

Hot Issues in Zoning Tiny Houses, Shipping Containers, and RVs

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What is a Tiny House?

2018 IRC CODE has Appendix Q which can be adopted by a City. The IRC states

These provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance

About this appendix: Appendix Q relaxes various requirements in the body of the code as they apply to houses that are 400 square feet in area or less. Attention is specifically paid to features such as compact stairs, including stair handrails and headroom, ladders, reduced ceiling heights in lofts and guard and emergency escape and rescue opening requirements at lofts.

- **TINY HOUSE**-A dwelling that is 400 square feet (37m) or less in floor area excluding lofts. Section AQ102.1
- **LOFT**-A floor level located more than 30 inches (762mm) above the main floor, open to the main floor on one or more sides with a ceiling height of less than 6 feet 8 inches (2032mm) and used as a living or sleeping space. Section AQ102.1
- **AQ104.1.1 Minimum area.**

Lofts shall have a floor area of not less than 35 square feet (3.25m)

Some Pictures-



Normally
average
about 160
square
feet.



Why are Tiny Homes popular?

Several Reasons¹

- In the last fifty years, homeownership has declined to where almost 40% of households rent instead of own property (does not include increased number young adults who live with parents instead of renting/owning)

- 90% of renters express the desire to become homeowners

- In 2015, the average price for a single-family home was around \$360,000²

- Building a Tiny Home can cost as low as \$20,000.00

- the millennial generation embraces the concept of minimalism, marked by anti-consumerism and downsized living

- United States Census Bureau for 2015, new single-family homes averaged 2,500 square feet, while 4,800 square feet became the most desirable size (In 2013 the average size was 2598 sq ft)

¹ *Smart Growth Through Tiny Homes: Incentivizing Freedom of Housing*, 4 Tex. A&M J. Prop. L. 327 (2018) A. Robin Donnelly

² See *Highlights of Annual 2015 Characteristics of New Housing*, U.S. Census Bureau, <https://www.census.gov/construction/chars/highlights.html> [<https://perma.cc/LKZ4-5ZR5>] (last visited Nov. 9, 2016).

³ Id.

Why are Tiny Homes popular?¹

- Since the 1970s, average size for housing has increased over 60%, while average household size has decreased over 90%.
 - Now American homeowners have an average of one thousand square feet per person.

CONVERSELY

- In 1890 average detached single-family home was 2,232 square feet. This fluctuated up and down to 1,669 square feet in 1940's but has gradually increased to an average of about 2500 square feet present day. So between 1890's to 2018 the single family home increased about 20%.⁴

- In 1890, Americans had an average of 400 square feet of residential space per person, and that increased to 800-1000 square feet.

¹ Smart Growth Through Tiny Homes: Incentivizing Freedom of Housing, 4 Tex. A&M J. Prop. L. 327 (2018) A. Robin Donnelly

4. Americans are Living as Large as Ever, by Stephen Mim, June 2017 Bloomberg; <https://www.bloomberg.com/view/articles/2017-06-21/americans-are-living-as-large-as-ever>

Arguments made for Tiny Homes to be allowed in Cities

- affordable housing for homeless and low income.
- Below is a pictures of a tiny home park for the homeless to stay while in transition



Additional reasons and arguments for Tiny Homes

-disaster relief and humanitarian aid, in place of FEMA trailers (Katrina Cottages)



Reasons and arguments for Tiny Homes

- Option for low income families
- retirees may view them as alternative to leave expensive lots and high property taxes and move to rural towns
- less utilities, mainly electric
- less mortgage payments, more affordable than a traditional house
- help minimize debt
- less maintenance (Dusting, vacuuming, and sweeping will take a fraction of the time. Repairs will also be on a reduced-scale)
- options to expand in the future
- reduced environmental footprints
- allow for de-intensification of growing urban area without going vertical
- require a reduction in material possessions

