

Texas Cities vs. HOAs: Different Kinds of Authority

A city regulates as government. An HOA regulates through private covenants attached to property.



CITY = PUBLIC LAW

HOA = PRIVATE COVENANT

Question	City in Texas	Homeowner's Association
Source of power	State law, charter, ordinances, and police power to protect public health, safety, and welfare.	Recorded declaration, deed restrictions, bylaws, rules, and architectural guidelines.
Who is bound?	Generally everyone within city limits; some limited powers may reach the ETJ or a service area.	Only lots subject to recorded covenants; owners are members because the lot is burdened.
Interest served	Community-wide public purpose: safety, land use compatibility, infrastructure, traffic, nuisances, fire/building safety.	Private subdivision standards: appearance, maintenance, assessments, amenities, and covenant expectations.
How rules are adopted	Council action, ordinances, public notice/hearings when required, zoning procedures, permits, published codes.	Board/member action under governing documents, recorded dedicatory instruments, and Property Code limits.
Core limits	State/federal preemption, due process, equal protection, takings, open government, and statutory penalty limits.	Covenants must be lawful, recorded, and reasonably applied; Chapter 209 notice/hearing and records/meeting rights apply.

What Each Can Regulate on a Homeowner's Property

Scope is the practical difference: cities regulate for public purposes; HOAs regulate private subdivision standards.



Topic	City authority	HOA authority	Practical effect for homeowner
Land use / zoning	Zoning districts, uses, density, setbacks, parking, nonconforming uses, special permits.	Recorded covenants may restrict uses, businesses, rentals, structures, and lot configuration.	May need both zoning compliance and HOA approval.
Building / safety	Building, fire, floodplain, substandard building, electrical, plumbing, and permit codes.	May require architectural approval, plans, materials, exterior design, and contractor rules.	HOA approval does not replace a city permit or inspection.
Nuisance / maintenance	Tall grass, junked vehicles, trash, stagnant water, dangerous structures, noise, ROW obstructions.	Lot maintenance, visible storage, landscaping, exterior condition, and nuisance clauses.	Same condition can trigger both city and HOA enforcement.
Appearance / design	Limited aesthetics through zoning, signs, historic districts, design standards, and specific ordinances.	Strongest HOA area: paint, fences, roofs, landscaping, exterior changes, screening.	HOA can be more restrictive when documents and state law allow.
Money / fees	Taxes, utility rates, permit fees, impact fees, fines/civil penalties as authorized by law.	Regular/special assessments, late charges, fines, collection costs, and liens.	City powers are public-law; HOA charges are covenant based.
Public safety / access	Police, fire, EMS, streets, traffic control, sidewalks, public rights-of-way.	Private gates, common areas, amenities, security contracts, and access rules.	HOA security is not governmental police power.

Key rule: a homeowner usually must comply with both; the stricter rule may control unless state law preempts it.

Enforcement: The Biggest Contrast

A city can use governmental enforcement tools. An HOA uses contractual remedies and assessment powers.



Issue	City	HOA	Homeowner safeguard / remedy
Notice and process	Code notices, permits, board hearings, municipal court, and abatement processes.	Written violation notice, opportunity to cure/hearing before certain sanctions, records and meeting rules.	Ask for the legal authority, deadline, appeal path, and evidence.
Penalties	Municipal court fines; civil penalties; injunctions; abatement; repair/demolition when authorized.	Fines, suspension of privileges, reimbursement assessments, collection action, injunctions.	City penalties are statutory; HOA penalties must be authorized.
Liens / foreclosure	Abatement liens and other statutory liens in limited circumstances; tax/utility powers are separate.	Assessment liens and foreclosure rights may exist; Chapter 209 adds notice, payment-plan, and redemption protections.	Confirm whether the charge is an assessment, fine, fee, interest, or collection cost.
Courts	Municipal court, administrative boards, county/district court civil enforcement.	Civil lawsuit, collection suit, injunction/declaratory judgment; often internal hearing first.	Remedies differ - appeal a city decision; challenge HOA action under documents/statute.
Overlap rule	City cannot enforce private deed restrictions unless separately adopted as law.	HOA cannot waive or override a valid city ordinance or permit requirement.	Resolve city code and HOA approval separately in writing.

Bottom line: City power is broader but publicly constrained; HOA power is narrower but can be more detailed if covenants authorize it.

Sources: Tex. Loc. Gov't Code §§ 54.001, 54.012, ch. 211; Tex. Prop. Code §§ 202.001–.004, ch. 209.

Portland Code Enforcement Ordinances



Parked vehicles

- On-street parking – legal (with limitations)
- In a private driveway – no restrictions except for junk vehicles

Trash at front doors

- May be a violation if it rises to the level of “unwholesome”

Weeds and overgrown yards

- 12 inch maximum – requires notice; city may contract to correct

Structures in need of repair

- Structurally unsafe, dilapidated, attractive nuisances – condemnation
- Building Standards Commission enforces Uniform Property Maintenance Code

Portland Code Enforcement Ordinances



Illegal Watering

- Drought Management Plan
- 46 citations since January
- Alternative water projects – brackish desal and effluent reuse

Reporting violations

- Police department non-emergency line (361) 777-4444
- City Website
- My Portland App