



## Houston-Galveston-Brazoria, TX CMSA

*Regulatory Order/Family: Wild Wild Texas/Houston*

### *Summary*

Two large jurisdictions—Houston and Harris County—set the tone for development in metropolitan Houston with their oft-cited lack of traditional zoning. People who wish to live in more regulated environments can choose among a number of small cities with exclusionary land use practices, but the vast majority of residents live in jurisdictions without zoning. Pay-to-grow provisions like impact fees and APFOs, however, illustrate how the region's land use is far from being completely unregulated. Our survey did not explore how conditions on subdivision approvals limit changes of use, though these approvals do play an important role in shaping land use in the region.<sup>1</sup>

### *Governance Framework and Growth Trends*

As the 10th largest metropolitan area in the U.S., the Houston-Galveston-Brazoria CMSA had nearly 4.7 million residents in 2000, an increase of over 930,000 (25 percent) from 1990. There are 116 cities and 8 counties with about two-thirds of the residents in municipalities and one-third in unincorporated county areas. Six of the cities have over 50,000 residents, totaling 2.3 million people, as do four counties with 1.5 million people. Together these 10 populous jurisdictions account for over 3.8 million residents and 4,700 of the area's 6,200 square miles. But there are also a host of small municipalities: 86 under 10,000 residents and 24 with between 10,000 and 50,000 people in 2000. Nine percent of the land is owned by government agencies, mostly by federal and state government.

The Houston MSA urbanized large amounts of land between 1982 and 1997—over 350,000 acres—but development and population both grew about 35 percent. As a consequence, like the other large Texas metros, Houston held its density and moved upward in the national density ranking, from the 40th to 36th densest. But metropolitan Houston still is the least dense among the 10 largest with 3.2 persons per acre in 1997, and could be considered dense only in comparison with Atlanta. Other fast growing sunbelt regions like Phoenix and San Diego are markedly more compact than Houston.

### *Regulatory Environment*

Sixteen cities in the Houston area responded to our survey (14 percent). Since these included Houston, the total population covered is about 2.5 million (52 percent of the population) on 912 square miles (12 percent of the land). Counties were not surveyed because they have little regulatory power over land use in Texas.

Houston is renowned as a city without zoning. In truth, Houston is a *region* with very little zoning. Only an estimated 59 percent of its cities have zoning, and Texas statutes do not permit counties to

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<sup>1</sup> Indeed, a recent article argues that although the city of Houston does not have zoning, it does regulate land use in a variety of ways including minimum lot sizes, parking requirements, and other directives that have a profound impact on land use patterns. See: Michael Lewyn, "How Overregulation Creates Sprawl (Even in a City without Zoning)," *Wayne Law Review* (50) (1191) (2005).



zone. Interestingly, over half the municipalities that do have zoning appear to use it to restrict density to fewer than 8 dwellings per acre, but only a few small cities would bar our hypothetical apartment development entirely. Almost 90 percent of the residents of metropolitan Houston live in unzoned cities, where density is limited only by arrangements other than zoning. Only 5 percent in low-density-only jurisdictions.

Comprehensive planning is also weak in metropolitan Houston. Less than two thirds of the municipalities have a comprehensive plan, and since these tend to be the smaller cities, only an estimated 27 percent of the municipal population lives in a jurisdiction with a plan.<sup>2</sup> Just about the only other device in place in more than a handful of jurisdictions is impact fees, which about a quarter of the municipalities have adopted—including Houston. Houston also has an APFO, though few if any other cities do, but this means that about three quarters of the municipal population lives in a jurisdiction with an APFO. Nearly three-quarters of the population live in jurisdictions with an incentive based affordable housing program.

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<sup>2</sup> We did not survey counties and thus do not know whether counties have prepared comprehensive plans, but Texas law would give such plans no binding authority in any case.