Reasons Against Tiny Homes

- Are they really cost effective for the homeless (location value of property inner city)
- FEMA trailers are relatively inexpensive compared to a 160 square foot tiny home
- Young professionals and families who want to live in the city will have to buy expensive property to place a tiny home on (for example, cost to buy parking space in Washington DC goes for 27K to 40k on average)⁵
- not practical to build in suburban areas due to zoning regulations and HOA's (plus cost of property)⁶
- appeals to a small population ^{id}
- evasive of authority (why they are built on wheels to avoid building codes and taxes)
- escapist mindset ^{id} (leave the 9-5 world but will most people live in a small home 400 sq feet forever?)⁷
- land is expensive** in cities where people want to live and many cities do not let developers use land efficiently ⁸
- are not practical for older retired folks who may need wide hallways and doors and larger bathrooms

5- https://dc.urbanturf.com/articles/blog/the_cost_of_a_parking_spot_in_dc/8348

6- <http://www.hipdiggs.com/tiny-house-movement/>

7- Americans are Living as Large as Ever, by Stephen Mim, June 2017 Bloomberg; <https://www.bloomberg.com/view/articles/2017-06-21/americans-are-living-as-large-as-ever> (average per person was 400 square feet in 1980)

8-The Case against tiny house (Dylan Matthews) <https://www.vox.com/a/new-economy-future/tiny-houses>

So are Tiny Homes here to stay?

- Yes. There are enough rural areas close to population centers and jobs that make them viable (well maybe not viable, but attractive).
- They are being affixed to the ground and being used as rental units in RV Parks that cater to your 40 foot motor homes
- They can be used as affordable housing for construction projects, drilling sites, etc.
- Hot topic policy reasons previously discussed such as low income housing, shelters, environmental footprints, etc...
- College towns, there may be a market for rental units (although the return on investment may not be great)
- May possibly help stimulate economic growth
- Some small cities are welcoming them

<http://spur.lifeonthe.cloud/>

Welcome to Spur, Texas. The nation's first 'tiny' house friendly town.

If you've been searching for a place to set down your Tiny House on Wheels (THoW) or build a miniature home, look no further! In July of 2014, Spur uniquely proclaimed itself as the Nation's first "tiny" house friendly town, and the vision for what that implies is steadily becoming a reality. We invited the tiny house community to settle their minimalist homes in Spur because our little town is brimming with potential and opportunity. The tiny house movement is full of creative innovation and has attracted do'ers from all walks of life who value self-sufficient sustainability and practical progress. People who value lifestyle and community over the bustling anonymous over-worked and under-employed city life will find Spur very welcoming.

Spur is a classic West Texas town which has undergone a dramatic population drain to the big cities over the last few decades. Once a town of several thousand, Spur has all the infrastructure you would expect of a city, with paved roads, city electric/water/sewage, and even fiber optic internet. But with only about 1,200 people, the city has hundreds of vacant lots and abandoned buildings and several vacant commercial buildings. It's the perfect place for the next generation of pioneers with an open mindset to come and create something amazing while realizing their own aspirations. We're in a transitional stage right now and would love to come out of it ahead by ignoring the status quo and becoming a model for 21st century towns.



The view down Burlington Avenue (Main St) looking South

Regulations

- Federal- no federal statutes that directly restrict dwelling sizes or lot sizes-
- Federal Fair Housing Act, if applicable to the project, requires accessibility to handicapped persons, which may affect feasibility of constructing a tiny house.⁹
- No state statutes that restrict dwelling sizes or lot sizes
- Now have 2018 IRS, Appendix Q that defines a Tiny House which can be adopted by cities and counties
- Zoning, (in this author's opinion necessary for Type A cities to regulate residential sizes-put in lot sizes and residential square footage requirements or minimum living areas now, because there will be a developer who will want to put in tiny homes or small houses.
- Ordinances disallowing Accessory Dwelling Units "ADUs"

Regulations

- Deed Restrictions
- Chart of Municipal Ordinances affecting Tiny Houses

IRC 2018 Chapter 3, 304.1 states a habitable room shall have a floor area of not less than 70 square feet.

