was originally adopted or most recently increased, whichever is later. This three-year limitation applies only to increases adopted on or after the bill's effective date, meaning previously adopted fees are not retroactively restricted. Additionally, the bill raises the voting threshold required to adopt an impact fee. Previously, approval required a simple majority vote, but an affirmative vote of two-thirds of all members of the city council will be required to impose an impact fee on or after September 1st.

S.B. 1883 amends the procedural timeline for adopting or amending land use assumptions, capital improvements plans, and any proposed amended impact fee per service unit. The city council now has 120 days—rather than 60—to call a public hearing after receiving an update to the land use assumptions or capital improvements plan. Additionally, the city must now make these documents available to the public at least 60 days before the first publication of a hearing notice, rather than making them available "on or before" the date the notice is published. For cities that are already in the process of adopting or amending land use assumptions, capital improvement plans, or impact fees, the new timing requirements in S.B. 1883 may not apply. These cities should consult their city attorney to determine which requirements govern their specific situation.

S.B. 1883 raises the minimum representation requirement for industry professionals on a political subdivision's impact fee advisory committee. At least 50 percent of the committee's members must now be representatives of the real estate, development, or building industries who are not employees or officials of a governmental entity—an increase from the previous 40 percent. The bill also removes the statutory provision that allowed a city's planning and zoning commission to serve as the impact fee advisory committee without meeting the required composition standards.

Before increasing an existing impact fee or adopting a new one in a service area where an impact fee has already been adopted, a political subdivision must now conduct an independent financial audit. The audit must be performed by a certified public accountant or public accountant licensed in Texas who has not provided any other services to the subdivision or its related entities in the previous 12 months. The results must be submitted to both the governing body and the advisory committee, and a public hearing on the audit must be held before adopting or increasing a fee. Additionally, the audit must be posted to the city's website at least 30 days before notice of the hearing on the land use assumptions and the capital improvements plan is: (1) published, and (2) mailed certified to any person who has properly requested it.

S.B. 1883 also repeals a section of existing law that previously allowed an impact fee to stand if a city substantially complied with notice requirements in good faith. Going forward, strict compliance with all statutory notice provisions in Chapter 395 will be required.

MANUFACTURED HOUSING

S.B. 785, which takes effect September 1, 2026, is designed to clarify the law relating to the availability of HUD-code manufactured homes in cities in two primary ways. First, it prohibits a city from requiring a specific use permit or other similar permit for a new HUD-code

manufactured home if the home is constructed in accordance with state and federal laws and the city does not require a specific use permit for other residential property in the same zoning classification. Secondly, cities are required under the bill to allow the installation by right of a new HUD-code manufactured home for use as a dwelling in at least one zoning classification or district and, for cities with a comprehensive zoning classification map, to indicate on the map the areas in which HUD homes are permitted by right. These provisions do not limit municipal regulations to protect historical landmarks or the inclusion of property in a historic district or affect deed restrictions established before January 2, 2025. Likewise, the provisions do not apply to a municipality in which all residentially zoned areas had deed restrictions on September 1, 2025, prohibiting the placement of manufactured homes or that did not have any areas or districts zoned for business or industrial use.

S.B. 1341 revises the definition of “Manufactured home” and "HUD-code manufactured home" in the Business & Commerce Code to reflect definitions from federal law.

OCCUPANCY LIMITS (“FRAT HOUSE BILL”)

S.B. 1567 restricts the regulatory authority of home-rule municipalities where a university campus is located by preventing enforcement of occupancy-based restrictions based on familial or relationship status, or personal characteristics like age, familial relationship, or occupation. However, cities may still restrict occupancy by restricting units to one person per 70 sq ft of sleeping room, with an additional person for every extra 50 sq ft.

OPEN MEETINGS ACT – NOTICE AND DISRUPTIONS

H.B. 1522 took effect on September 1, 2025, and amends the Open Meetings Act by changing two distinct requirements – the meeting notice period and budget-related postings.

Beginning September 1, cities will no longer be required to post notices 72 hours before the scheduled meeting time. Instead, they will be required to post notices at least three business days before the scheduled date of the meeting.

