



Legislative UPDATE

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City of Austin Mayor Calls Texas Cities to Action

City of Austin Mayor Steve Adler kicked off the 2016 TML Annual Conference with inspiring remarks about legislative attacks on Texas cities. Mayor Adler's speech is must-watch material for city officials in preparation for the 2017 legislative session.

The full video of his speech can be seen here: <https://vimeo.com/186313659>.

Texas Attorney General Intervenes in Short Term Rental Lawsuit Against City of Austin

Last week, Texas attorney general Ken Paxton intervened in a lawsuit seeking to invalidate the City of Austin's ordinance regulating short term rentals (STRs). Some cities have experienced problems with STRs recently, largely due to the proliferation of websites such as AirBNB and VRBO. Those problems range from uncollected hotel taxes to out of control parties. Some cities have enacted ordinances in an attempt to address these problems.

The City of Austin, in particular, has been at the forefront of short term rental regulations. After revamping its STR ordinance in February 2016, a number of short term rental owners, represented by attorneys from the Texas Public Policy Foundation (TPPF), sued the City of Austin. According to the petition filed by TPPF:

The City's STR Ordinance violates a host of rights arising under the Texas Constitution — including property owners' rights under the equal protection and due course of law clauses of the Texas Constitution, as well as tenants' rights to the freedom of movement, privacy, and assembly. In addition, the STR Ordinance exceeds the City's zoning powers. The STR Ordinance prohibits short-term rentals in previously-permitted residential areas, phases out existing, lawfully operating short-term rental properties, restricts the number of people allowed to step foot on any short-term rental property, dictates the movement and association of "assemblies" in short-term rentals, and sets a bedtime for tenants. The City cannot carpet bomb the constitutional rights of short-term rental owners and lessees under the auspices of zoning or code enforcement. Such regulations violate the Texas Constitution and must be struck down.

The attorney general issued a [press release](#) last week when he decided to intervene in the Austin lawsuit stating that he is seeking to protect the property rights of STR owners in Austin.

Noticeably absent from the press release was any mention of the property rights of other property owners and residents who live near STRs. After all, no state official is in a prime position to really immerse themselves in an issue that is truly local in nature.

An STR ordinance is a perfect example of a local decision that is best made at the local level. Not every city has an issue with STRs. But in high-tourist areas and neighborhoods, city councils are the first ones to hear from residents about any potential problem. The Austin city council didn't adopt the STR ordinance on a whim. It did so after numerous complaints and after hours of deliberation and testimony from STR owners, renters, and neighbors alike. This included testimony from citizens about de-facto hotels in the form of STRs locating in otherwise quiet family neighborhoods. The ordinance that was ultimately adopted was a tailored response to a uniquely local issue.

Voter ID Update

After finding that Texas' Voter ID law [violated the Voting Rights Act](#) in July, the Fifth Circuit Court of Appeals remanded the case to district court to "fix" the law's discriminatory effect. In response, a district judge approved an [agreement](#) between the various parties to the litigation providing an interim fix for the November 2016 election. The agreement states that voters without government-issued IDs may still vote in the upcoming election if they sign a declaration stating that they are a United States citizen and present proof of residence using a document such as a utility bill, bank statement, paycheck, or government document.

On September 23, Texas attorney general Ken Paxton filed a [petition](#) with the United States Supreme Court to reinstate Texas' voter ID law in the wake of the Fifth Circuit opinion. The petition will not affect the upcoming November elections.

The bottom line for city election officials? Voters may, but are not required to show an ID to vote in elections held this November. As for the overall validity of the Texas Voter ID law? Unknown at this time.

EPA Offers Assistance to Help Rural Communities Revitalize Downtowns

The U.S. Environmental Protection Agency (EPA) announced its Rural Advantage program, a suite of federal economic development planning assistance programs for rural communities. Rural Advantage is a program designed to help communities reinvent themselves in ways that are good for the economy and the environment. Rural communities are invited to apply for planning assistance to develop strategies that help grow the economy and revitalize downtown neighborhoods.

Communities may apply for assistance through the following programs:

- Local Foods, Local Places (LFLP), which helps communities leverage local food enterprise to diversify their economy and renew their downtowns.
- Cool & Connected, which helps communities use broadband service to create walkable, connected, economically successful neighborhoods.
- Healthy Places for Healthy People, a new program that will help communities partner with health care facilities to catalyze downtown revitalization and to improve options for healthy living and economic opportunity.

Rural Advantage is part of the commitment to place-based strategies to help communities develop competitive advantages. In these places, federal experts are working side by side with residents and local leaders to create customized solutions, bolstering coordination across agencies and improving how we interact with and serve community partners.

Communities may apply by submitting letters of interest by November 6. More information and application instructions are available at <https://www.epa.gov/smartgrowth>.

Payday Lending Clearinghouse Updates

The League's "Payday Lending Clearinghouse" webpage, available at <http://www.tml.org/payday-updates>, includes information related to the regulation of payday and auto title lenders. It is updated from time-to-time to reflect recent developments. Interested city officials should note that Texas Appleseed, a public-interest justice center, put together a publication titled "A Toolkit for Cities," which is designed to help Texas cities increase access to fair, low-cost loans for their employees and the constituents they serve. The full publication can

be accessed [here](#). More information is available at Texas Appleseed's website: <https://www.texasappleseed.org/payday-auto-title-lending-reform>.

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