Will have to compare this to Appendix Q 2018 IRC

City	Minimum Residence Size	Minimum Lot Size
Houston	120 sq. ft. of GFA	3,500 sq ft
Dallas	120 sq. ft. of GFA	4,000 sq ft
Fort Worth	120 sq. ft. of GFA	3,500 sq ft
Austin	120 sq. ft. of GFA	3,500 sq ft
San Antonio	120 sq. ft. of GFA	3,000 sq ft
San Marcos	120 sq. ft. of GFA	4,500 sq ft
El Paso	120 sq. ft. of GFA	2,400 sq ft
Lubbock	120 sq. ft. of GFA	5,000 sq ft
Amarillo	120 sq. ft. of GFA	2,000 sq ft
Corpus Christi	120 sq. ft. of GFA	4,500 sq ft

Appendix Q/ AQ103.1 minimum ceiling height of note less than 6' 8". Exception for ceiling heights in lofts

*GFA stands for "gross floor area"

What about small houses? Between 400-1000 sq feet?

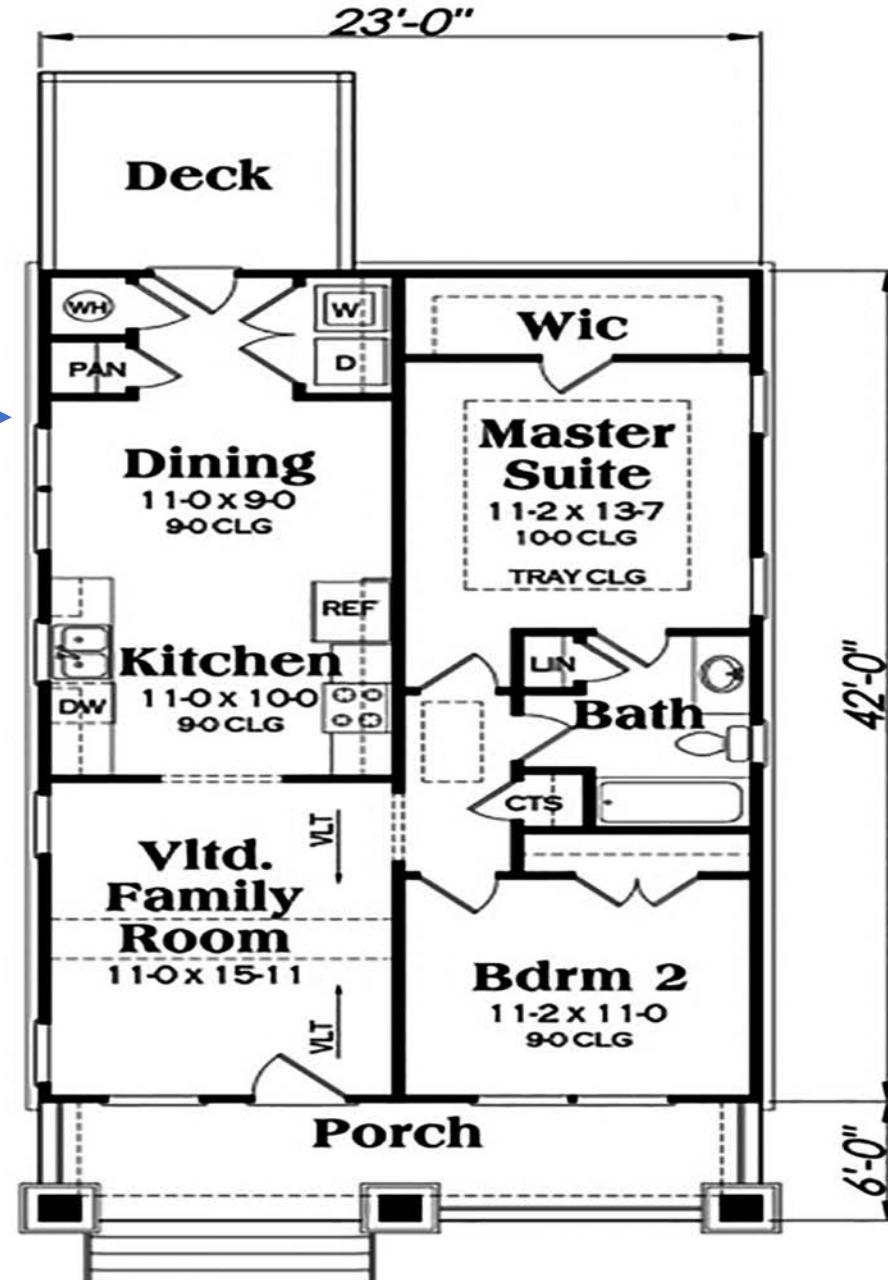
-Small homes are much more traditional homes – usually coming in around 1,000 square feet or less. [Small house plans](#) are not mobile and aren't meant to be taken around the world. However, they are a great option for [someone looking to live in a smaller space](#) – often Millennials – but with all the amenities of a typical home. Small houses normally have two bedrooms



