



- Texas Natural Resources Code,
- Texas Occupations Code, or
- Texas Property Code.

Any such ordinance, order, or rule is void and unenforceable.

The TRCA also codifies that Texas municipalities and counties may only adopt, enforce, or maintain ordinances and rules that are consistent with the laws of the state of Texas. Tex. Gov't Code § 51.002.

Representative Dustin Burrows introduced HB 2127—the bill that became the TRCA—on February 9, 2023. During a House Committee on State Affairs hearing on March 15, 2023, Laura Morrison, an assistant city attorney, testified on behalf of the City of Dallas in opposition to HB 2127. During her testimony, Representative Rafael Anchía asked Ms. Morrison to provide him with a list of city ordinances that would be affected by the bill. On April 26, 2023, Dallas responded with a memo titled “CSHB 2127 – Impact to Local Ordinances in House District 103,” listing 133 Dallas city ordinances “that will be affected” should HB 2127 pass. Ex. A at 1. The memo was later voluntarily disclosed to the media.<sup>1</sup>

As the only effect of the TRCA is to invalidate preempted laws, the only possible way HB 2127 could affect the 133 listed city ordinances is to preempt them, rendering them void and unenforceable. That is, in trying to prevent HB 2127 from passing, the City of Dallas told Representative Anchía that at least the 133

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<sup>1</sup> Brad Johnson, List of Endangered Regulations Under Texas Preemption Law at Center of Dispute Between Dallas, Attorney General, THE TEXAN (Dec. 18, 2023), [https://thetexan.news/judicial/list-of-endangered-regulations-under-texas-preemption-law-at-center-of-dispute-between-dallas-attorney/article\\_90fba8f0-9de2-11ee-8e1b-d7e7de19b4b0.html](https://thetexan.news/judicial/list-of-endangered-regulations-under-texas-preemption-law-at-center-of-dispute-between-dallas-attorney/article_90fba8f0-9de2-11ee-8e1b-d7e7de19b4b0.html).

ordinances and regulations listed in its memo would be preempted by state law if HB 2127 passed. HB 2127 did pass and is now state law. Accordingly, the City of Dallas has admitted that the 133 city ordinances and regulations in its April 2023 memo are now preempted, void, and unenforceable.

Ms. Morrison also testified that passage of HB 2127 would require cities to undergo a costly and burdensome review of all city ordinances to ensure they are not improperly enforcing any preempted regulations in violation of the TRCA. More than two years later, after receiving notice from plaintiffs, the City of Dallas has repealed a handful of the more than 100 ordinances listed in the April 2023 memo.

Plaintiffs now seek a declaratory judgment that the Dallas ordinances and regulations listed in the April 2023 memo to Representative Anchía and challenged in this petition are preempted by the TRCA and therefore void and unenforceable, injunctive relief barring any future enforcement of those ordinances and regulations, and costs and reasonable attorneys' fees.

## **II. DISCOVERY CONTROL PLAN**

Plaintiffs intend to conduct Level 3 discovery under Texas Rule of Civil Procedure 190.4 in this case.

## **III. PARTIES**

1. Plaintiff Haley Kyles is a resident of the City of Dallas and pays property taxes to the City of Dallas.

2. Plaintiff Daniel Rodriguez is a resident of the City of Dallas and pays property taxes to the City of Dallas. Mr. Rodriguez is married to Plaintiff Tami Brown.

3. Plaintiff Tami Brown is a resident of the City of Dallas and pays property taxes to the City of Dallas. Ms. Brown is married to Plaintiff Daniel Rodriquez.

4. Plaintiff Associated Builders and Contractors of Texas (“ABC Texas”) is a Texas nonprofit trade association whose members include individuals and businesses regulated by ordinances challenged in this action. Plaintiff ABC Texas brings this suit on behalf of its members, many of whom are directly subject to, regulated by, and injured by the enforcement of the challenged ordinances.

5. The City of Dallas is a home-rule municipality located in Collin, Dallas, Denton, Kaufman, and Rockwall Counties, Texas.

#### **IV. JURISDICTION AND VENUE**

6. Texas Civil Practices and Remedies Code § 102A.002 authorizes Plaintiffs to bring this cause of action against the City of Dallas.

7. This Court has jurisdiction over this matter under the Texas Uniform Declaratory Judgments Act, Texas Civil Practice and Remedies Code § 37.001, et seq., and the Texas Regulatory Consistency Act, Texas Civil Practice and Remedies Code §102A.002.

8. This Court has jurisdiction over Defendant City of Dallas because Texas Civil Practice and Remedies Code § 102A.004 waives governmental immunity to the extent of the City of Dallas’s liability under the TRCA.

9. Haley Kyles, Daniel Rodriquez, and Tami Brown (“Resident Plaintiffs”) provided notice to the City of Dallas as required by Texas Civil Practices and

Remedies Code § 102A.005 through letters to the City Secretary and City Attorney sent by email and U.S. Postal Service certified mail at least three months before the date of this action.

10. ABC Texas provided notice to the City of Dallas as required by Texas Civil Practices and Remedies Code § 102A.005 through letters to the City Secretary and City Attorney sent by email and U.S. Postal Service certified mail at least three months before the date of this first amended petition.

11. Venue is proper in Denton County because the City of Dallas is a municipality, and Denton County is “a county in which the municipality is located.” Tex. Civ. Prac. & Rem. Code § 102A.006(a)(2). Because this action is brought in a venue authorized by the TRCA, the action may not be transferred without the written consent of all parties. § 102A.006(b).

## **V. GENERAL NATURE OF VIOLATIONS AND TAXPAYER BURDENS**

### **Preempted Ordinances are Unconstitutional by Operation of Law**

The Texas Constitution directs that “no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State.” Tex. Const. Art. XI, § 5(a).

When a city ordinance is inconsistent with the general laws enacted by the Texas Legislature, that ordinance is not merely statutorily preempted, but is rendered unconstitutional by operation of law. See, e.g., *City of Laredo v. Laredo Merchs. Ass’n*, 550 S.W.3d 586, 592 (Tex. 2018) (holding that a preempted Laredo statute was void under the Texas Constitution); *Tex. Ass’n of Bus. v. City of Austin*,

565 S.W.3d 425, 440 (Tex. App.—Austin 2018) (“[T]he TMWA preempts the City’s Ordinance as a matter of law, thus making the Ordinance unconstitutional.”)

In passing the Texas Regulatory Consistency Act, the Texas Legislature rendered unconstitutional any local ordinance that attempts to regulate in any of the eight fields the Legislature reserved for regulation by the State of Texas alone and any ordinances that are not consistent with Texas law. *See* Texas Regulatory Consistency Act, 2023 Tex. HB 2127, § 3 (“The purpose of this Act is to provide statewide consistency by returning sovereign regulatory powers to the state where those powers belong in accordance with Section 5, Article XI, Texas Constitution.”).

**Dallas’s Comprehensive Remedial Scheme Adds Taxpayer Burden to Every Ordinance**

Dallas City Code §§ 13-1 and 13-2 provide a general penalty for any offense defined by the Dallas City Code that has no separately defined penalty or enforcement mechanism. Section 13-1(a) provides for fines, and § 13-1(b) creates cumulative offenses for continuing violations. Section 13-1.1 provides jurisdiction for the municipal court system for all offenses. These provisions demonstrate that Dallas has implemented a catch-all remedial scheme for any code violation, regardless of whether enforcement is described in any given ordinance. This scheme places a significant burden on taxpayer-funded Dallas municipal courts, which must cite and process enforcement actions, adjudicate disputes, and render final decisions that can be appealed.

Dallas City Code § 2-96 provides an appeal process for permit and license actions by a director of any city department when no appeal is provided in the

ordinance being enforced. Appeals under this section are directed to the Permit and License Appeal Board. In other words, every permit and license ordinance is also subject to an administrative appeal process. This process increases the cost to taxpayers for every permit or license fee by adding administrative burdens to taxpayer-funded city officials.

Dallas City Code § 2-99 allows for appeal to state district court for decisions from the Permit and License Appeal Board and provides filing deadlines, burden of proof standards, and subject matter limitations. Providing for appeals from the Permit and License Appeal Board necessarily contemplates that the Board is an active burden on taxpayers.

Taken as a whole, these provisions create a comprehensive remedial scheme to process every city action through multiple layers of municipal bureaucracy and courts, all funded by—and accountable to—Dallas taxpayers.

## **VI. CAUSES OF ACTION**

12. Resident Plaintiffs challenge all of the Ordinances laid out below in Causes of Action 1–83.

13. ABC Texas joins Resident Plaintiffs in the following Causes of Action only: (10) Dallas City Code § 43-140, (43) Dallas City Council Resolution 15-2141, (44) Dallas City Code § 15B-3, (46) Dallas City Code Chapter 46, and (49) Dallas City Code Chapter 34, as noted within each cause of action below.

## Insurance Code

### 1. **Dallas City Code § 5-25—Insurance Requirements for Transportation Services**

14. The ordinance requiring insurance for transportation services is preempted by Texas Insurance Code § 30.005, because § 1954.051 comprehensively regulates insurance for transportation network company drivers.

15. The Texas Insurance Code preempts the entire field of insurance regulation, and specifically the field of insurance for transportation network companies.

16. No Texas statute authorizes the City of Dallas to regulate insurance for transportation services.

17. The ordinance creates a fragmented and inconsistent regulatory environment, making it more difficult and costly for transportation companies to operate, and increasing the cost of rides for consumers.

18. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city's permitting process and code enforcement.

19. The registration fee imposed under § 5-26 and incorporated by § 5-25 is prima facie evidence that taxpayer resources are expended to administer and enforce this scheme. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

20. Significant employee time and municipal resources are consumed reviewing insurance documentation, investigating potential violations, and processing compliance matters.

21. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 5-27.

**2. Dallas City Code § 8A-34(j)(1)(B)—Prohibiting Boarding Home Employees from being a Resident’s Life Insurance Beneficiary**

22. The ordinance prohibiting boarding home licensees or employees from being designated as a life insurance beneficiary is preempted by Texas Insurance Code § 30.005, because § 1103, Subchapter B governs the designation of beneficiaries for life insurance policies.

23. The Texas Insurance Code preempts the field of insurance regulation, and specifically the designation of beneficiaries for life insurance policies.

24. No Texas statute authorizes the City of Dallas to restrict whom an insured may designate as a beneficiary of a life insurance policy.

25. This ordinance improperly limits an individual’s right to designate the beneficiary of their choice, interferes with private contractual relationships, and creates a fragmented and inconsistent regulatory patchwork across the state wherein the validity of insurance contracts turns on whether a designation was made within the city limits of certain political subdivisions of the state.

26. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city’s permitting process and code enforcement.

27. The licensing fees imposed in 8A-4 are prima facie evidence that taxpayer resources are expended. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

28. Significant employee time and municipal resources are consumed reviewing insurance documentation, investigating potential violations, and processing compliance matters.

29. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 8A-9 through 8A-11 and appeals under § 8A-12.

### **3. Dallas City Code Chapter 15D, Article I—Insurance Requirements for Ambulances, Auto, Malpractice, and Commercial General Liability**

30. The ordinance requiring specific types of insurance for ambulances is preempted by Texas Insurance Code Texas Insurance Code § 30.005, because § 1952 regulates policy provisions and forms for automobile insurance, including commercial policies.

31. No Texas statute authorizes the City of Dallas to regulate the insurance requirements for ambulances.

32. The ordinance creates a fragmented and inconsistent regulatory environment, creating unnecessary administrative burdens and compliance costs for ambulance services.

33. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city's licensing and compliance processes.

34. The licensing fee imposed in 15D-9.2(c) is prima facie evidence that taxpayer resources are expended. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

35. Significant employee time and municipal resources are consumed reviewing insurance documentation, investigating potential violations, and processing compliance matters.

36. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 15D-9.5.

#### **4. Dallas City Code § 17-8.2(c)(1)(E)—Insurance Requirements for Mobile Food Units**

37. The ordinance requiring insurance for mobile food units is preempted by the Texas Insurance Code § 30.005 because Chapter 1952 occupies the field of insurance regulation.

38. The Texas Insurance Code preempts the entire field of insurance, and specifically the forms and provisions of commercial automobile insurance policies.

39. No Texas statute authorizes the City of Dallas to impose separate insurance requirements on mobile food units.

40. The ordinance creates an inconsistent regulatory landscape which is opaque and burdensome for mobile businesses that operate across jurisdictions.

41. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city's permitting and inspection processes.

42. The permit imposed in § 17-8.2(k) is prima facie evidence that taxpayer resources are expended. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

43. Significant employee time and municipal resources are consumed reviewing insurance documentation, investigating potential violations, and processing compliance matters.

44. Further, the City of Dallas's municipal court system dedicates taxpayer-funded judicial and clerical resources to handle citations and hearings arising from enforcement of the ordinance.

#### **5. Dallas City Code § 28-168—Insurance Requirements for Motor Vehicle Escorts for Hire**

45. The ordinance requiring insurance for motor vehicle escorts for hire is preempted by the Texas Insurance Code § 1952, which regulates policy provisions and forms for automobile insurance.

46. The Texas Insurance Code preempts the entire field of insurance, and specifically the forms and provisions of commercial automobile insurance policies.

47. No Texas statute authorizes the City of Dallas to regulate insurance for motor vehicle escorts.

48. This ordinance creates a patchwork of inconsistent and conflicting insurance requirements for businesses operating across jurisdictions, increasing costs for motor vehicle escort businesses.

49. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city's permitting process.

50. The licensing fee imposed in 28-170 is prima facie evidence that taxpayer resources are expended. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

51. Significant employee time and municipal resources are consumed reviewing insurance documentation, investigating potential violations, and processing compliance matters.

52. Further, the City of Dallas's municipal court system dedicates taxpayer-funded judicial and clerical resources to handle citations and hearings arising from enforcement under §§ 28-165 and 28-166.

#### **6. Dallas City Code § 42A-28.7—Insurance Requirements for Street Seat Permit**

53. The ordinance requiring insurance for a street seat permit is preempted by the Texas Insurance Code §§ 2301 and 2251, which govern insurance policy forms and rates.

54. The Texas Insurance Code preempts the entire field of insurance, including the regulation of insurance policy forms and rates for commercial general liability.

55. No Texas statute authorizes the City of Dallas to regulate insurance policy requirements for street seats.

56. This ordinance creates an additional layer of regulation that increases costs and administrative burden for small businesses seeking to use public spaces.

57. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city's permitting process.

58. The license fee imposed in § 42A-6 and incorporated in § 42A-28.9(b)(5) are prima facie evidence that taxpayer resources are expended. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

59. Significant employee time and municipal resources are consumed reviewing insurance documentation, investigating potential violations, and processing compliance matters.

60. Further, the City of Dallas's municipal court system dedicates taxpayer-funded judicial and clerical resources to handle citations and hearings arising from enforcement of the ordinance.

## **7. Dallas City Code § 42A-15—Insurance Requirements for Special Events**

61. The ordinance requiring insurance for special events is preempted by the Texas Insurance Code §§ 2301 and 2251, which govern insurance policy forms and rates.

62. The Texas Insurance Code preempts the entire field of insurance, including the regulation of insurance policy forms and rates.

63. No Texas statute authorizes the City of Dallas to regulate insurance requirements for special events.

64. This ordinance discourages and creates barriers for organizers of special events, hindering community engagement and economic activity.

65. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city's permitting process.

66. The licensing fee imposed in 42A-6 is prima facie evidence that taxpayer resources are expended. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

67. Significant employee time and municipal resources are consumed reviewing insurance documentation, investigating potential violations, and processing compliance matters.

68. Further, the City of Dallas's municipal court system dedicates taxpayer-funded judicial and clerical resources to handle citations and hearings arising from enforcement of the ordinance.

#### **8. Dallas City Code § 42A-37—Insurance Requirements for Streetlight Pole Banner**

69. The ordinance requiring insurance for a streetlight pole banner permit is preempted by the Texas Insurance Code §§ 2301 and 2251, which govern insurance policy forms and rates.

70. The Texas Insurance Code preempts the entire field of insurance regulation, including the forms and rates of commercial general liability policies.

71. No Texas statute authorizes the City of Dallas to regulate insurance requirements for pole banners.

72. This ordinance deters businesses and non-profits from utilizing pole banners for advertising or public announcements, limiting a form of communication and city revenue.

73. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city's permitting process.

74. The licensing fee imposed in § 42A-6 and incorporated in this section is prima facie evidence that taxpayer resources are expended. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

75. Significant employee time and municipal resources are consumed reviewing insurance documentation, investigating potential violations, and processing compliance matters.

76. Further, the City of Dallas's municipal court system dedicates taxpayer-funded judicial and clerical resources to handle citations and hearings arising from enforcement of this ordinance.

### **9. Dallas City Code § 43-126.12—Insurance Requirements for Valet Parking Services**

77. The ordinance requiring insurance for valet parking services is preempted by the Texas Insurance Code §§ 2301 and 2251, which govern insurance policy forms and rates.

78. The Texas Insurance Code preempts the entire field of insurance, including the regulation of insurance policy forms and rates for commercial general liability and garage keepers' insurance.

79. No Texas statute authorizes the City of Dallas to regulate insurance requirements for valet parking services.

80. This ordinance creates a confusing and costly regulatory environment for businesses providing valet services in Dallas and an inconsistent patchwork across different Texas municipalities.

81. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city's permitting process.

82. The application fee of \$1,700 imposed under Dallas City Code § 43-126.6 is prima facie evidence that taxpayer resources are spent on administering and

enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

83. Significant employee time and municipal resources are consumed reviewing insurance documentation, investigating potential violations, and processing compliance matters.

84. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 43-126.7 and other sections.

#### **10. Dallas City Code § 43-140—Insurance Requirements for Construction Work Performed in the Right of Way**

85. The ordinance requiring insurance for construction work in the right of way is preempted by the Texas Insurance Code §§ 2301 and 2251, which regulate insurance policy forms and rates.

86. The Texas Insurance Code preempts the entire field of insurance regulation, specifically the forms and rates of commercial general liability insurance.

87. No Texas statute authorizes the City of Dallas to regulate insurance requirements on construction work in a right-of-way when the city is not a party to the construction contract.

88. This ordinance creates an inefficient and burdensome process for construction companies that must comply with varying local insurance requirements in addition to state and federal regulations.

89. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city's permitting process.

90. The permit required under Dallas City Code § 43-139 is prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

91. Significant employee time and municipal resources are consumed reviewing insurance documentation, investigating potential violations, and processing compliance matters.

92. Further, the City of Dallas's municipal court system dedicates taxpayer-funded judicial and clerical resources to handle citations and hearings arising from enforcement of the ordinance under § 43-136.

93. ABC Texas joins with Resident Plaintiffs in challenging this ordinance.

94. This ordinance injures ABC Texas members by regulating private business agreements and operations and requiring additional insurance for certain construction projects performed in rights of way.

#### **11. Dallas City Code § 43-170—Insurance Requirements for Shared Dockless Vehicles**

95. The ordinance requiring insurance for shared dockless vehicles is preempted by the Texas Insurance Code §§ 2301 and 2251, which govern insurance policy forms and rates.

96. The Texas Insurance Code preempts the entire field of insurance regulation, including the forms and rates of commercial liability policies for businesses.

97. No Texas statute authorizes the City of Dallas to regulate insurance requirements for shared dockless vehicles.

98. This ordinance hinders the growth and availability of shared mobility services by creating a burdensome and inconsistent regulatory environment.

99. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city's permitting process.

100. The application fee of \$2,650, program fees in § 43-172, and per-ride right-of-way rental fee imposed under Dallas City Code § 43-161 are prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

101. Significant employee time and municipal resources are consumed reviewing certificates and endorsements, tracking renewal and cancellation notices, auditing compliance with additional insured and waiver-of-subrogation endorsements, and enforcing policy-term mandates and carrier-qualification rules.

102. Further, the City of Dallas's municipal court system dedicates taxpayer-funded judicial and clerical resources to handle citations and hearings arising from enforcement of the ordinance under § 43-158(b) and other provisions.

## **12. Dallas City Code Chapter 47A, Article II, Division 5—Insurance Requirements for Transportation for Hire**

103. The ordinance requiring insurance for transportation for hire is preempted by Texas Insurance Code § 30.005, because § 1954.051 specifically governs insurance for transportation network companies.

104. The Texas Insurance Code preempts the entire field of insurance regulation, and specifically the insurance requirements for transportation for hire services.

105. No Texas statute authorizes the City of Dallas to regulate insurance requirements for transportation for hire services.

106. This ordinance creates a confusing and costly regulatory environment for businesses providing transportation for hire services in Dallas and an inconsistent patchwork across different Texas municipalities.

107. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city's permitting process.

108. Significant employee time and municipal resources are consumed reviewing insurance documentation, investigating potential violations, and processing compliance matters.

109. Further, the City of Dallas's municipal court system dedicates taxpayer-funded judicial and clerical resources to handle citations and hearings arising from enforcement of the ordinance under §§ 47A-2.1.5 and 47A-2.1.6.

### **13. Dallas City Code § 48A-29—Insurance Requirements for Vehicle Tow Services**

110. The ordinance requiring insurance for vehicle tow services is preempted by the Texas Insurance Code § 1952, which regulates policy provisions and forms for automobile insurance, including commercial policies.

111. The Texas Insurance Code preempts the entire field of insurance, and specifically the forms and provisions of commercial automobile insurance.

112. No Texas statute authorizes the City of Dallas to regulate insurance requirements for vehicle tow services.

113. This ordinance creates a confusing and costly regulatory environment for businesses providing vehicle tow services in Dallas and an inconsistent patchwork across different Texas municipalities.

114. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city's permitting process.

115. The application fee imposed under Dallas City Code § 48A-8 is prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

116. Significant employee time and municipal resources are consumed reviewing insurance documentation, investigating potential violations, and processing compliance matters.

117. Further, the City of Dallas's municipal court system dedicates taxpayer-funded judicial and clerical resources to handle citations and hearings arising from enforcement of the ordinance under § 48A-25 and other provisions.

#### **14. Dallas City Code § 48C-30—Insurance Requirements for Vehicle Immobilization Services**

118. The ordinance requiring insurance for vehicle immobilization services is preempted by the Texas Insurance Code §§ 2301, 2251, and 1952, which govern insurance policy forms, rates, and automobile insurance policy provisions.

119. The Texas Insurance Code preempts the entire field of insurance regulation, including the regulation of insurance policy forms, rates, and provisions for commercial businesses.

120. No Texas statute authorizes the City of Dallas to regulate insurance requirements for vehicle immobilization services.

121. This ordinance creates a confusing and costly regulatory environment for businesses providing vehicle immobilization services in Dallas and an inconsistent patchwork across different Texas municipalities.

122. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city's permitting process.

123. The license fee imposed under Dallas City Code § 48A-8 is prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

124. Significant employee time and municipal resources are consumed reviewing insurance documentation, investigating potential violations, and processing compliance matters.

125. Further, the City of Dallas's municipal court system dedicates taxpayer-funded judicial and clerical resources to handle citations and hearings arising from enforcement of the ordinance under § 48A-23 through 48A-25 and other provisions.

### **Occupations Code**

#### **15. Dallas City Code §§ 5-23, 5-25, 5-26—Regulating Airport Transportation**

126. Dallas City Code §§ 5-23, 5-25, and 5-26 regulate ground transportation at the airport, which is preempted by Texas Occupations Code § 1.004 and Texas Local Government Code § 51.002, because Chapter 2402 occupies the entire field of transportation network company regulation, § 2402.003(a) expressly withdraws

authority for municipalities in this field, and the regulation is otherwise inconsistent with state law.

127. Texas Occupations Code § 2402.003(a) establishes a uniform statewide system for regulating transportation network companies, occupying the field and leaving no room for municipal operating authority systems.

128. Texas Transportation Code § 22.011(b) provides limited express authority for municipalities to regulate the use of airport facilities but does not authorize invasive regulation of transportation providers.

129. Dallas exceeds that authority by attempting to separately license airport drivers, and by creating an invasive regulatory regime on businesses and drivers already regulated by state law, violating Local Government Code § 51.002.

130. The ordinances create an inconsistent and burdensome regulatory framework that deters drivers from serving the airport, thereby reducing available transportation, restricting competition, and increasing consumer costs.

131. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city's permitting process, and significant employee time and municipal resources are consumed by reviewing licensing applications and renewals, investigating compliance, handling related paperwork, investigating potential violations, and processing compliance matters.

132. The license fees imposed under Dallas City Code § 5-26 are prima facie evidence of such expenditures. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

133. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 50-23 and § 50-27.

## **16. Dallas City Code Chapter 6A—Amusement Centers**

134. Chapter 6A requires a city license to operate a business with coin-operated amusement devices and is preempted by Texas Occupations Code § 1.004 because Chapter 2153 provides a comprehensive statewide framework for licensing, taxing, and regulating coin-operated amusement machines.

135. By creating its own municipal license, charging an additional fee, conditioning licensing on local moral-character standards, and empowering police to inspect and revoke licenses, the ordinance invades a field occupied by state law.

136. The ordinance is also independently preempted by Business & Commerce Code § 1.109 because the ordinance attempts to regulate ordinary legal commerce through its licensing regime.

137. The Business and Commerce code comprehensively regulates businesses in the state, and by imposing a municipal licensing regime, Dallas invades a field occupied by state law.

138. No Texas statute authorizes the City of Dallas to regulate businesses, including amusement centers, engaging in ordinary legal commerce.

139. Because the Occupations Code and Business & Commerce Code establish field preemption over the licensing and regulation of coin-operated amusement machines, and because Dallas lacks separate express authority to impose duplicative requirements under Local Government Code § 51.002, Chapter 6A is preempted in its entirety.

140. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city's permitting process.

141. The license fees under § 6A-5 are prima facie evidence that taxpayer resources are being spent on enforcement. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

142. Significant employee time and municipal resources are consumed reviewing licensing applications and renewals, investigating vendor compliance, handling related paperwork, investigating potential violations, processing compliance matters, and collecting per-device fees—functions generally already covered by the Texas Comptroller's program.

143. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 6A-7–6A-8, 6A-11, and appeals under § 6A-9.

#### **17. Dallas City Code § 7-4.11—Breeding Permit**

144. Dallas City Code § 7-4.11 requires owners of dogs and cats to obtain a breeding permit before allowing the animals to reproduce and is preempted by Texas Occupations Code § 1.004 because Texas Occupations Code Chapter 802 comprehensively regulates animal breeders in Texas.

145. Texas Local Government Code § 209.901(b) provides limited express statutory authority for certain dog and cat retail sales, but this authority does not extend to regulating the breeding of animals. Because the TRCA preempts the field, § 7-4.11 is preempted, except to the limited extent temporarily authorized by statute.

146. The ordinance creates an inconsistent regulatory regime that increases costs for lawful breeders, forces breeders into other jurisdictions, and increases incentives for unlawful breeding activity.

147. The City of Dallas directly expends taxpayer funds to administer and enforce the ordinance through the city's permitting process.

148. The permitting fees under § 7-4.11(c) are prima facie evidence that taxpayer resources are being spent on enforcement. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

149. Significant employee time and municipal resources are consumed reviewing licensing applications and renewals, investigating vendor compliance, handling related paperwork, investigating potential violations, processing compliance matters, and collecting per-device fees—functions generally already covered by the Texas Comptroller's program.

150. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 7-4.11(i)-(j) and appeals under § 7-4.11(k).

## **18. Dallas City Code Chapter 8A—Boarding Home Facilities**

151. Dallas City Code Chapter 8A, which regulates operation of boarding home facilities, is preempted by Texas Occupations Code § 1.004 because the Texas Occupations Code occupies the field of occupational licensing and regulation. This chapter is also independently preempted by Texas Local Government Code § 51.002 because Dallas boarding home regulations are not consistent with Texas Health and Safety Code § 260.004's requirements.

152. Texas Health & Safety Code § 260.004 grants municipalities limited authority to regulate boarding homes by adopting the model standards created by the Texas Health and Human Services Commission under § 260.003.

153. The City of Dallas's regulations deviate from the standards adopted by Texas Health and Human Services Commission in several substantive ways, including food-handling requirements, emergency supplies and rations, financial conflicts of interest, pest control, and sanitation.

154. Dallas City Code § 8A-6(a)(16) requires 2,000 feet between facilities. This conflicts with Texas Health & Safety Code § 260.011, which prohibits zoning or spacing rules that treat boarding homes differently from single-family dwellings.

155. Dallas City Code § 8A-3 unlawfully delegates legislative rulemaking authority to the city manager, and § 8A-6(a)(17) compounds this by allowing the director to impose arbitrary criteria on license applications. These provisions are inconsistent with existing law and are therefore preempted by Texas Local Government Code § 51.002.

156. Dallas City Code Chapter 8A restricts the supply of boarding homes, reducing housing options for elderly and disabled residents.

157. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter through the city's permitting process.

158. Permit and license fees imposed by § 8A-8 are prima facie evidence of taxpayer resources being spent on enforcement. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

159. Significant employee time and municipal resources are consumed reviewing licensing applications and renewals, investigating compliance, handling related paperwork, investigating potential violations, and § 8A-20 inspections.

160. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 8A-10–8A-11, 8A-40 and appeals under § 8A-12.

### **19. Dallas City Code Chapter 9A—Billiard Halls**

161. Chapter 9A requires a billiard-hall operator to obtain a city license, pay an annual \$52-per-table fee, comply with local moral-character standards, restrict hours of operation, and submit to police inspections and revocation proceedings, and is preempted by Texas Occupations Code § 1.004 because occupational licensing is comprehensively regulated by state law.

162. No Texas statute authorizes the City of Dallas to regulate billiard halls.

163. Chapter 2153 regulates coin-operated amusement devices through a uniform statewide framework, reflecting the Legislature’s choice to regulate coin-operated amusements while omitting billiard halls, and forecloses cities from imposing their own licensing and morality codes on billiard halls.

164. Business & Commerce Code § 1.109 reinforces this preemption by prohibiting local governments from adopting or enforcing ordinances inconsistent with that code.

165. By imposing its own operating restrictions, licensing scheme, and moral-fitness requirements, Dallas has invaded a field regulated by State law.

166. Section 9A-13 compounds the conflict by levying a municipal occupation tax equal to one-half of the state tax on each billiard table. Although the Texas Constitution authorizes cities to impose a fraction of a state occupation tax, Occupations Code § 2153.451(b) expressly limits that fraction to one-fourth. By exceeding this statutory ceiling, Dallas has entered a field fully occupied by the state under Occupations Code § 1.004, and the tax is therefore preempted.

167. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter through the city's permitting process.

168. The license fee in § 9A-4 is prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

169. Significant employee time and municipal resources are consumed reviewing licensing applications and renewals, investigating compliance, handling related paperwork, processing compliance matters, and defending appeals before the permit and license board.

170. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 40B-14–40B-15 and appeals under § 40B-16.

## **20. Dallas City Code Chapter 11—Cemeteries and Burials**

171. Dallas City Code Chapter 11 regulates the operation, licensing, and management of cemeteries and burial grounds, and is preempted by Texas Occupations Code § 1.004, because Texas Occupations Code Chapter 651 regulates the occupation of operating cemeteries and performing burials.

172. Although titled as though it were a cemetery regulation, the ordinance operates as a regulation on the conduct of cemetery operators by requiring sexton approval by city council, dictating depth of graves and interment procedures, interfering in private burial contracts, requiring body transit permits, death certificates filed with the city and other operating procedures, invading a field that is comprehensively regulated under State law.

173. While substantial authority exists under Health & Safety Code Chapters 711 & 713 for a city to regulate cemetery land use, operate cemeteries it directly controls, and take control or regulate an abandoned cemetery, Dallas's ordinance dramatically exceeds that limited authority by attempting to extensively regulate the conduct of all cemetery operators in the city.

174. The ordinance invades an already complex state framework, increasing compliance costs, cost of burial and uncertainty for cemetery operators and the public.

175. Taxpayer resources are consumed in reviewing applications, processing registrations, investigating complaints, conducting inspections, and prosecuting violations.

176. The permit fee imposed under Dallas City Code § 11-12 is prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

177. Because Occupations Code the field of cemetery and funeral operations, § 11 is preempted by Texas Occupations Code § 1.004 except to the limited extent of direct authorization by state law.

