



ZONING & DEVELOPMENT

The Texas Hill Country is growing rapidly. Growth and development can bring new businesses, jobs, and people who enrich our communities, but, if not approached thoughtfully, it can create fiscal challenges for our local governments and turn our distinct Hill Country towns into anywhere-America. Texas state law limits regulations on growth and development in unincorporated areas, but cities can take steps to ensure communities within their boundaries are growing with intention and care.

This chapter includes ordinance guides for cities that want to preserve their sense of place and natural resources while embracing new development.

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Using the Guides

This guidebook is organized into topical chapters: Water, Land and Skies, Transportation, and Zoning and Development. Each chapter contains *guides* that focus on a particular ordinance, or aspect of an ordinance, your community may be interested in adopting. Each guide introduces the ordinance topic and includes strong example ordinances, resources for further research, and a list of best practices.

EXAMPLE ORDINANCES

A selection of ordinances from the Hill Country and beyond are available for download throughout this guidebook. Strong components and necessary context are included as needed.

CITY NAMES and underlined text **link to ordinances and code sections.**

RESOURCES

The guides are snapshots of ordinances. Resources include relevant organizations and guiding documents that provide more in-depth information about each topic.

► *Underlined and italicized titles link to the corresponding document.*

BEST PRACTICES

A compilation of methods to undertake when crafting the ordinance. These suggestions are widely accepted as the most responsible and effective procedures for the given topic.

*“First we shape the cities
– then they shape us.”
– Jan Gehl*

“RIVERWALK LIGHT TRAILS”

SAN ANTONIO, TX

PHOTO COURTESY OF TODD WINTERS

Overlay Districts

Overlays are regulatory tools placed on top of base zoning to modify development standards. They have a unique purpose that either protects or expands development in the area. Overlays grant cities greater control over land uses, natural resources, and the built form and often target natural resources (wildlife, soil, water) or cultural resources (historic places, creative districts) for preservation. They may also override base zoning restrictions to encourage certain types of development, like infill or higher density.

Overlays address local conditions and are often developed ad hoc, so there are countless place-specific ordinances. They generally fall into two categories: 1) natural resource protection and 2) development guidance.

EXAMPLE ORDINANCES

SELECT OVERLAYS IN HILL COUNTRY & TEXAS CITIES

NATURAL RESOURCE PROTECTION

- Protected Waterway Overlay (Wimberley)
- View Protection Conditional Overlay (Lakeway)
- ▶ Scenic Byway Overlay (League City)
- Barton Springs Zone Overlay (Austin)
- Downtown Creeks Overlay (Austin)
- Lake Austin Overlay (Austin)
- ▶ Edwards Recharge Zone District (San Antonio)

DEVELOPMENT GUIDANCE

- ▶ Brookmeadow Neighborhood Overlay (Woodcreek)
- ▶ Downtown District Overlay (Johnson City)
- ▶ Entrance Scenic Corridor Overlay (Wimberley)
- Old Town Helotes Overlay
- Air Installation Compatible Use Zone (Selma)
- Cottage Housing Development Overlay (Boerne)
- ▶ Downtown Arts and Cultural District (Kerrville)
- ▶ Design Overlay Districts (Schertz)
- ▶ Main Plaza Overlay (New Braunfels)
- Old and Historic Fredericksburg District
- Capitol View Corridor (Austin)
- University Neighborhood Overlay (Austin)
- Waterfront Overlay (Austin)
- Airport Hazard Overlay (San Antonio)
- Military Lighting Overlay (San Antonio)

BEST PRACTICES

Target a specific purpose or resource. Overlays should have an identified intention and impose regulations to achieve only that purpose.

Establish strategic boundaries. Overlay boundaries can align with or cut across base zoning and should be clearly defined. Map boundaries strategically to maximize the intended outcomes of the overlay. For example, a groundwater protection overlay may distinguish between critical zones and zones of potential impact and regulate accordingly. Likewise, an infill overlay may allow greater higher buildings exclusively along major corridors.

Make new regulations known so that residents, developers, and city officials can easily understand what is allowed and what is prohibited or limited. Consider hosting public education forums that reach affected property owners and developers to explain the value and changes of new overlay districts.