400 sq foot house



966 sq ft



A small house is a better option than a tiny one for just about everybody. Here are a few reasons why...

1. Small houses are *bigger* without being big.
2. Small houses can be extremely energy efficient without being tiny.
3. Small houses are not much more difficult to build than tiny ones.
4. Small houses are not all that much more expensive to build than their tiny counterparts. (*This is especially true if one is comparing a small house to a prefabricated tiny one*).
5. Small houses handle weather better.
6. Small houses can be (confidently) insured.
7. Small houses have longer potential lifespans, meaning they should last for generations.
8. Small houses have better resale value than tiny houses. *In fact, small houses typically have better profit margins and sell faster than both tinier and larger houses.*
9. Small houses appreciate in value while tiny ones depreciate like cars and RVs. This makes tiny houses poor long-term investments.
10. Small houses are more practical and utilitarian with broader appeal.
11. Small houses encourage people to *stay* in places - build communities - as opposed to just *pass thru* them (taking their houses with them).
12. Small houses have room for [insert your hobby here].

<https://smallhousecatalog.com/afewsmallwords/ten-reasons-i-prefer-small-houses-to-tiny-houses>

Shipping Containers



SHIPPING CONTAINERS- PROS/CONS

- houses are [cost-effective](#),
- they reuse existing materials which make them 'eco-friendly'
- small homes are very speedy to build. Takes about 3-4 weeks to fabricate the container and cut them to fit together and put in windows.

<https://www.domain.com.au/living/the-pros-and-cons-of-shipping-container-architecture-20151015-gk2i3p/> Madeleine Wedesweiler

-Shipping containers can be air-tight, water-tight, fire and wind resistant, and termite resistant.

-Shipping container designs are often touted as being 'green' because they reuse old containers, however industry builders say old ones are unsafe to use

-Used shipping containers can have high levels of chemical residue – they are coated in lead-based paint to withstand ocean spray.

-shipping containers are unsuitable for large-scale housing projects, not least because of the difficulty in fitting them with heating and cooling systems.

-shipping containers are ideal for industrial office spaces, hospitality suites, trade show booths, and pop-up retail stores, but not so much for residential dwellings.

-benefit of small shipping container homes is that they can be built extremely quickly and precisely in a factory, then delivered to your land.



-an individual container can create an awkward living/working space. Taking into account added insulation, you have a long narrow box with less than eight foot ceiling. To make an adequate sized space, multiple boxes need to be combined

<https://premiershippingcontainers.com.au/2017/11/01/pros-and-cons-of-building-with-shipping-containers-myths-debunked/>

-In Hurricane-prone areas, like Miami and Houston, they can meet requirements of being able to sustain 110-175 mph winds. Their sturdiness comes from the metal roof and the container being nailed into a pier and then a beam foundation.

-As long as proper upkeep is maintained, units are expected to last at least 100 years.

<http://thehill.com/blogs/pundits-blog/technology/335656-local-government-still-an-obstacle-to-shipping-container-homes>

Base cost to build per container:

There are two standard sizes for shipping containers: 20 x 8 x 8 ft. covering a surface of 160 sq. ft. and 40 x 8 x 8 with a surface of 320 sq. ft. A used 20-footer costs anywhere between \$1,400 and \$2,800, whereas a 40-footer costs \$3,500 – \$4,500.

You will also have to pay for labor (about \$50-\$150 per hour) and for the modifications needed to make the container livable. Expect to pay at least \$10,000 for labor, more likely \$15,000.