## 21. Dallas City Code Chapter 12B—Convenience Stores

178. Dallas City Code Chapter 12B imposes registration, security, and operational requirements on convenience stores, and is preempted by Texas Occupations Code § 1.004.

179. No Texas statute authorizes the City of Dallas to regulate the conduct of lawful businesses in this manner or to prohibit conduct that state law allows.

180. This ordinance establishes a comprehensive registration and inspection system, imposes licensing fees, and enforces operational mandates. Failure to comply renders the operation of a convenience store illegal in Dallas, even if it fully complies with state law.

181. The ordinance imposes duplicative compliance costs on small businesses and discourages new operators from entering the market.

182. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter through the city's licensing process.

183. The registration fee in § 12B-6(c) is prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

184. Significant employee time and municipal resources are consumed reviewing applications and renewals, investigating compliance, handling related paperwork, and processing compliance matters.

185. Further, the City of Dallas's municipal court system dedicates taxpayer-funded judicial and clerical resources to handle citations and hearings arising from enforcement of the ordinance.

## **22. Dallas City Code Chapter 14—Dance Halls**

186. Dallas City Code Chapter 14 regulates the licensing and operation of dance halls and is preempted by Texas Occupations Code § 1.004, as state law comprehensively regulates occupational licensing and conduct.

187. The Texas Occupations Code Chapter 702 regulates “health spas” but expressly excludes “entities operated exclusively to teach dance or aerobic exercise,” which indicates that the Legislature affirmatively chose not to regulate dance halls.

188. No Texas statute authorizes the City of Dallas to impose a regulatory regime on dance halls.

189. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter through the city’s licensing process.

190. The licensing fee imposed under Dallas City Code § 14-4 is prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

191. Significant employee time and municipal resources are consumed reviewing applications and renewals, investigating compliance, handling related paperwork, and processing compliance matters.

192. Further, the City of Dallas’s municipal court system dedicates taxpayer-funded judicial and clerical resources to handle citations and hearings arising from enforcement of the ordinance.

### **23. Dallas City Code § 15C-1 to 15C-16—Alarms Responded to by the Police Department**

193. Dallas City Code § 15C requires alarm users to register, pay fees, and comply with restrictions, while also imposing obligations on alarm installers and monitoring companies, and is preempted by Texas Occupations Code § 1.004 because Texas Occupations Code Chapter 1702 comprehensively regulates alarm systems, alarm companies, and alarm installers through a statewide licensing and enforcement scheme administered by the Department of Public Safety.

194. No Texas statute authorizes the City of Dallas to regulate installers of premises alarms. In fact, Texas Occupations Code § 1702.134 affirmatively forbids political subdivisions from requiring a license, permit, or registration for activities licensed under Chapter 1702, thereby rendering the Dallas ordinance directly in conflict with state law.

195. Texas Local Government Code Subchapter F-1 provides limited express authority for a municipality to require a permit fee from an alarm system user, but provides no statutory authority for municipalities to regulate alarm installers in any way.

196. This ordinance creates inconsistent requirements across jurisdictions, increases the regulatory burden on alarm companies and the cost to consumers for alarms.

197. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter through the city's licensing process.

198. The registration fees imposed under Dallas City Code § 15C-2(c) are prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

199. Significant employee time and municipal resources are consumed processing registrations, maintaining databases, investigating violations, and conducting inspections.

200. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 15-16.

#### **24. Dallas City Code §§ 15D-10 to 15D-64—Emergency Wreckers**

201. Dallas City Code § 15D-10 establishes a licensing and regulatory system for emergency wreckers responding to accident scenes and performing nonconsent tows, and is preempted by Texas Occupations Code § 1.004 because Texas Occupations Code Chapter 2308 comprehensively regulates towing companies, tow truck operators, vehicle storage, and nonconsent towing.

202. Section 2308.201 allows political subdivisions to regulate in this field only to the extent their rules are consistent with Chapter 2308. Dallas exceeds this limited authority in multiple respects: Dallas City Code § 15D-20(b) requires tow companies to maintain a local office, which is not required under Chapter 2308, and the ordinance imposes additional licensing and inspection obligations that conflict with state law.

203. The ordinance raises costs and barriers for operators, delays emergency response, and reduces competition.

204. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter through the city's licensing process.

205. The license fees imposed under Dallas City Code § 15D-21 and § 15D-30 are prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

206. Significant employee time and municipal resources are consumed processing registrations, investigating violations, and conducting inspections.

207. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions and appeals under §§ 15D-59 to 15D-64.

## **25. Dallas City Code § 15D-70—Operators to Have Chauffeur's License**

208. Dallas City Code § 15D-70 requires public service corporation vehicles to possess a chauffeur's license and is preempted by Local Government Code § 51.002 because a chauffeur's license requirement is not consistent with state law.

209. No Texas statute authorizes the City of Dallas to impose additional driver licensing requirements.

210. In fact, Texas Transportation Code Chapters 521 and 522 determine which drivers must hold a standard license or a commercial driver's license and Dallas cannot decide who needs any specific category of license because the legislature has occupied that field.

211. Additionally, Texas abolished chauffeur's licenses in the mid-1990s when the legislature reorganized the driver licensing scheme, making the Dallas ordinance obsolete and impossible to comply with.

212. The ordinance raises costs and barriers for operators by imposing requirements beyond those in state law, deterring qualified public service corporations from working in Dallas, limiting competition, and raising the cost burden of emergency services on taxpayers.

213. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter through the city's licensing process.

214. Significant employee time and municipal resources are consumed processing registrations, investigating violations, and conducting inspections.

215. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions for violations.

## **26. Dallas City Code §§ 18-52 to 18-54—Multifamily Site Recycling Collection and Removal Services**

216. Dallas City Code §§ 18-52 to 18-54 regulate multifamily recycling collection and hauling services, and are partially preempted by Texas Occupations Code § 1.004, because §§ 2309.202 and 1956.003 comprehensively regulate licensing and conduct of recyclers.

217. These Occupations Code provisions establish a comprehensive framework for regulating metal recycling entities and transportation of recyclable materials, leaving no general field for municipalities to duplicate with separate licensing and permitting schemes.

218. Limited express authority exists under Texas Health & Safety Code Chapter 363 for municipalities to manage solid waste, including recycling *programs*, but this authority does not extend to forbidding recyclers from contracting with multifamily properties, which invades the field of occupational regulation reserved to the state.

219. Because Occupations Code § 1.004 preempts the field, §§ 18-52 to 18-54 are preempted to the extent they regulate private recycling service providers and limit contractual freedom, though Dallas retains limited authority under Health & Safety Code Chapter 363 to require recycling participation as part of its solid waste management system.

220. The ordinance interferes with the freedom of contract between multifamily property owners and recycling service providers, raising costs, reducing competition, and discouraging recycling participation.

221. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter through the city's licensing process.

222. The registration fee imposed under Dallas City Code § 18-53(a)(3) is prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

223. Significant employee time and municipal resources are consumed processing registrations, investigating violations, and conducting inspections.

224. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 18-54.

**27. Dallas City Code §§ 18-55 to 18-66—Tires**

225. Dallas City Code §§ 18-55 to 18-66 regulate the storage, transport, repair, and disposal of used and scrap tires, and are preempted by Texas Occupations Code § 1.004 because § 2309.201 comprehensively regulates the field of dealers in automotive parts.

226. Texas Occupations Code § 2309.201 establishes comprehensive statewide regulation of persons engaged in businesses dealing in used automotive parts, and a tire is a used automotive part within the meaning of § 2309.001(5), leaving no residual field for Dallas to impose duplicative permitting and licensing schemes.

227. No Texas statute authorizes the City of Dallas to regulate mobile tire repair businesses, tire haulers, or scrap tire processors.

228. The ordinance raises compliance costs for tire repairers, recyclers, and transporters, deterring lawful operators and incentivizing unlawful dumping or unlicensed roadside activity.

229. The ordinance also burdens freedom of contract by prohibiting mobile tire repairers and recyclers from contracting with customers unless they first obtain a Dallas permit, improperly conditioning private economic activity on municipal approval.

230. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter through the city's licensing process, including processing

applications under § 18-58 and creating the training material required under § 18-61.1.

231. The registration and transportation fees imposed under Dallas City Code § 18-57 are prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

232. Significant employee time and municipal resources are consumed processing registrations, investigating violations, and conducting inspections under §§ 18-58 to 18-61.

233. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 18-56.

## **28. Dallas City Code § 25A-10—Massage Establishments**

234. Dallas City Code § 25A-10 bars massage establishments from operating in “any place used for living or sleeping quarters” and is preempted by Texas Occupations Code § 1.004 because Texas Occupations Code comprehensively regulates the field of massage therapy.

235. Texas Occupations Code § 455.005(b) provides limited express statutory authority for municipalities to adopt zoning regulations and to regulate hours of operation for massage establishments, but it does not authorize the City of Dallas to categorically ban home-based massage therapy.

236. In fact, Texas Occupations Code § 455.202(e) carves out an exception to the general prohibition on residing at a massage establishment for solo practitioner

massage therapists—indicating that the Legislature specifically contemplated allowing home-based massage therapy for solo practitioner therapists.

237. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter.

238. Significant employee time and municipal resources are consumed by compliance monitoring, investigations, and prosecuting alleged violations.

## **29. Dallas City Code Chapter 38A—Promoters**

239. Dallas City Code Chapter 38A requires commercial event promoters to register with the city and pay fees, and is preempted under Texas Occupations Code § 1.004 because event and entertainment promoters are comprehensively regulated under the Occupations Code.

240. Occupations Code Chapter 1803, Subchapter B regulates ticket brokers, Chapter 2001 governs promoters of professional combative sports, and Chapter 2104 regulates bingo and charitable promotion activities, creating statewide licensing and oversight regimes for commercial event promotion where the Texas Legislature deems necessary.

241. No Texas statute authorizes the City of Dallas to impose a general registration system on promoters of revenue-generating events.

242. The ordinance creates an inconsistent regulatory environment that layers city obligations on top of state law, raises costs to consumers, and interferes with private contracts.

243. This ordinance is also a facially unconstitutional prior restraint on speech, in violation of Texas Constitution, Article 1, § 8, and would waste additional

taxpayer resources in an unsuccessful defense against a challenge from a regulated party.

244. The permit and authorization fees imposed under Dallas City Code § 38A-4 are prima facie evidence of such expenditures. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

245. Significant employee time and municipal resources are consumed processing registrations, reviewing safety plans, and conducting inspections.

246. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 38A-9 and 38A-10.

### **30. Dallas City Code Chapter 40B—Secondary Metals Recyclers**

247. Dallas City Code Chapter 40B regulates secondary metals recyclers and is preempted under Texas Occupations Code § 1.004 because Texas Occupations Code Chapter 1956 subjects secondary metal recyclers to exclusive regulation by state law.

248. Texas Occupations Code § 1956.003 provides limited express statutory authority for municipalities to impose certain administrative standards (e.g., requiring thumbprints, receiving reports, issuing a license or permit), but these standards must remain within the boundaries established by Chapter 1956 and cannot intrude on substantive recycling regulations.

249. Dallas exceeds those limits in multiple respects. For example: Article I of Chapter 40B appears to apply standards without tying them to a valid city permit or license, mandates recordkeeping requirements beyond what Chapter 1956 prescribes, imposes inspection and hold-power provisions that go beyond DPS's

enforcement scheme, and attempts to regulate catalytic converter transactions in ways inconsistent with § 1956.126.

250. These requirements act as a free-standing regulatory regime that conflicts with Chapter 1956's structure, exceed the limited statutory authority in 1956.003, and invade a field of regulation occupied exclusively by state law.

251. The ordinance creates duplicative local rules on top of the DPS-administered system, raising compliance costs, creating contradictory local obligations, and chilling legitimate recycling commerce.

252. Because Chapter 1956 both narrowly grants municipal standard-setting and clearly withdraws authority to regulate conduct, Dallas City Code Chapter 40B is preempted to the extent it imposes untethered regulation beyond authorized standards, invades state requirement setting, and exceeds express statutory limits.

253. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter.

254. The license fee imposed under Dallas City Code § 40B-12 is prima facie evidence of such expenditures. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

255. Significant employee time and municipal resources are consumed processing registrations, investigating violations, and conducting inspections.

256. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 40B-14 and 40B-15 and appeals under § 40B-16.

### **31. Dallas City Code Chapter 48C—Vehicle Immobilization Service (Booting)**

257. Dallas City Code Chapter 48C establishes a licensing, permitting, insurance, operational, and inspection regime for vehicle immobilization service providers, and is preempted by Texas Occupations Code § 1.004, because Occupations Code Chapter 2308 comprehensively regulates the occupation of vehicle towing and booting.

258. Texas Occupations Code § 2308.2085 grants limited express statutory authority for municipalities to regulate booting through permits, signage, fees, and enforcement consistent with §§ 2308.257 and 2308.258.

259. Dallas exceeds that statutory grant by imposing unauthorized conditions, including: (i) insurance mandates under Dallas City Code § 48C-30 requiring coverage “acceptable to the city” and naming Dallas as an insured; (ii) financial disclosure obligations under Dallas City Code § 48C-31 compelling licensees to produce balance sheets and income statements on request; (iii) operator dress code requirements under Dallas City Code § 48C-34 dictating attire beyond state regulatory scope; and (iv) sweeping inspection powers under Dallas City Code § 48C-46 authorizing the director or peace officers to inspect services for compliance with “other applicable law,” a discretionary and unlimited inspection regime not contemplated by statute.

260. These provisions increase compliance costs, interfere with uniform statewide regulation, and subject private businesses to intrusive, discretionary mandates that exceed municipal authority.

261. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter, using significant employee time and municipal resources processing registrations, investigating violations, and conducting inspections.

262. The license fees imposed under Dallas City Code §§ 48C-6(b)(9) and 48C-15 are prima facie evidence of quantifiable city resource expenditures. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

263. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 48C-10–48C-11 and 48C-23–48C-26 and appeals under §§ 48C-12 and 48C-27.

### **32. Dallas City Code §§ 50-113 to 50-130—Motor Vehicle Repairs**

264. Dallas City Code §§ 50-113 to 50-130 regulate motor vehicle repair shops through local licensing, disclosure, recordkeeping, inspection, and advertising requirements, and are preempted by Texas Occupations Code § 1.004 because Occupations Code Chapters 2304 and 2305 comprehensively regulate the profession of auto mechanics.

265. Texas Occupations Code, Chapter 2304, requires statewide registration, written repair orders, disclosure and advertising standards, and inspection authority for non-mechanical repairers. Texas Occupations Code, Chapter 2305, imposes uniform repair-order, recordkeeping, and inspection duties repairers.

266. No Texas statute authorizes the City of Dallas to create a separate regulatory regime for motor vehicle repair businesses.

267. Dallas City Code §§ 50-114 (local license and fee), 50-118 and 50-119 (mandatory pre-repair disclosures and estimates), 50-120 (itemized invoices and

return of parts), 50-116, 50-121, and 50-123 (city inspections, suspensions, and revocations), and 50-126 (advertising restrictions that either duplicate the Deceptive Trade Practices Act or, in

268. Dallas City Code § 50-126(c), imposes a facially unconstitutional restraint on truthful commercial speech in violation of Texas Constitution, Article 1, § 8.

269. The ordinance raises compliance costs, deters new entrants, undermines uniform statewide standards, and interferes with freedom of contract between customers and repairers.

270. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter and the license fee imposed under Dallas City Code § 50-116 is prima facie evidence that taxpayer resources are being spent on administration and enforcement of this ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

271. Significant employee time and municipal resources are consumed processing registrations, investigating violations, and conducting inspections.

272. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 50-118–50-119, 50-130 and appeals under § 50-120.

### **33. Dallas City Code §§ 50-131 to 50-143—Home Repair**

273. Dallas City Code §§ 50-131 to 50-143 require all persons engaged in home repair and remodeling to obtain a city license, and is preempted by Texas Occupations Code § 1.004 because the Texas Occupations Code regulates certain

skilled trades such as plumbing, electrical, and air conditioning under Chapters 1301–1305, while intentionally leaving general contractors and remodelers unregulated.