RESOURCES

The **Planning Commissioners Journal** published a primer introducing the value of overlay districts.

- ▶ [*Planning Law Primer: Making Use of Overlay Districts*](#)

The **EPA** hosts a bank of water protection model ordinances.

- ▶ [*Groundwater Protection Overlay District \(Model Ordinance\)*](#)

Cornell University partnered with the **NY State Department of Environmental Conservation** to release a guide to conservation overlay zoning. Though created for upstate NY communities, the lessons are valuable for Hill Country communities.

- ▶ [*Creating Conservation Overlay Zoning: A Guide for Communities in the Hudson River Estuary Watershed*](#)

The **East Bay Housing Organizations** describe using development incentives in Housing Overlay Zones to secure affordable housing. This model can be used to meet other social and environmental goals.

- ▶ [*Factsheet: Housing Overlay Zones*](#)

The **Texas Hill Country Conservation Network** presents successful land conservation and source water protection programs. They suggest priority protection areas and a road map for implementing a successful source water protection program in the Pedernales River Basin. Water resource protection can be achieved through overlays.

- ▶ [*Making the Case for Source Water Protection*](#)

HISTORIC OVERLAY DISTRICTS

The history and character of the Hill Country presents great opportunities for preservation, which can be achieved through historic district overlay zoning. Historic districts are one of the most common forms of overlays. They bring protections for historic sites in order to maintain a place's character and protect the integrity of individual structures and areas that have historical, architectural, or cultural significance. Establishing a historic overlay district can strengthen the local tourism economy and promote civic pride.

EXAMPLE ORDINANCES

HONDO

- Outlines a *general* historic district overlay.

HELOTES

- Uses subdistricts within the overlay to meet more specific needs.

NEW BRAUNFELS

- Further protects the Main Plaza through an overlay, though the area has a 'Downtown Historic District' base zone.

BEST PRACTICES

Determine whether you need a general or specific overlay.

General applies to designated historic landmarks and sites.

Specific are defined districts that require changes to the zoning map.

Consult local historians when mapping districts.

RESOURCES

The **Metropolitan Planning Commission of Shreveport**, Louisiana developed a guide to establishing historic overlay districts which includes greater detail on general versus specific overlays.

- ▶ [*Historic Preservation Overlay Districts*](#)

The **Raleigh Historic Development Commission** in North Carolina published answers to common questions about establishing Historic Overlay Districts and the Certificate of Appropriateness process.

- ▶ [*Historic Overlay Districts: Frequently Asked Questions*](#)



Historic Preservation

Historic building and district preservation memorializes a community's history by preventing the destruction and inappropriate reuse of historic sites. Historic sites offer teaching opportunities, foster civic pride, and promote tourism by preserving local character and charm. Preservation and building reuse are sustainable practices that conserve financial and material resources by avoiding demolition and maximize use of existing road and utility infrastructure. In addition to traditional ordinances, many cities develop *historic design guidelines* which share the city's vision to help direct residents, architects, and developers who will need project approval.

CONSULT TEXAS LOCAL GOVERNMENT CODE SECTION 211.0165 BEFORE DEVELOPING OR MODIFYING YOUR ORDINANCE. STATE REGULATIONS FOR ESTABLISHING A HISTORIC DISTRICT WERE UPDATED IN 2019.

EXAMPLE ORDINANCES & DESIGN GUIDES

FREDERICKSBURG

▶ *Historic District Design Guidelines and Standards*

Adopted in 2021 with updates to existing code sections, the design guide shapes the evaluation process for proposed changes to historic sites and buildings.

GEORGETOWN

▶ *Historic District Design Guidelines*

Adopted in 2021, the guidelines use overlays to establish area-specific regulations.

NEW BRAUNFELS

- Includes incentives to encourage preservation efforts (§66-57.1).

SAN ANTONIO

▶ *Historic Design Guidelines from the Office of Historic Preservation*

Adopted in 2012, the extensive guidelines are categorized into eight parts.

TEXAS HISTORICAL COMMISSION

- A Historic Landmark and District Zoning model ordinance.