There are prefabricated shipping container houses sold for as little as \$15,000. A big and luxurious house made of shipping containers can cost more than \$200,000, but this is one half of the price of a regular construction that has the same size.

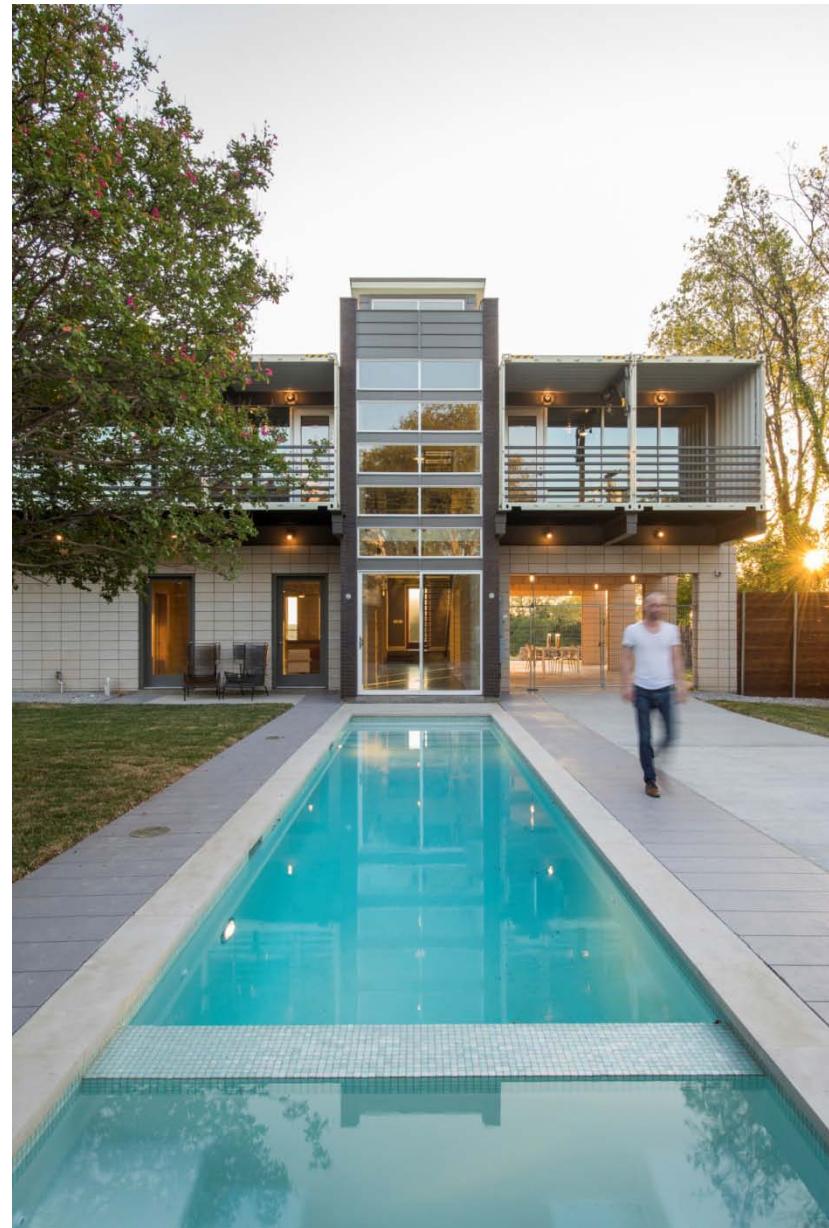
<https://www.24hplans.com/top-20-shipping-container-home-designs-and-their-costs/2018>

Traditional home that's hooked up to council utilities with 3+ bedrooms. Brad Lyons of Container Homes Designer Domain says that "we can sit these \$180,000 container homes beside a multi-million dollar home and you wouldn't know the difference". This implies that there are still savings to be made on the moderate to luxury-end of housing, but you've got to be willing to fork out more than \$30,000.