274. The Legislature’s selective regulation of some trades but not others demonstrates that the Legislature has preempted the field of occupational regulation, and Dallas may not impose a municipal regulatory regime on legal home repair businesses.

275. No State law grants the city power to regulate home repair businesses.

276. While municipalities retain authority over building codes, zoning, and general police powers, these powers do not confer regulatory authority over occupations such as home repair or remodeling, and the Legislature has never granted such authority.

277. Because Texas Occupations Code § 1.004 preempts municipal regulation of occupations, and because the Legislature has expressly chosen which trades to regulate while leaving home repair unregulated, Dallas City Code §§ 50-131 to 50-143 are preempted.

278. The ordinance invades the field of state occupational regulation and burdens home repair businesses with duplicative and unnecessary regulation, creating barriers to entry and raising costs for consumers without providing any additional public protection.

279. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter and the license fee imposed under Dallas City Code § 50-137 is

prima facie evidence that taxpayer resources are spent on administering and enforcing this ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

280. Significant employee time and municipal resources are consumed processing registrations, investigating violations, and conducting inspections.

281. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 50-138 and appeals under § 50-139.

### **Business and Commerce Code**

#### **34. Dallas City Code § 5-19—Airport Concession Contracts**

282. Dallas City Code § 5-19 requires concessionaires at the airport to obtain city approval for contracts, which is preempted by Texas Business and Commerce Code § 1.109.

283. The Texas Business and Commerce Code creates a uniform, comprehensive framework for regulating commercial transactions, leaving no room for additional municipal licensing schemes for ordinary business activity.

284. Texas Transportation Code § 22.011(b)(1) provides limited express statutory authority for municipalities to lease or contract for use of airport property but does not authorize regulation of the internal contracting practices of businesses engaged in commerce at the airport.

285. While Dallas may lease property and contract with vendors, it exceeds its authority by prohibiting any person from entering airport property and imposing

a separate regulatory framework on lawful business, which invades areas already comprehensively regulated by state law.

286. The ordinance restricts vendors' ability to freely contract, reducing competition and limiting consumer options at the airport.

287. The City of Dallas directly expends taxpayer funds to administer and enforce this ordinance by expending significant employee time and municipal resources in drafting, reviewing, and monitoring concession contracts under this ordinance and administering concession approvals, conducting oversight, and processing renewals.

288. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 5-35.

### **35. Dallas City Code Chapter 42—Home Solicitations**

289. Dallas City Code Chapter 42 requires permits for door-to-door sales and is preempted by Texas Business and Commerce Code § 1.109 because consumer transactions conducted away from the seller's place of business are comprehensively regulated by the Texas Business and Commerce Code.

290. Texas Business and Commerce Code Chapter 601 governs consumer transactions entered into outside a seller's place of business, prominently including door-to-door sales, and requires rescission rights and disclosures, while § 17.923 supplies additional disclosures for certain donation solicitations, demonstrating the Legislature's choice of consumer protections.

291. The Texas Legislature has also determined which professions must register before engaging in sales, including pest control operators under Occupations

Code Chapter 1951 and alarm system companies under Occupations Code Chapter 1702, confirming that municipalities may not invade the state field by imposing licensing regimes on ordinary conduct.

292. Dallas’s permit scheme deters legitimate businesses, chills speech, interferes with freedom of contract, and operates as a prior restraint on solicitation that would not withstand direct constitutional challenge; defending it would waste taxpayer resources.

293. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter.

294. The permit fee imposed under Dallas City Code § 42-8 is prima facie evidence that taxpayer resources are spent on administering and enforcing this ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

295. Significant employee time and municipal resources are consumed by permitting, background checks, compliance monitoring.

296. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 42-5,42-9–42-11 and appeals under § 42-12.

### **36. Dallas City Code §§ 50-99 to 50-112—Electronic Repairs**

297. Dallas City Code §§ 50-99 to 50-112 create a licensing regime for electronic repair businesses, impose detailed regulations on repair disclosures, invoices, advertising, and repair practices, and are preempted by Texas Business and Commerce Code § 1.109 because the Texas Business and Commerce Code comprehensively regulates the field of business transactions.

298. This section is also preempted by Local Government Code § 51.002, because it is not consistent with statewide regulation of commerce.

299. The Business & Commerce Code § 17.12 prohibits deceptive advertising of services, and § 17.46(b) of the Deceptive Trade Practices Act prohibits false or unnecessary repair claims, misrepresentations of charges, and failures to disclose material terms, thereby occupying the field of repair transactions and the same conduct that Dallas attempts to regulate.

300. Because state law already prescribes and prohibits the same conduct, Dallas has no authority to add duplicative disclosure, repair, or advertising requirements.

301. The licensing scheme itself is unnecessary because it exists only to enforce rules that are already comprehensively regulated under state law, and collapses once those rules are recognized as preempted.

302. The ordinance raises compliance costs, discourages new entrants, and interferes with freedom of contract between consumers and repair providers.

303. The City of Dallas directly expends taxpayer funds to administer and enforce these ordinances.

304. The license fee imposed under Dallas City Code § 50-101 is prima facie evidence that taxpayer resources are spent on administering and enforcing this ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

305. Significant employee time and municipal resources are consumed by issuing licenses, processing applications, conducting inspections and investigations, and reviewing disclosures.

306. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 50-105–50-106 and appeals under § 50-107.

### **37. Dallas City Code §§ 50-162 to 50-167—Central Business District Concession Licenses**

307. Dallas City Code §§ 50-162 to 50-167 require a concession license for vendors in the Central Business District, whether on public or private property, and are preempted by Texas Business and Commerce Code § 1.109, because the Texas Business & Commerce Code, including Chapter 2 of the UCC governing sales and merchants, governs business transactions in the state.

308. This section is also preempted by Local Government Code § 51.002, because it is not consistent with statewide regulation of commerce.

309. Dallas may regulate use of public property, but authority to issue permits for sidewalks or city-owned spaces does not extend to regulating business conduct or operations, which are already governed by the Texas Business & Commerce Code.

310. Dallas Code § 50-160 further extends Dallas regulations beyond statutory authority by regulating even conduct on private property.

311. Further, § 50-169(9) improperly grants the director discretion to approve or withdraw what goods or services may be sold, § 50-169(14) authorizes sweeping

inspections of vendor “business operations,” § 50-169(18) allows revocation for agent misconduct or unrelated ordinance violations, and § 50-170 imposes an arbitrary dress code.

312. These restrictions discourage entrepreneurship, reduce consumer choice, and burden lawful businesses without providing meaningful public benefit.

313. The City of Dallas directly expends taxpayer funds to administer and enforce these ordinances.

314. The license fee imposed under Dallas City Code § 50-164 is prima facie evidence that taxpayer resources are spent on administering and enforcing this ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

315. Significant employee time and municipal resources are consumed by issuing licenses, processing applications, conducting inspections and investigations, and reviewing disclosures.

316. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 50-165–50-166 and appeals under § 50-167.

### **Natural Resources Code**

#### **38. Dallas City Code Chapter 51A, Article XII & § 51A-4.203(b)(5)—Gas Drilling and Production**

317. Dallas City Code Chapter 51A, Article XII and § 51A-4.203(b)(5) regulate gas drilling and production, and are preempted by Texas Natural Resources Code § 1.003, because § 81.0523(b) reserves exclusive jurisdiction of oil and gas operations to the state.

318. Texas Natural Resource Code § 81.0523(c) provides limited express statutory authority for municipalities to regulate above-ground activity for traditional police power concerns, including fire, emergency response, traffic, lights, noise, and setback requirements.

319. Texas Natural Resource Code § 81.0523(c)(2) imposes a commercial reasonability standard on municipal regulation, in addition to the police power concern, and this standard is strengthened by an express admonition in § 81.0523(c)(3) that a city may not “effectively prohibit” oil and gas exploration.

320. Dallas City Code § 51A-12.202(a)(3) requires an applicant to obtain a Specific Use Permit (SUP) before a drilling permit may even be considered, and Dallas City Code § 51A-1.105(a)(4) imposes a \$2,000 filing fee for each SUP application.

321. Dallas exceeds its limited statutory authority by imposing discretionary insurance requirements in § 51A-12.203(b), which allows the Office of Risk Management to unilaterally alter insurance obligations based on vague “economic conditions” or “other relevant factors,” and by adopting substantive operational rules in § 51A-12.204 that belong exclusively to the Texas Railroad Commission.

322. Because the Texas Natural Resource Code § 81.0523 establishes field preemption over the Texas Natural Resources Code, and because § 81.0523(c) limits municipal regulation to narrow above-ground police-power matters, Dallas City Code Sec. 51A, Article XII and related provisions are preempted except to the limited extent expressly preserved by statute.

323. These provisions deter energy development, impose costly and inconsistent local requirements, and subject operators to a patchwork of duplicative rules contrary to the Legislature's uniform statewide framework.

324. The City of Dallas directly expends taxpayer funds to administer and enforce these ordinances.

325. The \$2,000 SUP application fee required by § 51A-1.105(a)(4) as a prerequisite to any drilling permit under § 51A-12.202(a)(3) is prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance, including staff review of SUP applications, discretionary insurance modifications, inspections, enforcement actions, and defense of unconstitutional delegations. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

326. Significant employee time and municipal resources are consumed by administering the Specific Use Permit and drilling permit process, conducting environmental and site inspections, reviewing engineering and safety plans, investigating complaints, and coordinating enforcement with state regulators.

327. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 51A-12.401 and 51A-1.103.

### **39. Dallas City Code § 51A-8.511—Conservation Easements**

328. Dallas City Code § 51A-8.511 establishes procedures for recording conservation easements in conjunction with plats or development approvals and is preempted by Texas Natural Resources Code § 1.003 because § 183.002 occupies the field of conservation easements, reserving it to state law.

329. Texas Natural Resources Code § 183.002 creates a uniform statewide framework for conservation easements, requiring that they be voluntary, written instruments executed by the landowner and accepted by an eligible governmental unit or charitable corporation, thereby occupying the field.

330. Dallas's ordinance is inconsistent with this framework because it integrates conservation easements into regulatory compliance systems, including § 51A-10.135(f) (tree mitigation) and open space platting requirements in Article VIII, where the easement may be the least restrictive or only feasible compliance path.

331. These provisions convert a legislatively defined voluntary conveyance of a property interest into a coerced zoning condition, invading the field occupied by Texas Natural Resources Code § 183.002 and subverting the design of the Texas Legislature.

332. Dallas City Code § 51A-8.511 is also preempted by Texas Local Government Code § 51.002, which disallows city ordinances that are inconsistent with state law, because it creates a coercive regime in a field where the Legislature protected voluntariness.

333. This ordinance reduces landowner flexibility, depresses property values, and imposes perpetual encumbrances inconsistent with the uniform statewide scheme.

334. Because the Texas Regulatory Consistency Act establishes field preemption over the Texas Natural Resources Code, and because Local Government

Code § 51.002 requires consistency with state law, Dallas City Code § 51A-8.511 is preempted as inconsistent with the statutory framework requiring voluntary conservation easements.

335. The City of Dallas directly expends taxpayer funds to administer and enforce this ordinance.

336. Significant employee time and municipal resources are consumed by reviewing proposed easements, drafting legal documents, recording instruments, and monitoring compliance.

#### **40. Dallas City Code § 51A-10.135(f)—Tree Mitigation by Conservation Easement**

337. Dallas City Code § 51A-10.135(f) allows developers to satisfy tree preservation and mitigation requirements by dedicating a conservation easement, and is preempted by Texas Natural Resources Code § 1.003 because § 183.002 regulates the field of conservation easements.

338. Texas Natural Resources Code § 183.002 establishes a uniform statewide framework for conservation easements, requiring that they be voluntary, written instruments executed by the landowner and accepted by an eligible governmental unit or charitable corporation, thereby occupying the field.

339. By embedding conservation easements as a compliance option for otherwise onerous or impracticable tree mitigation requirements, Dallas effectively coerces developers into granting easements to obtain permits, thereby converting a voluntary statutory property interest into a zoning condition.

340. Dallas City Code § 51A-10.135(f) is also preempted by Texas Local Government Code § 51.002, which disallows city ordinances that are inconsistent with state law, because it creates a coercive regime in an area where the Legislature protected voluntariness.

341. Because the Texas Regulatory Consistency Act establishes field preemption over the Texas Natural Resources Code, and because Dallas's use of conservation easements under § 51A-10.135(f) conflicts with the voluntariness requirement of § 183.002 and the consistency mandate of Local Government Code § 51.002, the ordinance is preempted.

342. The scheme restricts landowners' use of property, reduces redevelopment flexibility, and permanently encumbers land as the price of compliance with tree preservation mandates.

343. The City of Dallas directly expends taxpayer funds to administer and enforce this ordinance.

344. Significant employee time and municipal resources are consumed by staff review, drafting and recording of easements, inspection and enforcement of easement conditions, and defense of city actions that exceed the scope of municipal zoning power.

#### **41. Dallas City Code § 51A-11.301—Historic Conservation Easement Program**

345. Dallas City Code § 51A-11.301 establishes a Historic Conservation Easement Program and is preempted by the Texas Natural Resources Code § 183.002(d).

346. Texas Natural Resources Code § 183.002(d) requires that any existing interest in real property at the time of an easement’s creation cannot be impaired unless the holder of that interest is a party to the easement or consents, thereby protecting all co-owners, mineral owners, leaseholders, and easement holders in addition to lienholders.

347. Dallas exceeds its authority by narrowing the consent requirement to the “owner” and lienholders only, thereby authorizing the city to accept an easement that could impair other existing property interests without their consent, contrary to the statute’s mandatory protection.

348. This framework undermines property rights by allowing one of several co-owners, or only the fee owner without joining other interest holders, to encumber the property in perpetuity, reducing marketability and creating clouded titles inconsistent with the statewide conservation easement scheme.

349. Because Natural Resources Code § 1.003 preempts the field of conservation easements, and because Dallas’s ordinance conflicts with § 183.002(d)’s universal consent rule, Dallas City Code § 51A-11.301 is preempted.

350. The City of Dallas directly expends taxpayer funds to administer and enforce this ordinance.

351. Significant employee time and municipal resources are consumed by reviewing title reports, processing easement applications, recording instruments, and defending city-accepted easements that may later be challenged as void for violating § 183.002(d).

## 42. Dallas City Code Chapter 50, Article V—Wood Vendors

352. Dallas City Code Chapter 50, Article V, defines “fuel wood” and “retail dealer” and requires retail sellers to obtain a license, pay annual fees, and comply with invoice, signage, and measurement rules, and is preempted by Texas Natural Resources Code § 1.003.

353. Texas Natural Resources Code Chapter 151 comprehensively regulates timber and wood transactions, requiring bills of sale, documentation, and record retention, and expressly exempts transactions less than \$250.

354. By imposing its own licensing and compliance scheme, Dallas is inconsistent with the statewide framework and disregards the Legislature’s choice to exempt small-value sales.

355. Because Texas Natural Resources Code § 1.003 establishes field preemption over the Natural Resources Code, Dallas City Code §§ 50-79(3), (5), and related licensing provisions are preempted.

356. The City of Dallas directly expends taxpayer funds to administer and enforce this article.

357. The license fee under Dallas City Code § 50-82 is prima facie evidence of taxpayer resources spent on administration and enforcement. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

358. Significant employee time and municipal resources are consumed by application processing, inspections, and revocation hearings.

359. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 50-85 and appeals under § 50-86.

### **Labor Code**

#### **43. Dallas City Council Resolution 15-2141—Minimum Wage Ordinance**

360. Dallas City Council Resolution 15-2141 requires all city contractors and subcontractors performing general services to pay their employees a “living wage” as determined under the resolution.

361. The resolution is preempted by Texas Labor Code § 1.005 because Labor Code § 62.0515 governs the scope of municipal authority to establish wage requirements.

362. Section 62.0515(c) provides limited express authority for a city to negotiate a wage term in a specific contract but does not authorize the City of Dallas to impose a general minimum wage across all municipal contracts.

363. Section 62.0515(c) exists because other provisions of state law, such as Texas Government Code Chapter 2258, expressly authorize municipalities to pay above the statutory minimum wage on public works projects through the prevailing-wage procedure defined by the legislature.