THE HISTORIC LUCKENBACH POST OFFICE OPENED IN 1849.
PHOTO COURTESY OF NANCY NAYLOR

RESOURCES

The **Texas Historical Commission** compiled information about funding opportunities for governments, businesses, homeowners, non-profits, religious organizations, and rural communities.

- ▶ [*Funding for Preservation Projects*](#)

The **National Trust for Historic Preservation** tells stories of successful neighborhood revitalization work and offers lessons for practitioners.

- ▶ [*Rebuilding Community: A Best Practices Toolkit for Historic Preservation and Redevelopment*](#)

The **U.S. Secretary of the Interior** published an extensive 4-part guide offering standards and guidelines for interior and exterior work on all types of historic buildings.

- ▶ [*Standards for the Treatment of Historic Properties*](#)
- ▶ [*Guidelines on Sustainability for Rehabilitating Historic Buildings*](#)

The **Maryland Historic Trust** developed “Weather it Together,” a program to aid communities in addressing historic preservation and climate adaptation goals.

- ▶ [*Flood Mitigation Guide: Maryland’s Historic Buildings*](#)

BEST PRACTICES

Establish an Historic Preservation Commission to review and approve designations and modifications. Outline the governance structure including member composition, appointments, and term lengths. The commission composition often includes residents from across the city, with some representation from established historic districts, professionals from relevant fields, and occasionally city employees.

Enforce property maintenance to prevent unnecessary demolition due to neglect. Rely on the Property Maintenance Code, city code enforcement, and the Historic Preservation Commission to enforce regular building maintenance.

Develop approachable design guidelines that support the city's historic preservation goals to help residents and developers understand the ordinance's intentions. Guidelines should detail appropriate uses, designs, alterations, and be enforced through adoption into city code.

Provide guidelines for adaptive reuse, infill construction and renovations. These practices provide the foundation for development changes to occur as the city evolves in size, needs, and demographics while preserving structures and character.

Create a catalog of renovation opportunities for historic buildings to stimulate investment in historic districts. This can save developers time researching properties and attract others not already involved in historic building and district development. Consider a regional catalog combining properties across many smaller towns for greater attention. If available, draw upon your community's THC Historic Resources Survey.

Modify building codes for historic buildings. Most building codes cover new construction, leaving historic building redevelopment difficult to navigate. Cost is often a prohibitive factor for historic building projects, and streamlining regulations can help reduce costs and timelines.

For example, the State of New Jersey - alongside engineers, preservationists, code officials, and disability advocates - created a Rehabilitation Subcode, a technical part of the Uniform Construction Code, that outlines building standards for existing buildings, including historic buildings.



Signs

Signs convey many messages – political speech, business and residence information, safety notices, historic context – and function as wayfinding, visual interest, artistic expression, and historical reminders. Visual distinctiveness contributes to placemaking for locals and tourists alike. Standardized sign design, in terms of size, materials, lighting, and placement, improve wayfinding and visual harmony, particularly in specialized districts. Strong sign ordinances address historic districts (and historic signs) specifically.

Sign ordinances can be used to keep billboards (off-premises signs) to a minimum, as they are often deemed undesirable. Improperly placed and unclear signs can cause safety concerns for distracted drivers and others navigating through the city.

The **electronification of billboards** can bring tension between cities and advertisers. In April 2022, the U.S. Supreme Court case, *City of Austin vs. Reagan National Advertising of Austin*, affirmed the section of Austin's Sign Ordinance that prohibits off-premise signs from being converted to electronic signs, while allowing such changes for on-premise signs. This ruling upheld the city's distinction between on-site and off-site signage, thus allowing different rules to be enforced for the sign types.

EXAMPLE ORDINANCES

WEST LAKE HILLS

- Use-based standards shows context sensitivity, including regulations to meet conditions along major corridors.

DRIPPING SPRINGS

- Sign allowances by zoning district.
- Design standards and applicable fees outlined by use.

FREDERICKSBURG

- Signs in historic districts are additionally subject to the historic preservation regulations.

RESOURCES

The International Dark-Sky Association and Illuminating Engineering Society shared regulatory guidance for off-premise sign luminance from electronic messaging centers (EMCs).

▶ [Guidance for Electronic Message Centers \(EMCs\)](#)

Scenic Texas is a non-profit dedicated to preserving the visual landscape (see Scenic Byways Bill, TX SB 941). The Scenic City Certification Program recognizes strong city development standards.