<https://premiershippingcontainers.com.au/2017/11/01/pros-and-cons-of-building-with-shipping-containers-myths-debunked>

Dallas, Texas; an impressive house comprised of 14 steel shipping containers designed and built for around \$350,000 – \$490,000 (estimated total cost to build). It has an impressive surface of 3,700 sq. ft., featuring 3 bedrooms, each with its own bathroom, a garage large enough to fit 2 cars, and a roof deck.

<https://www.24hplans.com/top-20-shipping-container-home-designs-and-their-costs/>



-a surface of 2,000 sq. ft., this house combines the industrial design on the outside with a walnut finish on the inside. The floors are concrete and the dual-pane aluminum windows provide natural light all year round.

-The house has 5 separate outside decks. You would probably have to pay about \$150,000-\$200,000 (estimated) for a metal container house this big.

-Compared to the \$300K required to [build a normal house](#) with the same dimension.



The costs to build this 1,000 sq. ft. house rise up to \$40,000 – \$80,000 (estimated).

-used 2 x 40 ft. containers and added large windows/

-the house is located near a 2-million people city: San Jose, Costa Rica.



-Made of two shipping containers and other materials, this house covers 1,517 sq. ft. of Nederland, Colorado. The main living space is inside the containers where you will find 2 bedrooms, a kitchen and a bathroom, an office and a laundry room.

--The house was custom-designed and built for \$265,475, which includes the cost of architecture and design, permitting and planning, site work, and the cost of materials and construction.



Conroe bans container homes, limits renewal period when containers are used for storage

By John S. Marshall, jmarshall@hcnonline.com

Published 9:44 pm, Friday, July 14, 2017

Conroe bans container homes, limits renewal period when containers are used for storage

As expected, Conroe officials have moved to make sure anybody thinking about turning a shipping container into a place to live won't be allowed to do so.

The City Council voted Thursday to update the ordinance that regulates containers to include a ban on converting the containers into a home. Although there are no container homes in Conroe, city officials have been fielding inquiries about the containers being converted into small houses. The updated ordinance also includes new rules that would allow a one-time renewal of the required permits when the containers are used for storage. There would be an exception for containers that are used for storage on properties that are one acre or larger.

Should container homes be banned?

- if not constructed right can be unsightly and affect neighborhood values
- may not conform to the minimum requirements and standards of the building codes
- not intended for long term storage use of combustible household materials
- making used containers legally habitable, with proper insulation, electrical work and utility hookups may cost more than traditional building methods.
- to achieve similar look to traditional houses would require pitched roof and exterior siding on all exterior surfaces would increase costs

Some suggestions

- container homes would be designated as conditional-use buildings.
- each prospective home-builder would have to petition the Planning and Zoning Commission and then the City Council for a permit.
- that process takes up to 60 days.

Recreational Vehicles

\$228,500.00 (2007) 45 feet long (35' living space 10' cab)

\$20,000 to \$40,000

https://shop.coolhorse.com/store/product/CT60603U?_vsrefdom=adwords&gclid=EAIaIQobChMlibygxqq42wIVCQtpCh2_egb-EAYYASABEgLyPD_BwE



REGULATIONS

-Only in Texas- an RV is considered a “premises” for the unlawfully carrying of weapons. VTCA Penal Code **§ 46.02** (a-2). RV is defined “means a motor vehicle primarily designed as temporary living quarters or a vehicle that contains temporary living quarters and is designed to be towed by a motor vehicle. The term includes a travel trailer, camping trailer, truck camper, motor home, and horse trailer with living quarters”

-The Water Code sets guidance for municipal water rates for RV parks. VTCA Water Code § 13.087

-Transportation Code defines RV “recreational vehicle” means a motor vehicle primarily designed as temporary living quarters for recreational camping or travel use. The term includes a travel trailer, camping trailer, truck camper, and motor home.” VTCA § 522.004 (b) regarding commercial licenses.

Code of Federal Regulations § 3282.8 defines Recreational vehicles (section on Manufactured Homes)

-(g) Recreational vehicles. Recreational vehicles are not subject to this part, part 3280, or part 3283. A recreational vehicle is a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 Square feet or less when measured at the largest horizontal projections;
- (3) Self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Is this a “Recreational Vehicle” as defined in the CFR?