364. By requiring all city contractors to pay wages above the prevailing-wage schedule established under Chapter 2258, including for jobs not included in Chapter 2258, Dallas Resolution 15-2141 imposes a standing wage mandate that exceeds the limited scope of authority provided under state law.

365. Because Dallas City Council Resolution 15-2141 regulates a field that the legislature has comprehensively occupied through Labor Code Chapter 62 and exceeds the authority granted in Government Code Chapter 2258, it is entirely preempted under Labor Code § 1.005.

366. The City of Dallas directly expends taxpayer funds because of this resolution.

367. Enforcement of this policy increases the cost of all municipal contracts and public projects by artificially inflating labor costs, and the ordinance specifically acknowledges that living wage laws have “small to moderate effects on municipal budgets,” exceeding the “adds any sum whatever to the cost” standard required for taxpayer standing. *Andrade v. Venable*, 372 S.W.3d 134, 138 (Tex. 2012) (quoting *Doremus v. Bd. of Educ. of the Borough of Hawthorne*, 342 U.S. 429, 433 (1952)).

368. Further, significant employee time and municipal resources are consumed by city employees monitoring contractor payrolls and conducting compliance audits.

369. ABC Texas joins with Resident Plaintiffs in challenging this ordinance.

370. This ordinance injures ABC Texas members by requiring them to pay all their employees or subcontractors a minimum wage that exceeds state-law standards for any work on City of Dallas municipal contracts.

371. This increases the cost of doing business for all contractors and subcontractors, including ABC Texas members, and increases the cost borne by city taxpayers, including ABC Texas members.

372. The ordinance interferes with the internal operations of contractors and subcontractors who do business with the city, creating internal stress within ABC Texas member companies.

#### **44. Dallas City Code § 15B-3—Equal Employment Opportunity Clause in City Contracts**

373. Dallas City Code § 15B-3 requires city construction and procurement contracts above certain thresholds to incorporate a nondiscrimination and affirmative action clause, and is preempted under Texas Labor Code § 1.005 because Texas Labor Code, Chapter 21, occupies the field of employment discrimination.

374. Chapter 21 prohibits employment discrimination on the basis of race, color, disability, religion, sex, national origin, and age, and provides exclusive enforcement through the Texas Workforce Commission.

375. Texas Labor Code § 21.151 provides limited statutory authority for municipalities to adopt ordinances prohibiting practices that are unlawful under federal or state law, but Dallas exceeds that limited authority by adding classes not recognized in employment law, including marital status, sexual orientation, gender identity and expression, genetic characteristics, military or veteran status, and political opinions or affiliations.

376. Because the Texas Regulatory Consistency Act requires ordinances to be consistent with the Texas Labor Code, Dallas City Code § 15B-3 is preempted as an unauthorized expansion of employment discrimination regulation.

377. The ordinance raises costs to taxpayers by requiring compliance reports, personnel record inspections, affirmative action policies, and compelled speech.

378. The City of Dallas directly expends taxpayer funds to administer and enforce this ordinance.

379. Significant employee time and municipal resources are consumed drafting and enforcing these contract clauses, auditing compliance reports, and investigating payrolls.

380. Further, the City of Dallas must dedicate taxpayer-funded administrative, judicial, and clerical resources to process enforcement actions under § 15B-2, § 15B-5–15B-7.

381. ABC Texas joins with Resident Plaintiffs in challenging this ordinance.

382. This ordinance injures ABC Texas members by requiring them to agree to hiring and personnel practices that grant special privileges to certain classes of people selected by the Dallas City Council.

383. This ordinance raises the cost of doing business and subjects businesses, including ABC Texas members, to regulatory and administrative burdens not authorized by state law.

384. ABC Texas members face termination of contracts and disqualification from bidding for noncompliance, further entrenching local mandates in a field the Legislature has reserved to state law.

385. By requiring all contractors, including ABC Texas members, to effectively swear and post an oath to uphold the city's socio-political position, § 15B-3(2) compels speech—making it facially unconstitutional under Texas Constitution, Article 1, § 8.

**45. Dallas City Code § 31-3—Discrimination and Dress Codes in Places of Public Accommodation**

386. Dallas City Code § 31-3 prohibits discrimination in public-facing businesses, regulates private business dress codes, and is preempted under Texas Labor Code § 1.005 and Texas Business & Commerce Code § 1.109 because those codes comprehensively regulate business operations and do not impose such nondiscrimination duties.

387. The Legislature regulates employment (Labor Code Chapter 21), housing (Property Code Chapter 301), and disability access (Human Resources Code § 121.003), but deliberately chose not to adopt sweeping, federal-style public accommodation laws on restaurants, theaters, hotels, and other businesses that Dallas deems “public accommodations.”

388. The Texas Legislature in Texas Human Resource Code § 121.003 imposed Texas’ only public accommodation requirement, which protects persons with disabilities and demonstrates the Legislature knows how to create public accommodation laws where it chooses.

389. By creating municipal criminal penalties, Dallas conflicts with the Legislature’s decision to leave these businesses free from such regulation.

390. By regulating dress, grooming, and identification requirements, an area the Legislature left unregulated, and which violates Texas Constitution Article 1, § 19 to the extent it forbids business owners from choosing who they will do business with, wasting taxpayer resources if challenged by a regulated party.

391. Because the Texas Regulatory Consistency Act requires ordinances to be consistent with the Labor Code and Business & Commerce Codes, Dallas City Code § 31-3 is preempted as an unauthorized regulation of businesses.

392. The City of Dallas directly expends taxpayer funds to administer and enforce this ordinance.

393. Significant employee time and municipal resources are consumed investigating complaints, prosecuting violations, monitoring compliance, and defending unlawful city ordinances.

394. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 3103(b)(2).

**46. Dallas City Code Chapter 46—Unlawful Discriminatory Practices Relating to Sexual Orientation and Gender Identity and Expression**

395. Dallas City Code Chapter 46 prohibits discrimination in employment, housing, and businesses open to the public on the basis of sexual orientation and gender identity and expression, and is preempted under Texas Labor Code § 1.005, Texas Business & Commerce Code § 1.009, and Texas Property Code § 1.004.

396. Texas Labor Code, Chapter 21 regulates hiring, firing, compensation, and training of employees, and § 21.151 only permits local ordinances that prohibit practices already unlawful under state or federal law. Dallas City Code § 46-6 exceeds this authority by adding protected classes not recognized under state law.

397. Texas Property Code, Chapter 301, fully occupies the field of housing discrimination, and § 1.004 expressly preempts inconsistent ordinances. Dallas City

Code § 46-7 conflicts with Chapter 301 by adding protected classes not recognized under state law.

398. The Texas Legislature in Texas Human Resource Code § 121.003 imposed Texas' only public accommodation requirement, which protects persons with disabilities and demonstrates the Legislature knows how to create public accommodation laws where it chooses.

399. Despite regulating nondiscrimination in several fields, as discussed above, no Texas law requires businesses to comply with nondiscrimination mandates in public accommodations.

400. Dallas City Code § 46-6.1, which regulates the speech and conduct of certain businesses, is inconsistent and conflicts with state law, and is preempted under Texas Local Government Code § 51.002, in addition to conflicts already outlined in regard to § 31-3.

401. No State law permits Dallas to invent protected classes such as "sexual orientation" or "gender identity and expression" nor to impose a draconian regulatory scheme on lawful business protecting such classification.

402. By establishing its own complaint process, penalties, and enforcement procedures across these areas, Dallas invades the comprehensive frameworks of state law.

403. The City of Dallas directly expends taxpayer funds to administer and enforce this ordinance.

404. Significant employee time and municipal resources are consumed by investigating § 46-9 complaints, conducting § 46-10 investigations, participating in § 46-11 conciliation, and taking § 46-12 administrative actions.

405. 344. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 46-12 and § 46-13.

406. ABC Texas joins with Resident Plaintiffs in challenging this ordinance.

407. This ordinance injures ABC Texas members by requiring all employers, landlords, and public businesses to agree to hiring and personnel practices that grant special privileges to certain classes of people selected by the Dallas City Council in a manner not authorized by state law.

408. This raises the cost of doing business and subjects businesses, including ABC Texas members, to regulatory and administrative burdens not authorized by state law.

409. The speech prohibitions in § 46-6(e), § 46-6.1(a)(2), and § 46-7(a)(2) facially infringe on the rights of ABC Texas members in violation of Texas Constitution Article 1, § 8.

#### **47. Dallas City Code § 47A-2.4.2—Non-Discrimination by Operating Authorities and Drivers**

410. Dallas City Code § 47A-2.4.2 prohibits for-hire drivers from refusing service based on categories including marital status, political opinions, sexual orientation, and gender identity, and is preempted under Texas Labor Code § 1.005, Texas Business & Commerce Code § 1.009, and Texas Local Government Code

§ 51.002, because it is inconsistent with Texas Labor Code Chapter 21, Texas Business and Commerce Code, Texas Human Resource Code § 121.003, and Texas Transportation Code §§ 2402.003 and 2402.112.

411. The Legislature made regulation of transportation network companies and their drivers an exclusive state power in § 2402.003, and in § 2402.112 expressly required nondiscrimination policies for drivers, listing specific protected classes. Dallas's ordinance adds new protected classes that are not included in state law.

412. The Texas Legislature in Texas Human Resource Code § 121.003 imposed Texas' only public accommodation requirement, which protects persons with disabilities and demonstrates the Legislature knows how to create public accommodation laws where it chooses.

413. By expanding nondiscrimination mandates beyond those recognized under § 121.002, Dallas invades a field occupied by the Texas Legislature.

414. To the extent Dallas attempts to regulate Transportation Network Companies by imposing local operational requirements, it is preempted by § 2402.003.

415. The ordinance conflicts with uniform statewide standards, forces operators to navigate inconsistent mandates, increases compliance costs, and deters providers from offering services in Dallas, which raises ride cost for consumers.

416. The City of Dallas directly expends taxpayer funds to administer and enforce this ordinance.

417. The registration fees imposed under § 47A-2(b)(2) and § 47A-2.2.8 are prima facie evidence that taxpayer resources are expended to administer and enforce this scheme. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

418. Significant employee time and municipal resources are consumed by investigating complaints, conducting hearings, monitoring compliance, and defending ordinances that are void and unenforceable.

419. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 47A-2.2.10.

#### **48. Dallas City Code § 12A-5—Anti-Discrimination**

420. Dallas City Code § 12A-5 prohibits discrimination in employment decisions on the basis of categories including marital status, sexual orientation, gender identity and expression, and political opinions or affiliations, and is preempted under Texas Labor Code § 1.005 because the field of employment discrimination is occupied by Texas Labor Code, Chapter 21.

421. Texas Labor Code Chapter 21 comprehensively regulates employment discrimination, and § 21.151 authorizes municipalities to adopt ordinances only to the extent they prohibit practices already unlawful under state or federal law.

422. Dallas is free to adopt internal employment policies against discrimination as an employer, but it may not legislate through ordinance to create new protected classes or legal rights beyond those recognized by Chapter 21.

423. Although framed as internal personnel rules, 12A is enacted as an ordinance and is expressly incorporated by other provisions of the Dallas City Code and Dallas administrative provisions to regulate private third parties, including a

prohibition on the general public conspiring or inducing a city official to violate this standard under 12A-7(c), requiring compliance from lobbyists under § 12A-9(c), and compelled compliance with § 12A requirements from anyone doing business with the city, including banks under § 2-77.

424. By legislating categories not recognized in state or federal law, including marital status, sexual orientation, gender identity and expression, and political opinions or affiliations, Dallas exceeds the narrow authority conferred under § 21.151.

425. Because Texas Labor Code covers the field of employment discrimination, and Dallas City Code § 12A-5 regulates parties beyond Dallas itself, Dallas City Code § 12A-5 is preempted as an unauthorized invasion of a field occupied by state law.

426. The City of Dallas directly expends taxpayer funds to administer and enforce this ordinance.

427. Significant employee time and municipal resources are consumed by investigating complaints, conducting hearings, monitoring compliance, and processing grievances.

#### **49. Dallas City Code Chapter 34—Personnel Rules**

428. Dallas City Code Chapter 34 establishes a comprehensive personnel system for city employees, including rules on hiring, leave, benefits, nondiscrimination, discipline, and grievances, and is preempted under the Texas Labor Code and Business and Commerce Code.

429. Although framed as internal personnel rules, Chapter 34 is enacted as an ordinance and is expressly incorporated by other provisions of the Dallas City Code to regulate private third parties, including § 15B-1 (contractor definitions), § 46-4 (equal employment and housing definitions), and § 47A-2.4.2 (transportation for hire nondiscrimination).

430. By functioning both internally and externally, Chapter 34 cannot be defended as an internal policy. Rather, it effectively regulates private actors and therefore falls within the fields of employment and business regulation that the Legislature has occupied.

431. Chapter 34 expands nondiscrimination obligations to classes not recognized in state or federal law, including marital status, sexual orientation, gender identity and expression, and political opinions or affiliations.

432. The ordinance conflicts with uniform statewide regulation, imposes duplicative requirements on businesses, and expands obligations beyond those authorized under the Texas Labor Code, including § 1.005 and Chapter 21, and the Texas Business and Commerce Code.

433. Because the Texas Regulatory Consistency Act requires ordinances to be consistent with state law, Dallas City Code Chapter 34 is entirely preempted as an unauthorized municipal regulation of employment and business practices.

434. The City of Dallas directly expends taxpayer funds to administer and enforce this ordinance.

435. Significant employee time and municipal resources are consumed by investigating complaints, conducting hearings, monitoring compliance, and processing grievances.

436. ABC Texas joins with Resident Plaintiffs in challenging this ordinance.

437. This ordinance injures ABC Texas members by requiring them to agree to hiring and personnel practices that grant special privileges to certain classes of people selected by the Dallas City Council, in a manner not authorized by state law, when doing business with the City.

438. This raises the cost of doing business and subjects businesses, including ABC Texas members, to regulatory and administrative burdens not authorized by state law.

### **Property Code**

#### **50. Dallas City Code Chapter 20A—Fair Housing and Mixed Income Housing**

439. Dallas City Code Chapter 20A establishes fair housing and mixed income housing requirements and is preempted by Texas Property Code § 1.004 and Texas Local Government Code § 51.002 because it conflicts with the Texas Property Code Chapter 301 (Texas Fair Housing Act) and Texas Workforce Commission rules.

440. Texas Property Code Chapter 301 comprehensively regulates housing discrimination and prohibits discrimination based on race, color, religion, sex, familial status, or national origin.

441. The City of Dallas's ordinance adds protected classes not recognized in Chapter 301 or TWC rules, including marital status, sexual orientation, gender

identity and expression, genetic characteristics, military or veteran status, and political opinions or affiliations.

442. The ordinance invades statewide uniformity by layering additional mandates and compliance schemes on top of Chapter 301, creating inconsistent standards, compliance uncertainty, and higher costs for housing providers.

443. The City of Dallas directly expends taxpayer funds to administer and enforce this ordinance.

444. The administrative and participation fees imposed under § 20A-34(a)–(b) are prima facie evidence that taxpayer resources are expended to administer and enforce this scheme. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

445. Taxpayer resources are consumed in maintaining the city’s fair-housing office, including staff time devoted to complaint intake, investigation, conciliation, hearings, and enforcement actions under §§ 20A-6 through 20A-13.

446. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 20A-32.

## **51. Dallas City Code § 20A-4.1—Housing Voucher Incentives**

447. Dallas City Code § 20A-4.1 conditions city subsidies and financial awards on nondiscrimination against voucher holders and is preempted by Texas Property Code § 1.004 because it regulates in the field of property occupied by Texas Property Code Chapter 301.

448. This Dallas ordinance requires participating housing providers to accept vouchers, register with voucher agencies, adopt tenant-selection criteria, and implement affirmative marketing plans.

449. Multifamily projects receiving financial awards must also make “best efforts” to lease 10 percent of units to voucher holders for 15 years, which imposes a binding housing quota on property owners and developers.

450. Voucher holders are not a protected class under Texas Property Code Chapter 301, and § 1.004 bars municipalities from regulating in a field already occupied by the Property Code.

451. The ordinance conflicts with uniform statewide housing regulation by layering local mandates and compliance schemes onto Chapter 301, increasing uncertainty and compliance costs for developers and landlords.