▶ [Scenic City Certification Program: Best Practices Resource Guide](#)

The Texas Municipal League shared a Legal Q&A about the rights municipalities have to regulate signs. The U.S. Supreme Court has made several rulings concerning signs and it is essential to construct ordinances within a municipality's legal rights.

▶ [Legal Q&A with Assistant General Counsel Laura Mueller](#)

The **Montgomery County Planning Commission** of Pennsylvania provides an elaborate guide to sign ordinances that includes relevant legal conditions, types of signs, and a model ordinance.

▶ [Model Sign Ordinance: A Comprehensive, Content-Neutral Approach to Local Sign Control](#)



THE CITY OF SAN MARCOS COLLABORATED WITH THE SAN MARCOS CONVENTION AND VISITOR BUREAU TO DESIGN SIGNAGE FOR THE DOWNTOWN DISTRICT. THE NEW WAYFINDING SIGNS, AS WELL AS THE 'DOWNTOWN OUTDOOR GALLERY' STREET BANNERS FEATURING WORK BY LOCAL ARTISTS, WERE INSTALLED IN 2022.

PHOTO COURTESY OF LEAH CUDDEBACK

BEST PRACTICES

Create a unified vision of sign character and placement that reflects the cultural and economic character the community wants to promote. Provide example images that show what appropriate and inappropriate signs look like for your community.

Provide historical context that ties the purpose of the sign ordinance to your community's vision for present and future economic and cultural goals, with regard to historic districts. If possible, specifically address signage in your historic preservation materials or comprehensive plan, then incorporate those documents by reference in your sign regulations as another way to provide background.

Preserve night skies through illumination standards. Depending on the type and orientation of light fixtures, illuminated signs can contribute to light pollution.

Regulate off-premise signs. More often than not, "off-premise signs" (aka billboards) are located along major roads and highways where they interrupt the visual landscape and beauty and can distract drivers.

Dictate allowable specifications to avoid legal challenges. Focus on regulating the visual appearance and functional placement of the sign, not the wording. Sign rules that vary depending on textual content or owner run the risk of unlawfully curtailing protected speech. Ordinances that address sign quantity, dimensions, shape, lighting, placement, movement, colors, materials, setbacks, and landscaping are likely to withstand legal challenges.

Address the status of legal nonconforming signs, which are lawfully preexisting signs that would no longer be code compliant when the new or updated sign ordinance passes. Because there can be liability for compelling a sign owner to remove a sign that is lawfully in existence, such signs are often allowed to remain unless they are substantially damaged or expanded.



Impact Fees

Cities can offset the cost of expanding public infrastructure by imposing impact fees on new developments. Texas requires that cities have a Capital Improvements Plan (CIP) in order to collect impact fees, which are sometimes called Capital Recovery Fees to indicate their exclusive use for capital improvements and expansions directly related to the new development. Roadways; water and wastewater; and stormwater, flood control, and drainage facilities can be assessed for impact. Though permissible elsewhere, park, library, fire, police, school, and solid waste facilities cannot be assessed for impact fees in the State of Texas.

EXAMPLE ORDINANCES

KERRVILLE

- ▶ Wastewater

Considers unit size in fee calculations.

NEW BRAUNFELS

- ▶ Water and Wastewater & Streets

Exemptions for affordable housing developments.

AUSTIN

- ▶ Water and Wastewater

Exemptions for affordable housing, community gardens, fire protection lines, and recently annexed properties.

- ▶ Streets

Reductions for road fees based on proximity to public transit.

MOUNT PLEASANT, SC

Recreation, Fire Protection, Municipal Facilities, & Transportation

The **draft ordinance** produced by Stantec uses a progressive fee structure in which the average number of people per unit, rather than simply the number of units, are considered. This is the preferred fee structure.

- ▶ *Draft: Development Impact Fee Model Ordinance (see Article IX for fees)*

The **adopted ordinance** replaces this structure with a calculation that uses just the number of units in a development, but is still a strong ordinance.