H.B. 1522 also requires that the notice for a meeting at which a governmental body will discuss or adopt its budget is required to include: (1) a physical copy of the proposed budget unless the proposed budget has been made clearly accessible on its website’s homepage; and (2) a taxpayer impact statement showing, for the median-valued homestead property, a comparison of the property tax bill in dollars from the current fiscal year to an estimate of the property tax bill in dollars for the same property for the upcoming fiscal year if the city’s proposed budget is adopted and if the budget funded by the no-new-revenue rate is adopted instead.

H.B. 5238 makes it a crime to electronically disrupt a lawful public meeting by hacking or other intentional means. This bill took effect September 1, 2025.

MUNICIPAL COURT

H.B. 1950, which was effective immediately after signing by the governor on May 29, 2025, creates a consolidated municipal court security and technology fund in municipalities with a population of less than 100,000 by creating new Article 102.0175 in the Code of Criminal Procedure. This fund is to be administered by the governing body of the municipality.

FOOD REGULATION

S.B. 541, effective September 1, 2025, modifies the definition of a "cottage food production operation" to include a nonprofit organization or an individual (operating out of the individual's home) with an annual gross income of $150,000 or less from the sale of food. The bill also defines "cottage food production operation" to include an operation that produces any food other than meat or seafood products, raw milk products, ice products, low-acid canned goods, and products containing cannabidiol or tetrahydrocannabinol.

The bill prohibits a local government, including a city and a local health department, from requiring a cottage food production operation to obtain any type of license or permit or pay any fee to produce or sell directly to consumers or a cottage food vendor. It also prohibits a city or local health department from requiring a cottage food production operation to obtain any type of license or permit or pay any fee to provide samples directly to consumers. The prohibition has an exception for meat or seafood products, raw milk products, ice products, low-acid canned goods, and products containing cannabidiol or tetrahydrocannabinol. Furthermore, a city or local health department may not employ or continue to employ a person who knowingly requires or attempts to require a cottage food production operation to obtain a license or permit.

S.B. 1008, effective September 1, 2025, limits city and public health district authority with regard to food service establishment. A couple of the main limitations are restricting when a city or public health district may: (1) require a permit of a food service establishment, retail food store, mobile food unit, roadside food vendor, or temporary food service establishment; and (2) charge a food service establishment, retail food store, mobile food unit, roadside food vendor, or temporary food service establishment a fee.

A city or public health district is limited in the fee amount it can charge a food service establishment, retail food store, mobile food unit, roadside food vendor, or temporary food service establishment or an employee of any of those entities. The fee cannot be higher than the

maximum fee a food service establishment, retail food store, mobile food unit, roadside food vendor, temporary food service establishment, or employee would pay to the DSHS if those entities or their employees were located in DSHS's jurisdiction. The bill also limits when a city or a public health district may charge a local license or permit fee under the Texas Alcoholic Beverage Code. The bill clarifies that a county, city, or public health district may not charge the license or permit fee if the premises is a food service establishment, retail food store, mobile food unit, roadside food vendor, or temporary food service establishment that has already paid a fee to operate to DSHS or to any county, city, or public health district.

The bill also requires a city or public health district that charges fees, requires permits, or conducts inspections to provide an opportunity for stakeholders to sign up for email updates. At least 60 days before a fee, permit, or inspection protocol or procedure is revised, the city or public health district shall provide email notifications to all stakeholders who have signed up for email updates.

PROPERTY CONVERSION FOR HOMELESS RELOCATION

S.B. 617, effective September 1, 2025, requires a municipality to hold a public hearing before converting property to house homeless individuals to another jurisdiction. This bill was passed in response to Austin's plan to purchase a hotel in Williamson County and relocate homeless individuals there for housing. The hearing must (1) be held 90 days before the city begins converting property to house homeless, (2) be held within one mile of the subject property, and (3) be noticed by the city sending mail to each residence and business within a one-mile radius at least 36 hours before the public hearing. This provision does not apply to temporary shelter or housing during a natural disaster or emergency.