452. The City of Dallas directly expends taxpayer funds to administer and enforce this ordinance, including fielding complaints under § 20A-7, investigations under § 20A-8, conciliation under § 20A-10, .

453. The participation and fee structures in § 20A-34, which incorporate 20A-4.1, constitute prima facie evidence that taxpayer resources are spent on enforcement and administration of the program. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

454. Significant employee time and municipal resources are consumed by drafting and enforcing incentive agreements, monitoring 15-year compliance, auditing tenant selection, and developing marketing plans.

455. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 20A-9, § 20A-12, § 20A-14, § 20A-15, and § 20A-21.

## **52. Dallas Development Code Division 51A-4.1100—Mixed-Income Housing**

456. Dallas Development Code Division 51A-4.1100 establishes the “Mixed-Income Housing,” conditioning lawful development rights on compliance with affordability mandates and monetary fees, and is preempted by Texas Property Code § 1.004 because the field is occupied by Chapter 301.

457. This City of Dallas regulatory regime requires property owners to reserve dwelling units for specified income levels or to pay a fee-in-lieu as a condition for choosing how to develop their own property, converting ordinary development decisions into transactions with the city.

458. Section 51A-4.1106(g) expressly incorporates by reference Dallas City Code § 20A-23.1, which sets the amount and collection procedure for the mixed-income housing fee, demonstrating that the zoning provisions and fee ordinances are interdependent parts of a single regulatory exaction.

459. Property Code Chapter 301 authorizes municipalities to administer fair-housing enforcement under § 301.068 but does not authorize them to regulate income-based occupancy, affordability levels, or tenant qualifications in private housing.

460. By prescribing affordability percentages, rent caps, and income thresholds, the Dallas program supplants the comprehensive statewide framework with local housing policy and exceeds any authority delegated under the Property Code.

461. Because Property Code § 1.004 establishes field preemption within the property and housing domain, and Chapter 301 fully occupies the fair-housing field, the mixed-income housing provisions of Division 51A-4.1100 are preempted in their entirety to the extent they condition development rights on income-based housing mandates or fees imposed under Chapter 20A.

462. The City of Dallas directly expends taxpayer funds to administer and enforce this ordinance.

463. The fee schedule established under § 20A-23.1, incorporated through § 51A-4.1106(g), is prima facie evidence that taxpayer resources are expended to administer and enforce the scheme. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

464. Significant employee time and municipal resources are consumed in reviewing development applications, verifying affordability calculations, tracking compliance covenants, processing fee-in-lieu payments, and auditing ongoing developments.

465. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 51A-1.103.

### **53. Dallas City Code § 46-7—Unlawful Housing Practices**

466. Dallas City Code § 46-7 prohibits discrimination in the sale, rental, financing, or brokerage of dwellings based on protected classes including sexual orientation and gender identity, and is preempted by Texas Property Code § 1.004 because the Texas Fair Housing Act, Texas Property Code Chapter 301, fully occupies the field of housing nondiscrimination.

467. Property Code Chapter 301 authorizes municipal enforcement only for HUD-certified agencies under § 301.068; it does not permit municipalities to expand protected classes or create separate enforcement schemes.

468. Section 46-7 exceeds that limited authority by extending local fair-housing requirements to new categories of protected status not recognized in Chapter 301 and by establishing independent complaint, investigation, and enforcement procedures.

469. Subsection (c) which bars discrimination in providing brokerage services based on sexual orientation or gender identity and expression, is further preempted by Texas Occupations Code § 1.004 because the ordinance invades the field of real estate brokerage regulation occupied by Texas Occupations Code Chapters 1101 and 1102.

470. The City of Dallas directly expends taxpayer funds to administer and enforce this ordinance.

471. Significant employee time and municipal resources are consumed in complaint intake, investigation, conciliation, and hearing procedures under § 46-9–46-12.

472. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 46-13.

#### **54. Dallas City Code Chapter 27—Minimum Property Standards**

473. Dallas City Code Chapter 27 establishes property standards for private residential leases and is preempted by Texas Property Code § 1.004, because

Chapters 81, 82, 91, and 92 comprehensively regulate landlord–tenant duties, property maintenance, condominium regimes, and common-interest ownership.

474. Chapters 81 and 82 govern condominium associations and unit-condition standards. Chapters 91 and 92 govern residential landlord obligations, including repair duties, maintenance of security devices, and habitability standards.

475. By prescribing its own detailed housing-condition standards, mandatory inspections, and occupancy limits, Chapter 27 invades the statewide framework occupied by state law.

476. The City of Dallas directly expends taxpayer funds to administer and enforce this ordinance.

477. This ordinance alters the rights and remedies between landlords and tenants, interferes in private contracts, burdens property owners, reduces housing availability, and increases housing costs.

478. Significant employee time and municipal resources are consumed in oversight, conducting inspections, executing warrants, and seizing property under this ordinance.

479. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 27-4.

**55. Dallas City Code § 32-74—Abandonment of Personal Property (Lake Ray Hubbard)**

480. Section 32-74 prohibits abandoning or leaving unattended personal property on Lake Ray Hubbard and is preempted by Texas Property Code § 1.004

because Texas Property Code Chapter 72 occupies the field of abandoned property regulation.

481. Chapter 72 contains no authorization for municipalities to create independent abandonment or forfeiture schemes, and the Legislature has expressly occupied the field by setting uniform rules for all forms of personal property throughout the state.

482. By adopting its own confiscation process applicable only to Lake Ray Hubbard, Dallas created a localized forfeiture system inconsistent with the statewide framework and internally inconsistent with the city's treatment of its other reservoirs.

483. The City of Dallas directly expends taxpayer funds to administer and enforce this ordinance.

484. Taxpayer resources are expended each time city employees locate, impound, transport, store, inventory, and dispose of property under this ordinance, as well as when they maintain records, handle claims, or conduct sales.

## **56. Dallas City Code Chapter 39A—Relocation Assistance—Eminent Domain**

485. Dallas City Code Chapter 39A establishes a municipal relocation-assistance program and is preempted by Texas Property Code § 1.004 because Texas Property Code § 21.046 occupies the field of relocation assistance.

486. Texas Property Code § 21.046 provides express statutory authority for relocation payments and services only when a political subdivision acquires real property for a public use, limited to acquisition costs and governed by the procedures

in the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

487. Chapter 39A exceeds that express authority by extending relocation benefits to persons displaced through code-enforcement, rehabilitation, or demolition programs that are unrelated to real-property title acquisition, which converts a narrow, acquisition-based program into a standing municipal entitlement for non-acquisition enforcement actions.

488. Section 39A-3(d) further invades state law by authorizing the City to pay relocation costs and then recover those same costs by lien under Local Government Code § 214.001.

489. But under Property Code § 21.046, relocation expenses are a public cost of acquisition, not a recoverable charge against property, and under Local Government Code § 214.001, liens may attach only for demolition or repair costs, not for relocation.

490. This hybrid lien-recovery scheme exists nowhere in state law, and by creating relocation entitlements unrelated to property acquisition then imposing unauthorized liens to recover those costs, Dallas's ordinance both exceeds the scope of its express authority under Local Government Code § 214.046 and invades the field occupied Property Code Chapter 21.

491. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter.

492. Administering this program, including determining eligibility, issuing payments, and maintaining records, consumes city resources, and this ordinance directly spends taxpayer funds in the form of payments to recipients.

493. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions and appeals under § 39A-7.

### **Local Government Code**

#### **57. Dallas City Charter, Chapter XIV, Section 5—Service Without Discrimination**

494. Dallas City Charter, Chapter XIV, Section 5 regulates private utilities and is preempted under Texas Local Government Code § 51.002 because it conflicts with and duplicates the comprehensive nondiscrimination provisions of the Texas Utilities Code, including §§ 32.101 and 38.003 (electric utilities), § 104.003 (gas utilities), § 13.182 (water and sewer utilities), and § 54.251 (telecommunications services).

495. These statutes regulate utilities in detail, mandating uniform service and prohibiting discriminatory rates, leaving no room for municipalities to impose discordant and invasive nondiscrimination rules, filing requirements, or duplicative approval processes.

496. No express statutory authority exists for Dallas to impose its own nondiscrimination and rate-approval scheme. The city's authority to grant franchises does not include the power to regulate rates or service conditions, which are reserved to state regulators such as the Texas Public Utility Commission, the Texas Railroad Commission, and the Texas Commission on Environmental Quality.

497. The charter provision conflicts with uniform statewide regulation, forces providers to navigate inconsistent approval processes across jurisdictions, increases compliance costs, and creates uncertainty that deters investment.

498. Because Texas Local Government Code § 51.002 requires local ordinances and charter provisions to be consistent with the Texas Utilities Code, the Texas Health and Safety Code, and related state statutes, Dallas Charter, Chapter XIV, § 5 is preempted.

499. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter.

500. Significant employee time and municipal resources are consumed by reviewing and approving rate schedules, monitoring compliance, investigating alleged discrimination, and pursuing forfeiture proceedings against franchise holders.

501. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under Charter Chapter XIV, § 6.

**58. Dallas City Code §§ 2-5 and 2-7—Labor Unions: City Employees Not to Organize or Join**

502. Dallas City Code §§ 2-5 and 2-7 prohibit city employees from organizing or joining labor unions, and are preempted under Texas Local Government Code § 51.002 because they are inconsistent with Texas Government Code Chapter 617.

503. Texas Government Code § 617.004 expressly protects an individual's right to public employment regardless of union membership or nonmembership, while Dallas City Code §§ 2-5 and 2-7 prohibit union membership outright.

504. Chapter 617 establishes the Legislature’s policy: public employees may not strike (§ 617.003) or bargain collectively (§ 617.002), but they retain the right to join unions (§ 617.004). Dallas’s ordinance eliminates that statutory right and is therefore inconsistent with state law, resulting in preemption under Local Government Code § 51.002.

505. The city ordinances unlawfully deny city employees a right conferred by state law, chill freedom of association, and expose the city to inevitable litigation.

506. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter.

507. Significant employee time and municipal resources are consumed by monitoring compliance, disciplining employees, and conducting training.

#### **59. Dallas City Code § 7-4.5—Sale of Dogs and Cats**

508. Dallas City Code § 7-4.5 regulates or prohibits the sale of dogs and cats. This ordinance is preempted by Local Government Code § 209.901(b) and Texas Business and Commerce Code § 1.109, because the Business and Commerce Code regulates the field of general commercial transactions and Local Government Code § 209.901(b) provides the only municipal framework for regulating sales of dogs and cats.

509. By prohibiting the sale of all dogs and cats unless specific city-defined criteria are met, the city has invaded the field of commercial regulation, which the state has reserved for itself.

510. Texas Local Government Code § 229.901(b) provides limited authority for municipal regulation of retail pet sales, but this narrow exception does not

authorize the City of Dallas's restriction on all transfers of animals, including non-retail sales, gifts, and pet adoption.

511. The ordinance restricts lawful commerce, burdens consumers, and incentivizes unregulated underground sales that undermine the Legislature's uniform regulatory goals.

512. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter.

513. The registration fee required by § 7-4.5(a)(2) is prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

514. Significant employee time and municipal resources are consumed by inspections, record reviews, complaint investigations, and prosecutions of violations.

515. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 7-4.5.

## **60. Dallas City Code Chapter 15D, Article I—Ambulances**

516. Dallas City Code Chapter 15D, Article I requires ambulance operators to obtain licenses, submit to inspections, and pay fees, and is preempted by Texas Local Government Code § 51.002 because Chapter 15D is not consistent with state law Texas Health & Safety Code Chapter 773.

517. The Texas Health & Safety Code creates a comprehensive statewide licensing scheme for EMS providers, personnel, and vehicles, which Dallas's duplicative licensing, inspection, and operational requirements unlawfully invade.

518. Texas Health & Safety Code § 773.0573 provides limited express statutory authority for municipalities to provide an approval letter for EMS providers seeking a state license, but Dallas’s independent licensing and inspection system exceeds this narrow role and conflicts with Chapter 773.

519. The ordinance raises costs and barriers for medical service providers, reduces competition for city service providers and raises the cost to taxpayer for provision of services.

520. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter.

521. The license fees in Dallas City Code § 15D-9.2 are prima facie evidence that taxpayer resources are expended on administration and enforcement. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

522. Significant employee time and municipal resources are consumed by compliance administration, complaint investigations, and processing applications.

523. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 15D-9.4 and 15D-9.5, and appeals under § 15D-9.6 .

#### **61. Dallas City Code § 18-3—Regulating Containers for Municipal Solid Waste Materials**

524. Dallas City Code § 18-3 prohibits residents, businesses, and institutions from using any solid-waste container other than a city-issued roll cart and bars underground or alternative containers unless the director of sanitation specifically

approves them. This section is preempted by Texas Local Government Code § 51.002 because it is not consistent with state law.

525. The city may select and use its own roll carts for municipal collection, but it has no statutory authority to restrict or prohibit private waste generators or processors from using lawful containers of their choosing.

526. Texas Health and Safety Code § 361.0961(a)(1) expressly forbids local governments from prohibiting or restricting, for solid-waste-management purposes, the sale or use of any container or package except as authorized by state law. By banning non-city containers, § 18-3 directly violates this prohibition.

527. Because § 18-3 is inconsistent with state law, it exceeds the city's authority under Local Government Code § 51.002 and is therefore invalid and preempted.

528. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter.

529. Significant employee time and municipal resources are consumed by monitoring compliance and investigating and prosecuting violations.

530. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 18-12.1.

## **62. Dallas City Code § 18-4—Regulation of Solid Waste Collection from Residences and Duplexes**

531. Dallas City Code § 18-4(a)(2) prohibits all private collection of waste or recyclable materials from residences and duplexes except by the city, a city contractor, or a few narrow exceptions, and is preempted by Texas Local Government

Code § 51.002 because it is not consistent with Texas Health and Safety Code Chapter 363.

532. Because Dallas provides no licensing mechanism for private residential collection, this operates as a blanket prohibition on private waste collection from city residences.

533. Texas Health and Safety Code Chapter 363 authorizes municipalities to coordinate, regulate, and contract for solid-waste services under §§ 363.111 through 363.113, but it does not authorize an ordinance that categorically excludes all private solid-waste collection.

534. Section 363.120 allows cities to grant exclusive rights to “certain solid-waste management services,” subject to public notice and transition requirements for existing private haulers.

535. By prohibiting all private residential collection rather than limiting exclusivity to specific service categories, Dallas exceeds the authority conferred by Chapter 363.

536. This ordinance interferes with private hauling contracts, suppresses competition, creates artificial cost increases for residents and businesses, and interferes in private contracts.

537. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter.

538. Significant employee time and municipal resources are consumed by monitoring compliance, investigating unauthorized hauling, and prosecuting violations.

539. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 18-12.1.

**63. Dallas City Code § 18-5—Collection and Removal of Solid Waste from Apartments, Institutions, Commercial Establishments, and Mobile Home Parks**

540. Dallas City Code § 18-5(d) prohibits solid-waste collection from apartments, institutions, commercial establishments, and mobile home parks and is preempted by Texas Local Government Code § 51.002 because it is not consistent with state law.

541. Because the city provides an exception for “solid waste collection license” holders, has no mechanism to issue such licenses apart from its own franchises, this provision functions as a de facto prohibition on all private waste collection within the city.

542. Texas Health and Safety Code Chapter 363 authorizes municipalities to coordinate, regulate, and contract for solid-waste services under §§ 363.111 through 363.113 but does not authorize a categorical ban on private participation.

543. Section 363.120 limits exclusivity to “certain solid-waste management services” but Dallas extends exclusivity to all such services, exceeding the authority conferred by Chapter 363. Chapter 363 requires public notice and transition rights for existing private haulers, confirming that exclusivity is service-specific, not absolute.

544. By barring every non-franchised collector, Dallas extends exclusivity to all solid-waste services and exceeds the authority conferred by Chapter 363.

545. The Legislature's use of "certain" confines exclusivity to specific service types such as residential curbside pickup and preserves the legality of other private hauling operations within municipal limits.

546. Subsection (f) separately requires that placement of any waste container not otherwise regulated "must be approved by the director of sanitation." This requirement conflicts with Texas Health and Safety Code § 361.0961(a)(1), which forbids local governments from restricting the sale or use of containers for solid-waste management purposes unless authorized by state law.