- ▶ *Adopted Development Impact Fees & Appendix A: Fee Schedule*

RESOURCES

This report from **Texas A&M's Real Estate Center** offers a step-by-step guide through the legal process.

▶ [*Impact Fees: Paying for Progress*](#)

Consult the **Texas Local Government Code** for the most up to date laws concerning capital improvement plans and fees. The protocol must be followed strictly to ensure enforceability and avoid legal challenges.

▶ [*TX LGC Chapter 395*](#)

The **U.S. Department of Housing and Urban Development (HUD)** reports that impact fee structures based on unit type are regressive and unit size based fee structures are more equitable.

▶ [*Impact Fees & Housing Affordability*](#)

BEST PRACTICES

Develop fee structures based on unit size rather than unit type.

A unit type based fee structure places a higher burden on lower-income people, but pay structures based on unit size better redistribute the cost burden. Unit size better predicts the number of residents per unit than does unit type and therefore is a better predictor of infrastructure needs.

> *See Kerrville & Mount Pleasant draft*

Waive impact fees for affordable housing developments. Impact fees are baked into construction and development costs, which ultimately determine a unit's price tag. Renters and homebuyers end up paying more if they live in a development that incurred impact fees. Cities may choose to waive impact fees for affordable housing developments to promote such developments and aid in their affordability.

> *See Austin, Buda, Fredericksburg, Manor, New Braunfels*

Set impact fees locally. Local conditions influence the impact on utility infrastructure. Population density and access to public transportation both reduce per person vehicle miles traveled and general road use, so developments in these contexts will theoretically have less of an impact on roads.

When forming fee structures, consider:

- Population density
- Public transportation access
- Network of existing utility infrastructure
- Local construction costs
- Scale of the development



DOWNTOWN NEW BRAUNFELS ILLUMINATED FOR THE HOLIDAYS.
PHOTO COURTESY OF LEAH CUDDEBACK

THE NEW BRAUNFELS CITY COUNCIL approved a re-assessment of their impact fee structure in November 2022. The city may now impose the maximum allowable* residential water and wastewater impact fees on new developments. The fees will allow utility companies to expand services to keep up with demand from rapid growth in the city and region. Impact fees ask growth to pay for growth. This means existing customers aren't bearing the burden of expansion through service declines or increased prices. The new fee structure went into effect in February 2023.

*FOR A RESIDENTIAL 5/8" METER:

WATER = \$19,448 PER LUE (LIVING UNIT EQUIVALENT)

WASTEWATER = \$6,244 PER LUE



Infill Development

Infill development is the practice of developing vacant or underutilized lots in areas that are already developed. Infill projects are site specific and take many forms. In Austin, allowing accessory dwelling units (ADUs) to be built on occupied lots has increased the housing stock and density. In other cities, infill might mean restoring a building downtown to open a new business, rather than building new on the edge of town.

ECONOMIC & ENVIRONMENTAL BENEFITS OF INFILL

Infill conserves resources.

Infill development saves public resources by making use of existing infrastructure and buildings. For example, increasing residential units in an established neighborhood, rather than developing housing on the outskirts of town, allows established water lines to serve more residents at little additional cost.

Infill increases economic potential.

Developing vacant lots into commercial or residential sites increases land values and expands the municipal tax base, without incurring as many new infrastructure costs. Infill development can bring renewed attention to economically depressed areas.

Infill supports diverse populations.

Infill development presents opportunities to diversify housing typologies and costs. Housing diversity makes communities more hospitable to people of all ages, life-stages, family sizes, and incomes. Many Hill Country communities have higher-than-average senior populations. Aging in place can be difficult in communities that offer only large-lot single family homes, particularly for seniors that cannot afford to stay in their homes or want to downsize.

EXAMPLE ORDINANCES

SAN ANTONIO

- Establishes a new zoning code, the “Infill Development Zone” (IDZ), which can be applied as the base or overlay zoning and includes succinct criteria.

EL PASO

- Offers developer-end incentives including minimum parking reductions and density bonuses.

BEST PRACTICES

Allow accessory dwelling units (ADUs) to be built. ADUs increase affordability, density, and provide income opportunities to homeowners. Rather than requiring homeowners to petition for this, it should be encouraged through inclusion in city code.