HONEY DEREGULATION

H.B. 519, effective September 1, 2025, amends certain laws applicable to honey production to align the federal and state laws and reduce regulation on small producers. The bill defines honey and honeycomb as a "raw agricultural commodity" that is exempt from certain requirements. The bill also amends certain provisions of the Health and Safety Code to prevent regulation of honey production by municipalities as food service establishments.

SIGNS IN R.O.W.

H.B. 3611, effective September 1, 2025, amends the Texas Transportation Code to increase penalties for unauthorized signs in the right-of-way. The civil penalties may be enforced against a person who places a sign in the right-of-way that is not authorized by law or ordinance. The

definition of person includes employees, agents, independent contractors, business alter egos, and successors in interest. Requires a political subdivision to first provide a written notice, and if the person fails to remove the sign within a given period, the penalties are applicable. The civil penalties are significant, beginning at $1,000, with $2,500 for a second violation, and $5,000 for a third or further violation.

NOTICE REQUIRED FOR EXCLUSIVE SOLID WASTE FRANCHISE AGREEMENTS

H.B. 5057 was signed on June 20, 2025, with immediate effect. The bill requires a city to provide notice in a newspaper and on the city's website, if applicable, when it enters into an exclusive contract with a privately owned solid waste management service provider. The bill also applies when a city renews or amends an existing contract in a manner that grants a solid waste management service provider an exclusive right to provide certain additional solid waste services that were not contained in the contract before the renewal or amendment. The bill and its notice requirements do not apply to an annexed area if the city included solid waste collection services in the list of services that would be provided in a services agreement or a resolution of the services to be provided to an annexed area.

When a city or any public entity enters into an exclusive contract with a privately owned solid waste management service provider, the city or public entity must provide notice in a newspaper of general circulation in the jurisdiction of the city or entity and on the city's or entity's website, if it maintains a website. The notice must contain: (1) a summary of the purpose of the contract or amendment; and (2) a description of the change made by the contract or the amendment. Additionally, if the city requires a privately owned solid waste management service provider to register or obtain approval to operate in the city's jurisdiction, the city must give notice to each provider registered with the city.

The bill also allows for solid waste service providers that are already providing services within the city's jurisdiction to continue providing services for a limited time. After a city grants an exclusive contract to a solid waste service provider, a solid waste service provider that already has an existing contract with a person in the city's jurisdiction can continue to provide those services to the person until the earlier of the date the existing nonexclusive contract expires or the first anniversary of the date the city provided the required notice in a newspaper. If a solid waste service provider provides solid waste management services to a person without a contract, the solid waste service provider can continue to provide those services until the 60th day after the city publishes the required notice in a newspaper.

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HB 2127 – 2023 Legislative Session (aka Death Star Bill)

HB 2127 expressly preempts a city from adopting or enforcing five types of regulations:

- Regulations of employment leave, hiring practices, breaks, employment benefits, scheduling practices, and any other terms of employment that exceed or conflict with federal or state law for employers other than the city;
- New or amended predatory lending regulations;
- Regulations impeding a business involving the breeding, care, treatment, or sale of animals or animal products, including a veterinary practice, or the business's transactions if the person operating the business holds a state or federal license to perform such actions or services;
- New or amended regulations relating to the retail sale of dogs or cats; and
- Regulations involving evictions.

The bill also prohibits a city from adopting or enforcing an ordinance in a field of regulation occupied by state law in eight specific codes (known as "field preemption"). Local governments are prohibited from adopting ordinances, orders, or rules in fields occupied by state law under the Agriculture code, Business and Commerce code, Finance code, Insurance code, Labor code, Local Government code, Natural Resources code, Occupations code, or Property code. Whether and to what extent the state occupies a field of regulation must be determined by the courts.

It allows anyone with an injury, actual or threatened, due to an ordinance prohibited by the bill to sue the local government responsible for the ordinance.

The bill has been subject to litigation on many fronts. A group of major cities including Houston, San Antonio, and El Paso obtained a ruling from Travis County District Court that the law was unconstitutional, but that ruling was overturned by the Third Court of Appeals, as the court found the cities did not yet have standing. This likely means that the litigation regarding this bill will proceed piecemeal, as individual cities are challenged over objectionable ordinances by injured parties.

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