547. Because Dallas Chapter 18-5 is inconsistent with Texas Health and Safety Code Chapter 363 and § 361.0961(a)(1), it is invalid and preempted by Texas Local Government Code § 51.002.

548. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter.

549. Significant employee time and municipal resources are consumed by monitoring compliance, investigating unauthorized hauling, and prosecuting violations.

550. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 18-12.1.

**64. Dallas City Code § 18-6—Collection and Removal of Solid Waste from the Downtown Area**

551. Dallas City Code § 18-6 subjects downtown establishments to unique restrictions not imposed elsewhere in the city, prohibiting any solid-waste container or material from being placed for collection on public rights-of-way before 6 p.m. and requiring removal by 10 p.m., subject to discretionary approval by the Director of Sanitation.

552. This section is preempted by Texas Local Government Code § 51.002 because it is not consistent with state law.

553. By conditioning public-way access on individualized approval, the ordinance vests unbounded discretion in a municipal officer without objective criteria.

554. State law requires uniform and predictable administration of municipal waste programs, not ad-hoc approvals based on subjective determinations.

555. Texas Health and Safety Code Chapter 363 authorizes municipalities to coordinate and regulate solid-waste services to protect public health and safety but does not authorize a city to establish unequal regulatory treatment across districts or to impose discretionary access controls that have no connection to public health.

556. Because Dallas Chapter 18-6 imposes a localized, discretionary, and unequal restriction on solid-waste collection not authorized by Texas Health and Safety Code Chapter 363, it is inconsistent with state law and therefore preempted by Texas Local Government Code § 51.002.

557. The downtown restrictions interfere with private service contracts by effectively limiting when private haulers can collect waste and thereby altering

negotiated collection schedules. This produces unnecessary compliance burdens and increased costs for downtown property owners.

558. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter.

559. Significant employee time and municipal resources are consumed by monitoring compliance, investigating unauthorized hauling, and prosecuting violations.

560. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 18-12.1.

#### **65. Dallas City Code § 18-7—Collection and Removal of Dead Animals**

561. Dallas City Code § 18-7 prohibits placing a dead animal in a solid-waste container or on a public way and reserves all collection and removal of carcasses exclusively to the city, subject only to limited, fee-based exceptions for animal clinics and large animals. This section is preempted by Texas Local Government Code § 51.002 because it is not consistent with state law.

562. Texas Health and Safety Code Chapter 144 establishes a licensing framework for renderers and dead-animal haulers (§§ 144.002(2), 144.021–.030) and expressly authorizes municipalities to regulate, but not prohibit, such businesses.

563. Section 144.003(b) provides that municipalities “may regulate by ordinance rendering businesses,” but that “each rendering establishment . . . or dead-animal hauler subject to a municipal ordinance shall comply with this chapter,” meaning that local rules must operate in harmony with, not in exclusion of, state-licensed haulers.

564. By categorically prohibiting any private carcass-removal service—even those operated by licensed haulers acting in full compliance with Chapter 144—Dallas exceeds its regulatory authority and nullifies the state licensing scheme.

565. While municipalities retain authority to regulate the location, sanitary conditions, or zoning of collection points, § 18-7 goes further by reserving all carcass-removal activity to the City itself, thereby creating a direct conflict with the licensing and operational framework established by §§ 144.002(2) and 144.003(b).

566. These restrictions block licensed renderers from performing lawful, state-authorized services, interfere with private contracts for carcass disposal, and increase disposal costs for animal clinics and agricultural operators.

567. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter.

568. Significant employee time and municipal resources are consumed by processing service requests, dispatching vehicles, assessing fees, monitoring compliance, and investigating and prosecuting violations.

569. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 18-12.1.

## **66. Dallas City Code § 18-10—Solid Waste Disposal**

570. Dallas City Code § 18-10 regulates the disposal, processing, and removal of solid waste within city limits and is preempted under Texas Local Government Code § 51.002, because it is not consistent with Texas Health and Safety Code Chapter 361 (Solid Waste Disposal Act).

571. Section 18-10(a)(1) prohibits all waste disposal except at sites and in manners approved by the city's Director of Sanitation, thereby restricting the operation of state-permitted solid-waste facilities.

572. Texas Health and Safety Code § 361.0961(a)(2) forbids local governments from prohibiting or restricting the processing of solid waste by a facility permitted by the Texas Commission on Environmental Quality.

573. Section 18-10(b)(1) authorizes the city Director of Sanitation to curtail, suspend, or permanently halt any solid-waste operation "in the director's judgment," again restricting state-permitted activities contrary to Texas Health and Safety Code § 361.0961(a)(2).

574. Section 18-10(a)(1) further conflicts with the permitting and procedural safeguards in Texas Health and Safety Code §§ 361.061, 361.079, 361.088, and 361.089, which assign exclusive authority over waste-facility permitting and enforcement to the state.

575. Section 18-10(a)(1) also creates evidentiary presumptions that the owner of a premises or vehicle is guilty of illegal dumping, exceeding the scope of liability authorized in Texas Health and Safety Code § 365.012, which requires proof that a person disposed of or caused disposal of waste.

576. Section 18-10(c)(1) is preempted because it creates a strict-liability offense for removing materials from city disposal facilities, while Texas Health and Safety Code § 365.012(n) limits strict-liability dumping offenses to the act of depositing waste, not removing it.

577. Because Texas Health and Safety Code § 361.0961(a)(2) expressly forbids local restrictions on the operation of state-permitted solid-waste facilities, Dallas City Code § 18-10 is not consistent with state law and is preempted in its entirety under Texas Local Government Code § 51.002.

578. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter.

579. Significant employee time and municipal resources are consumed by monitoring compliance and investigating and prosecuting violations.

580. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 18-12.1.

#### **67. Dallas City Code § 18-30—Authority of Director**

581. Dallas City Code § 18-30 authorizes the Director of Sanitation to promulgate rules and to impound private vehicles and collection bins without any state delegation of authority and without a required connection to public health or safety.

582. This section is preempted by Texas Local Government Code § 51.002 because it is not consistent with state law.

583. Section 18-30(a) authorizes the director to issue rules “as the director determines are necessary,” but no provision of Texas Health and Safety Code Chapters 363 or 364 delegates independent rulemaking power to a municipal sanitation director.

584. Sections 18-30(b) through 18-30(e) authorize the impoundment and fee-based detention of vehicles and containers used in waste collection, including a \$509

impoundment fee and a \$20-per-day storage fee, without requiring a showing that the equipment poses any health or safety hazard.

585. State law does not delegate to municipalities the general authority to seize or hold private property absent a demonstrated nuisance or threat to public welfare.

586. Although a municipality may impound property when necessary to protect health or safety under its police power, § 18-30 allows impoundment solely based on regulatory violations, with no predicate finding of danger or nuisance.

587. The City of Dallas directly expends taxpayer funds to administer and enforce this section.

588. Because § 18-30 conditions property use on payment of fees, it necessarily entails the use of taxpayer resources for enforcement, storage, and administration, which constitutes prima facie evidence of municipal resource expenditure. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

589. Significant employee time and municipal resources are consumed in administering and enforcing this preempted ordinance.

590. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 18-30.

## **68. Dallas City Code §§ 18-32 to 18-51—Private Solid Waste Franchise Fees**

591. Dallas City Code §§ 18-32 to 18-51 regulates private waste collection services and are preempted by Texas Local Government Code § 51.002 because they are not consistent with state law.

592. Texas Health & Safety Code § 363.120 authorizes municipalities to grant franchises for solid waste collection, but Dallas exceeds this authority by imposing franchise fees based on gross receipts rather than tying the fee to the City's regulatory or service costs.

593. A franchise fee calculated on gross receipts is an unauthorized occupation tax, not a permissible regulatory fee. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610 (Tex. 1935).

594. Franchise fees must be cost-based and may not serve as a general revenue measure. *Builder Recovery Servs., LLC v. Town of Westlake*, 650 S.W.3d 362 (Tex. 2022).

595. The State of Texas does not impose an occupation tax on solid waste disposal services. Rather, it imposes regulatory fees tied to landfill tonnage under Texas Health and Safety Code § 361.013. Texas Constitution Article 8, § 1(f) prohibits a city from imposing an occupation tax where the state does not, making Dallas's gross-receipts franchise fee contrary to state law.

596. Accordingly, the ordinance is preempted because the field of occupational licensing is occupied by state law and because Dallas exceeded the narrow authority granted under Texas Health and Safety Code § 363.120.

597. The City of Dallas directly expends taxpayer funds to administer and enforce these sections.

598. Because these sections authorize the City of Dallas to collect fees, they necessarily entail the use of taxpayer resources for enforcement and administration,

which constitutes prima facie evidence of municipal resource expenditure. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

599. Significant employee time and municipal resources are consumed in administering and enforcing this preempted ordinance.

600. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 18-51.

### **69. Dallas City Code §§ 28-161 to 28-170—Escort Business License**

601. Dallas City Code §§ 28-161 to 28-170 require businesses furnishing escort vehicle services to obtain a city license and is preempted by Texas Local Government Code § 51.002 because it is not consistent with Texas Transportation Code Chapters 623 and 545.

602. The Transportation Code comprehensively regulates the use of escort vehicles for oversize and overweight loads (§ 623) and funeral processions (§ 545), leaving no residual field for Dallas to impose duplicative licensing of escort businesses.

603. No state law provides authority for Dallas to license escorts incidentally passing through the city on state highways.

604. The ordinance increases costs for carriers and funeral providers, creates inconsistent standards across jurisdictions, and discourages uniform compliance with statewide escort regulations.

605. The City of Dallas directly expends taxpayer funds to administer and enforce these sections.

606. The license fees imposed under § 28-170 is prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

607. Significant employee time and municipal resources are consumed in processing escort business licenses, conducting inspections, investigating complaints, and prosecuting violations under these provisions.

608. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 28-172.

#### **70. Dallas City Code §§ 28-173 to 28-185—Escort Chauffeur’s Licenses**

609. Dallas City Code §§ 28-173 through 28-185 require city-issued licenses for individual escort chauffeurs and are preempted under Texas Local Government Code § 51.002 because they are inconsistent with the escort provisions of the Texas Transportation Code.

610. The Transportation Code, including Chapter 623 (oversize and overweight load escorts) and Chapter 545 (funeral processions), establishes comprehensive statewide regulations for when escort vehicles are required, how they operate, and what qualifications apply, leaving no residual authority for municipalities to impose duplicative chauffeur licensing requirements.

611. By creating its own chauffeur licensing system, Dallas establishes duplicative and conflicting obligations, producing harmful outcomes for escort drivers and carriers who must comply with a patchwork of local rules across Texas.

612. The ordinance imposes particular burdens on interstate and intrastate carriers, since drivers may be forced to obtain separate chauffeur permits in every

municipality they pass through, undermining the uniform statewide escort framework.

613. Because Dallas’s chauffeur licensing requirements are inconsistent with the comprehensive state escort vehicle framework in the Transportation Code, §§ 28-173 through 28-185 are preempted under Local Government Code § 51.002.

614. The City of Dallas directly expends taxpayer funds to administer and enforce these sections.

615. The chauffeur’s license fee imposed under § 28-177 is prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

616. Significant employee time and municipal resources are consumed in processing chauffeur applications, conducting background checks, investigating complaints, and prosecuting violations.

617. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 28-172.

#### **71. Dallas City Code § 32-11.4—Noises Interfering with Enjoyment of Public Park and Recreation Areas**

618. Dallas City Code § 32-11.4 prohibits “loud and raucous” noise in city parks and is preempted by Texas Local Government Code § 51.002 because it is not consistent with state law, including Texas Penal Code § 42.01(a)(5), which creates a uniform statewide standard that prohibits “unreasonable noise” in public places.

619. The Legislature has delegated limited authority to municipalities under Texas Local Government Code § 217.003(b) to suppress or prevent noise, but that is in the context of riots and civil disorder.

620. Dallas's ordinance conflicts with Penal Code § 42.01(a)(5) by redefining the offense based on "loud and raucous noise" and imposing 150-foot audibility test presumption.

621. This section does not define "loud and raucous noise," but generally prohibits mechanical, amplified or vehicle noise that is audible at more than 150 feet.

622. Applying the city's standard to other noises renders the following ordinary park activities "loud and raucous" and therefore illegal in city parks: children playing, a basketball bouncing, joggers on a sidewalk, closing a car door, starting a car, or a cell phone ringing.

623. This noise standard also contradicts Texas Constitution, Article I, § 8, by prohibiting liberty of speech in a traditional public forum, and Article I, § 19, by failing to give a reasonable person notice that ordinary activities are illegal in Dallas city parks.

624. Because Texas Local Government Code § 51.002 requires consistency with state law, this ordinance is preempted because it conflicts with Penal Code § 42.01(a)(5) and contradicts the Texas Constitution.

625. These provisions chill lawful assembly and expression in public forums, subject ordinary lawful public activities to arbitrary criminalization, and depart from statewide standards.

626. The City of Dallas directly expends taxpayer funds to administer and enforce these sections.

627. Significant employee time and municipal resources are consumed in processing permits, policing and investigating violations, municipal court prosecutions, and defending constitutional challenges.

628. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 32-11.4.

## **72. Dallas City Code § 32-56—Creating Filth**

629. Dallas City Code § 32-56 makes it unlawful to “cause in any manner any filth to be created in or about the waters of Elm Fork” or to do any act “likely to pollute the waters” or “render them unwholesome.” This ordinance is preempted by Texas Local Government Code § 51.002 because it is not consistent with state law.

630. Texas Water Code Chapter 26 defines “pollution” and establishes objective standards for determining when water quality is impaired.

631. Texas Health and Safety Code Chapter 341 defines the types of conditions that constitute nuisances dangerous to public health. Those statutes require measurable or observable conditions—such as discharge of waste or the presence of disease vectors—before a violation may be found.

632. Section 32-56 uses vague and undefined terms such as “filth,” “unwholesome,” and “likely to pollute,” without reference to the definitions or standards contained in the Texas Water Code, Texas Health and Safety Code, or any objective criteria.

633. Because it imposes liability without objective criteria or procedural safeguards, and fails to give fair notice of what conduct is prohibited, inviting arbitrary enforcement and conflicting interpretations of “filth” and “pollution”, it is also inconsistent with the Due Course of Law guarantee of Article I, § 19 of the Texas Constitution.

634. Accordingly, Dallas City Code § 32-56 is inconsistent with the laws of this state and is preempted under Texas Local Government Code § 51.002.

635. The City of Dallas directly expends taxpayer funds to administer and enforce these sections.

636. Significant employee time and municipal resources are consumed in policing, investigating violations, and municipal court prosecutions.

### **73. Dallas City Code Chapter 33—Assisted Living Facilities**

637. Dallas City Code Chapter 33 regulates assisted living facilities. This chapter is preempted under Texas Local Government Code § 51.002 because it is not consistent with Texas Health and Safety Code Chapter 247.

638. Chapter 247 establishes a comprehensive statewide system of licensing, standards of care, inspections, and enforcement for assisted living facilities under the Texas Health and Human Services Commission.

639. Section 247.031 allows municipalities to prohibit unlicensed operators and order emergency closures and Section 247.071 permits enforcement of local building and fire codes, but these narrow carve-outs confirm that the state retains licensing and inspection authority.

640. Section 33-5(a) exceeds those limits by purporting to authorize Dallas inspectors to enforce Chapter 247 itself, even though the statute reserves that power to the state and does not contemplate municipal enforcement.

641. Because Dallas's inspection provisions exceed the limited municipal powers recognized in Health and Safety Code §§ 247.031 and 247.071, Chapter 33 is inconsistent with state law and preempted under Local Government Code § 51.002.

642. This duplicative scheme imposes conflicting obligations, increases compliance costs, and fragments a uniform statewide system.

643. The City of Dallas directly expends taxpayer funds to administer and enforce these sections.

644. Significant employee time and municipal resources are consumed in conducting inspections, investigating complaints, and prosecuting violations under this chapter.

645. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 33-7 and 33-8.

#### **74. Dallas City Code Chapter 39B—Regulated Property**

646. Dallas City Code Chapter 39B imposes a comprehensive licensing and reporting scheme on the purchase, sale, and repair of regulated property, including items such as automobile parts, jewelry, firearms, and calculators, and is preempted under Texas Local Government Code § 51.002 because it is not consistent with state law.