Package scattered infill sites into one project to attract developers who may otherwise avoid single infill sites because of their higher costs.

Create a catalog of historic properties in need of renovation to encourage developers and community development organizations toward these projects.

Prioritize infill downtown and near transit. Infill development in walkable areas and near transit options maximizes existing public services. Living in a walkable neighborhood is especially valuable to households without vehicles and seniors who don’t drive.

Consider civic uses. Transforming vacant properties into civic spaces, such as parks and community gardens, enhances community vibrancy, making the neighborhood more unique and fun, often for relatively little cost.

Reduce parking minimums at infill sites. This can offset higher costs associated with development in denser areas.



THE PEARL IN SAN ANTONIO IS AN INFILL REDEVELOPMENT AND HISTORIC PRESERVATION PROJECT.
(CC) BYPASSERS / WIKIMEDIA

RESOURCES

The **EPA, Office of Sustainable Communities** addresses the opportunities and challenges developers face and suggests ways cities can mitigate the unique costs of infill development.

- ▶ [*Smart Growth and Economic Success: Investing in Infill Development*](#)

The **American Planning Association** features distinct infill housing approaches and ordinances in several cities struggling with affordability and looking to increase density.

- ▶ [*Zoning Practice Issue 4: Infill Housing*](#)

The City of St. Louis worked with the EPA on a plan to revitalize an historic neighborhood struggling with vacancies.

- ▶ [*Sustainably Developing a Historic District - Old North St. Louis*](#)

The Housing Partnership, a non-profit in Washington state, developed a guide to help cities increase public understanding, appeal to builders, and develop regulations to promote infill development.

- ▶ [*Filling in the Spaces: 10 Essentials for Successful Urban Infill Housing*](#)



Architectural Standards

Architectural standards and design guidelines regulate building typology, material, color, massing and orientation. These standards allow cities to influence their look and feel by ensuring visual consistency. Architectural and design guides may apply to any area, but they are most often created to guarantee historic and downtown districts feel human-scale, pedestrian friendly, and unique.

CONSULT TEXAS LOCAL GOVERNMENT CODE SECTION 211.0165 BEFORE DEVELOPING OR MODIFYING YOUR ORDINANCE. STATE REGULATIONS FOR ESTABLISHING A HISTORIC DISTRICT WERE UPDATED IN 2019.

Certain components (i.e., materials, products, methods) of the following ordinances and best practices continue to be useful, though they require a concurring historic district designation or Main Street program to be valid.

EXAMPLE ORDINANCES

BULVERDE

HELOTES

FREDERICKSBURG

GEORGETOWN

NEW BRAUNFELS

AUSTIN

- ▶ *Design Standards and Mixed Use*
- ▶ *University Neighborhood Overlay Zoning District*

SAN ANTONIO

- ▶ *Architectural Detail*
- ▶ *Downtown Design Guide*

BEST PRACTICES

Establish an Architectural Review Committee consisting of both community members and professionals who possess an understanding of the city's goals. Provide training to the committee and city staff to ensure comprehension of implementation procedures, and be ready to simplify the language for citizens and contractors.

Incorporate design standards in a comprehensive plan. Design standards should reflect long-term municipal goals described in a comprehensive plan. Listing the intentions and objectives of the design standards conveys the broader vision of the city.

Incorporate photographs and illustrations of building types and characteristics. Displaying what your city wishes to discourage or avoid is just as valuable as demonstrating what it desires to encourage. Language used should be informative rather than restrictive.

Enhance design standard guidelines by incorporating responsible development features. Permeable pavement, night-sky friendly lighting, native plants, solar panels, responsibly sourced materials, water harvesting mechanisms, and other responsible design interventions can all be incorporated without compromising a city's desired aesthetic.

For example, Fredericksburg's design standards include information on night-sky friendly lighting fixtures, energy efficiency of buildings, and the use of native, drought-tolerant plants for landscaping.

RESOURCES

The City of San Antonio created a guide to establish baseline guidance for design and preservation of the city's built environment.

► [*Using the Historic Design Guidelines*](#)

The City of Amesbury, Massachusetts made a checklist of elements for their Architectural Review Committee to consider when evaluating a proposal.

► [*Architectural Review Checklist*](#)





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