- ✓(1) Built on a single chassis;
- ✓(2) 400 Square feet or less when measured at the largest horizontal projections;
- ✓(3) Self-propelled or permanently towable by a light duty truck; and
- ?(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use



WHAT THE COURTS SAY

- Municipal corporation was entitled to issuance of permanent injunction prohibiting landowner from constructing mobile home and/or recreational vehicle park within municipal corporation's extraterritorial jurisdiction until landowner complied with city code standards for subdivision developments.

[City of Weslaco v. Carpenter, 694 S.W.2d 601, 602-04](#) (Tex.App.-Corpus Christi 1985, writ ref'd n.r.e.)

Tex Loc Govt Code § 212.003 Extension of Rules to ETJ

- Developer did not have a protected property right in zoning approval of proposed commercial recreational vehicle park, and, thus, any failure by city to give developer correct information regarding whether its property was located inside or outside the city limits, and any delay of approval of its zoning application because of incorrect information, did not violate developer's due process or due course of law rights, since application merely sought a governmental benefit to which developer was not already entitled. [City of Floresville v. Starnes Investment Group, LLC, 502 S.W.3d 859, \(Tex. App.—San Antonio 2016, no pet.\).](#)
- Ordinance did not prohibit recreational vehicles from being located in mobile home park by providing that required minimum size for travel trailer or recreational vehicle park might be waived when park was operated in conjunction with, and was contiguous to, mobile home park; where ordinance contained no express prohibition against recreational vehicles in mobile home parks, it could not be construed as requiring that parks remain discrete, with specifically designated areas for recreational vehicles and for mobile homes [Schertz v. Parker, 754 S.W.2d 336 \(Tex.App.-San Antonio 1988, no writ\).](#) (be specific)

WHAT THE COURTS SAY

- City ordinance limiting amount of time recreational vehicle (RV) may be in RV park is rationally related to legitimate public purpose of prohibiting use of RVs as permanent residence, and thus, RV park owners' due process and equal protection challenges to ordinance failed.
- City ordinance requiring owners of recreational vehicle (RV) parks to keep register of all guests is rationally related to legitimate public purpose of enforcing city's park occupancy limitation and assisting in finding park occupants in event of emergency, and thus, RV park owners' due process and equal protection challenges to ordinance failed
- City ordinance requiring recreational vehicle (RV) park owners to construct and maintain barrier fence is rationally related to legitimate public purpose of separating RV park from other land uses and providing security for park users and park's neighbors, and thus, RV park owners' due process and equal protection challenges to ordinance failed

[Jones v. City of Hitchcock, No. 01-02-00676-CV, 2003 Tex. App. LEXIS 3353 \(Tex. App.--Houston \[1st Dist.\] April 17, 2003, pet. denied\);](#)

City Hitchcock defines RV as

Recreational vehicle. A portable temporary dwelling constructed to be towed by a motor vehicle on its own chassis or constructed with an integral drive train to be operated over public streets and highways under regular highway license without a permanent foundation, for temporary living. This trailer or vehicle shall be built on a chassis and designed for travel, recreation and vacation use and which has been permanently identified by the manufacturer. The body of said vehicle or trailer shall not exceed eight feet in width or 40 feet in length. The definition specifically excludes mobile homes, converted buses and homemade vehicles (not to include factory converted buses).

IN CASE YOU DIDN'T KNOW-

Recreational vehicles were not “transportable structures” designed for occupation for residential or business purposes, so as to be taxable as “improvements” to real property under tax code, where vehicle owners did not own land underlying vehicles, vehicles could be moved within matter of hours, and owners used vehicles for recreational purposes. [V.T.C.A., Tax Code §§ 1.04\(2\)\(B\), \(3\)\(A, B\), 11.14.](#) [Rourk v. Cameron Appraisal Dist., 305 S.W.3d 231, 236–39 \(Tex.App.–Corpus Christi 2009, pet. denied\)](#)

-A house trailer or towable recreational vehicle and motor vehicle combination may not be longer than 65 feet. *Texas Transportation Code 621.205.*