647. The Texas Business and Commerce Code governs the sale of goods through the Uniform Commercial Code provisions in Chapter 2, and protects consumers through the Deceptive Trade Practices Act in Chapter 17.

648. The Legislature has chosen to regulate specific industries separately: pawnshops under Texas Finance Code Chapter 371, salvage vehicle dealers under Texas Occupations Code Chapter 2302, used automotive parts recyclers under Texas Occupations Code Chapter 2309, metal recycling entities and crafted precious metal dealers under Texas Occupations Code Chapter 1956, and ticket brokers under Texas Occupations Code Chapter 1803.

649. Dallas's catch-all ordinance far exceeds state regulatory standards by requiring local licenses, reports to the chief of police, and compliance burdens across industries that are either already regulated or were intentionally left unregulated by the Legislature.

650. For example, § 39B-2 would require a vendor repairing a calculator to file a report with the chief of police.

651. This ordinance imposes invasive regulation across multiple industries, drives up compliance costs, chills legitimate commerce, and creates inconsistent local standards across cities.

652. Because the sale and repair of goods are comprehensively governed by the Texas Business and Commerce Code, and certain industries are separately regulated under the Texas Finance Code or Texas Occupations Code, Dallas City Code Chapter 39B is entirely preempted by the Texas Regulatory Consistency Act.

653. The City of Dallas directly expends taxpayer funds to administer and enforce these sections.

654. The license fee imposed under § 39B-9 is prima facie evidence that taxpayer resources are expended to administer and enforce this scheme. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

655. Significant employee time and municipal resources are consumed in processing registrations, conducting inspections, investigating complaints, and prosecuting enforcement actions.

656. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 39B-11 and appeals under § 39B-13.

#### **75. Dallas City Code Chapter 43, Article VI, Division 3—Newsracks**

657. Dallas City Code §§ 43-126.15 to 43-126.31 establish a licensing system for newsracks in the public right-of-way, requiring operators to obtain permits, comply with design standards, and provide proof of insurance, and are preempted under Local Government Code § 51.002.

658. Texas Transportation Code chapter 316 regulates the use of municipal streets for private purposes, including obstructions such as newsracks, and establishes statewide procedures for permitting and removal, leaving no authority for municipalities to create duplicative or conflicting regulatory systems.

659. Dallas City Code § 43-126.19(b)(3) intrudes into the Insurance Code by using permits as backdoor insurance regulation, dictating specific insurance requirements, and granting city officials discretionary power to approve coverage

only if “acceptable to the city,” despite Texas Insurance Code Chapters 822, 841, 981, and 2301 comprehensively regulating authorized insurers, surplus lines, and policy forms.

660. The ordinance produces harmful outcomes by raising compliance costs, discouraging distribution of newspapers and periodicals, and interfering with freedom of contract between publishers and distributors.

661. Taxpayer resources are consumed in issuing licenses, reviewing insurance, monitoring compliance, conducting inspections, and prosecuting violations.

662. The license fees imposed under Dallas City Code § 43-126.19 are prima facie evidence of such expenditures. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Texas 1935).

663. Because Transportation Code Chapter 316 comprehensively regulates use of the right-of-way, Local Government Code § 51.002 prohibits inconsistent ordinances, and Texas Insurance Code § 30.005 preempts the field of insurance regulation, Dallas City Code §§ 43-126.15 to 43-126.31 are preempted.

664. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 43-126.20 and appeals under § 43-126.21.

## **76. Dallas City Code Chapter 43, Article VI, Division 3—Valet Parking Services**

665. Dallas City Code Chapter 43, Article VI regulates valet services by requiring permits, insurance, and compliance with operational standards. This

article is preempted under Texas Local Government Code § 51.002 because it is not consistent with the Texas Transportation Code.

666. The Texas Transportation Code comprehensively regulates the use of public roadways and parking. The Legislature expressly gave municipalities limited parking-related authority in Texas Transportation Code § 545.302(e), but intentionally chose not to extend that authority to valet services.

667. The ordinance increase entry costs, places unnecessary barriers on businesses, and restricts competition in valet services.

668. Valet services have no contract or relationship with the city and the endorsement requirement is therefore arbitrary, against public policy, and inconsistent with state law.

669. Because this article is not consistent with the Texas Transportation Code, as required by Texas Local Government Code § 51.002, Dallas City Code Chapter 43, Article VI, Division 3 is preempted.

670. The City of Dallas directly expends taxpayer funds to administer and enforce these sections.

671. The application fee of \$1,700 imposed under Dallas City Code § 43-126.6 is prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

672. Significant employee time and municipal resources are consumed in processing valet permit applications, reviewing insurance and traffic plans, conducting inspections, investigating complaints, and prosecuting violations.

673. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 43-126.7 and other sections.

### **Finance Code**

#### **77. Dallas City Code Chapter 50, Article XI—Credit Services Organizations and Credit Access Businesses**

674. Dallas City Code Chapter 50, Article XI regulates credit service organizations and credit access businesses and is preempted by Texas Finance Code § 1.004.

675. Texas Finance Code, Chapter 393, establishes a comprehensive statewide system for registration, licensing, disclosures, reporting, recordkeeping, and enforcement for these businesses. The City of Dallas’s ordinances regulating this field are therefore preempted.

676. No Texas statute authorizes the City of Dallas to impose a parallel local registration or operational regime for these entities.

677. Specific Article XI provisions within the preempted field include city registration and renewal requirements in § 50-151, local recordkeeping and inspection mandates in § 50-151.2, and local pricing, term, and renewal limitations on CAB-facilitated loans in § 50-151.3, all of which fall within the Finance Code’s comprehensive scheme and are therefore field preempted.

678. Because the Texas Regulatory Consistency Act applies field preemption through the Finance Code, Dallas City Code Chapter 50, Article XI is preempted in its entirety.

679. The ordinance interferes with the right of private parties to form contracts by altering lawful credit terms and conditions established under state law.

680. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter through the city's licensing process.

681. The non-refundable city application fee imposed under § 50-149(a)(6) is prima facie evidence that taxpayer resources are expended on administration and enforcement. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

682. Significant employee time and municipal resources are consumed processing registrations, maintaining local records, conducting inspections, and investigating complaints.

683. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 50-146.

### **Agriculture Code**

#### **78. Dallas City Code § 7-6.2—Regulated Animals**

684. Dallas City Code § 7-6.2 requires permits for possession of certain regulated animals, and is preempted by Local Government Code § 51.002 because it is inconsistent with Texas Health and Safety Code Chapter 822, Subchapter E.

685. This state law establishes comprehensive regulation of dangerous wild animals and provide limited statutory authority for a city to license the animals, but Chapter 822 provides the procedure and guidelines for registration, which Dallas

deviates from by adding animals not regulated by the state, attempting to regulate the conduct of keepers of regulated animals inconsistent with § 822.111 and 822.112, and attempting to imbue the Director with rulemaking powers the state reserves to the Executive Commissioner of the Health and Human Services Commission.

686. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter through the city’s licensing process.

687. The permit fee imposed under § 7-6.2(a)(1) is prima facie evidence that taxpayer resources are spent on administering and enforcing the ordinance. *City of Fort Worth v. Gulf Refining Co.*, 83 S.W.2d 610, 618 (Tex. 1935).

688. Significant employee time and municipal resources are consumed in reviewing permit applications, conducting inspections, investigating violations, and prosecuting cases.

689. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under § 7-6.2(r) and other provisions.

## **79. Dallas City Code § 7-7.3—Roosters**

690. Dallas City Code § 7-7.3 prohibits ownership of live roosters within the city and is preempted by Texas Agriculture Code § 1.004, because the Texas Agriculture Code occupies the field of agricultural operations, which includes the keeping of roosters.

691. Texas Agriculture Code Chapter 251 defines “agricultural operation” to include raising or keeping livestock or poultry, Chapter 161 establishes statewide

animal-health controls that cover domestic fowl and poultry premises, and Chapter 168 sets disease-control measures for chickens, turkeys, and other birds.

692. Texas Agriculture Code § 251.0055 narrowly delegates power for municipal “governmental requirements” on agricultural operations subject to strict predicates, but § 7-7.3 exceeds that limited delegation by imposing a categorical ban without § 251.0055’s imminent danger finding and other procedures.

693. The ordinance eliminates the raising or keeping of poultry for small-scale agricultural or home use, raises the price of eggs, and converts otherwise lawful activity into a city offense.

694. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter through the city’s licensing process.

695. Significant employee time and municipal resources are consumed in receiving and investigating complaints, inspecting and measuring enclosures and setbacks, assessing alleged noise or nuisance violations, and coordinating with health officials.

696. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 7-7.3(b) and (d).

## **80. Dallas City Code § 19-118.3—Regulation of Pesticides, Herbicides, and Fertilizers**

697. Dallas City Code § 19-118.3 regulates the storage, handling, and use of pesticides, herbicides, and fertilizers in connection with stormwater discharges and is preempted by Texas Agriculture Code § 1.004 because Texas Agriculture Code Chapter 76 occupies the field of pesticide and herbicide regulation by assigning

authority to the Texas Department of Agriculture and by expressly forbidding municipal ordinances regarding pesticide sale or use.

698. Texas Agriculture Code § 76.101(d)(1) prohibits municipalities from adopting regulations regarding pesticide sale or use, while preserving only narrow municipal authority for zoning, safety regulations, disposal sites, hazardous-materials routing, regulation of discharges to sanitary sewers, and actions strictly necessary to comply with federal or state environmental standards.

699. Express statutory authority therefore reaches only those narrow carve-outs, and § 19-118.3, except subsection (d), falls outside that express authority.

700. The ordinance imposes a patchwork of local enforcement schemes on product handling and application decisions already governed by statewide rules, chilling lawful commercial and agricultural operations and creating inconsistent compliance burdens.

701. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter through the city's licensing process.

702. Significant employee time and municipal resources are consumed in inspecting facilities and sites for alleged improper storage or use, reviewing operator records for compliance, and prosecuting offenses.

703. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 19-118.3.

**81. Dallas City Code § 49-21.1—Conservation Measures Relating to Lawn and Landscape Irrigation**

704. Dallas City Code § 49-21.1 restricts lawn and landscape irrigation and is partially preempted by Texas Agriculture Code § 1.004.

705. Agriculture Code Chapter 201 establishes the State Soil and Water Conservation Board and the statewide conservation-district framework that occupies the soil and water conservation field.

706. Texas Water Code §§ 11.1271–11.1272 and 30 Texas Administrative Code Chapter 288 authorize municipal conservation and drought measures only for the city’s retail water customers.

707. Because Dallas City Code § 49-21.1 regulations apply to non-municipal water customers and regulated parties must rely on burden-shifting defenses to escape liability for using non-municipal water, the city ordinance exceeds that authority.

708. Dallas City Code §§ 49-21.1(b)(4) and (c) impose citywide equipment and operating mandates even on private irrigation systems that do not use city water, with no defenses available.

709. This ordinance therefore interferes with private property management and imposes a patchwork of compliance burdens outside the scope of state-delegated conservation authority.

710. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter.

711. Significant employee time and municipal resources are consumed in receiving and investigating complaints, inspecting sites for alleged violations, documenting water-source defenses, and prosecuting offenses.

712. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 49-21.1.

## **82. Dallas City Code § 7A-19.1 – City Abatement of Litter from Private Premises**

713. Dallas City Code § 7A-19.1 authorizes city employees to enter private property to remove “litter” and assess costs, and it is preempted by Texas Local Government Code § 51.002 and Texas Agriculture Code § 1.004.

714. Texas Health and Safety Code §§ 342.004, 342.005, 342.006, and 342.007 outline abatable conditions, notice and compliance steps, and lien procedures. Dallas City Code § 7A-19.1 departs from those requirements by authorizing abatement outside that framework.

715. Texas Health and Safety Code §§ 365.011(6) and 361.003 define litter and solid waste. Chapter 7A classifies ordinary on-premises organics as rubbish and treats them as abatable litter, which is inconsistent with those state definitions and is therefore preempted under Texas Local Government Code § 51.002.

716. Texas Health and Safety Code § 342.005 allows enforcement only of an ordinance adopted under Chapter 342. Dallas Chapter 7A-19.1 is inconsistent with Health and Safety Code Chapter 342, because it expands the subject matter and remedies beyond the Legislature’s command.

717. Section 7A-19.1 applies on its face to agricultural activities that are common in cities, such as backyard vegetable gardens and keeping domestic fowl, and is preempted by Texas Agriculture Code § 1.004.

718. Texas Agriculture Code § 251.0055 adds an independent limit by prohibiting a municipality from imposing a governmental requirement that applies to an agricultural operation unless strict statutory predicates are met, including a written finding that the requirement is necessary to address an imminent danger to public health or safety. Dallas City Code § 7A-19.1 includes no such predicates and therefore exceeds this narrow authority.

719. The ordinance authorizes entry, removal, and liens for everyday materials such as fresh fallen leaves, yard clippings, chopped wood, feed sacks, and baling twine near barns or pens, interfering with common urban and suburban agricultural operations.

720. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter through the city's licensing process.

721. Significant employee time and municipal resources are consumed in issuing abatement notices, conducting site inspections, performing unnecessary city cleanups on private land, preparing and recording cost statements and liens, and prosecuting offenses.

722. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions and liens under § 7A-19.1(f).

**83. Dallas City Code § 18-17—Removal of Weeds and Vegetation Upon Failure of Owner, Occupant, or Person in Control to Do So**

723. Dallas City Code § 18-17 authorizes city abatement and cost recovery for weeds and vegetation on private property and is preempted by Texas Agriculture Code § 1.004 because Chapter 251 occupies the field of agricultural operations, including raising or keeping livestock or poultry and related land management practices.

724. Texas Agriculture Code § 251.0055 provides narrow express statutory authority for the City of Dallas to adopt requirements for agricultural operations subject to strict predicates, including a finding of imminent danger

725. Because Dallas City Code § 18-17 provides no carveout for agricultural operations and no § 251.0055 predicates, it exceeds that limited delegation.

726. Independent of Agriculture Code preemption, § 18-17 is also preempted under Texas Local Government Code § 51.002 because Texas Health and Safety Code §§ 342.004, 342.006, and 342.007 directly regulate when weeds may be abated and the notice, abatement, and lien procedures a city must follow, meaning that any abatement or cost recovery under § 18-17 outside the strict procedures of those Health and Safety Code sections are contrary to state law.

727. Health and Safety Code § 342.005 authorizes a municipality to enforce only an ordinance adopted under that subchapter, and, read with §§ 342.004, 342.006, and 342.007, limits municipal abatement and cost recovery to the procedures and predicates specified in those sections.

728. Section 18-17 is invalid because it exceeds those subchapter limits and is not crafted to conform to state law.

729. The ordinance interferes with ordinary agricultural land management by targeting seasonal growth, fallow or hay fields, native grass stands, and temporary windrows—routine agricultural practices that are not nuisances under state law.

730. The City of Dallas directly expends taxpayer funds to administer and enforce this chapter through the city’s licensing process.

731. Significant employee time and municipal resources are consumed in issuing notices, conducting site inspections, performing city abatement when owners do not comply, preparing and recording liens and cost statements, and prosecuting offenses.

732. Further, the City of Dallas must dedicate taxpayer-funded judicial and clerical resources to process enforcement actions under §§ 18-16 and 18-17(g).

## **VII. PRAYER FOR RELIEF**

Plaintiffs respectfully ask this Court for the following relief authorized by Texas Civil Practice and Remedies Code § 102A.003:

- A declaratory judgment that each ordinance listed as a cause of action above is preempted by the Texas Legislature and is void under Texas Constitution, Article XI, § 5(a), and the laws of this state;
- A permanent injunction against Dallas prohibiting the enforcement of each unconstitutional ordinance listed as a cause of action above; and
- Plaintiffs’ costs and reasonable attorney’s fees.

Dated: February 23, 2026

Respectfully submitted,

/s/ Matthew Chiarizio

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 23, 2026, a true and correct copy of the above and forgoing document has been served via electronic service and/or email to all counsel of record.

/s/ Matthew Chiarizio  
MATTHEW CHIARIZIO