

By: Cortez, Wilson, Toth, Rodriguez, et al.

H.B. No. 1686

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of food production on single-family
3 residential lots by a municipality or property owners' association.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 217, Local Government Code, is amended
6 by adding Subchapter Z to read as follows:

7 SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

8 Sec. 217.901. FOOD PRODUCTION ALLOWED ON SINGLE-FAMILY
9 RESIDENTIAL LOT. (a) Notwithstanding any other law and except as
10 provided by Subsection (b) or (c), a municipality may not adopt or
11 enforce an ordinance that prohibits any of the following activities
12 on a single-family residential lot:

13 (1) the growing of fruits and vegetables; or

14 (2) the raising or keeping of:

15 (A) six or fewer domestic fowls; or

16 (B) six or fewer adult rabbits.

17 (b) A municipality may impose reasonable regulations on the
18 growing of fruits and vegetables on a single-family residential lot
19 that do not have the effect of prohibiting the growing of the fruits
20 or vegetables in the front, side, or rear yard of a residence,
21 including:

22 (1) a requirement that the growing area be maintained
23 in good condition if visible from the street faced by the lot or
24 from an adjoining lot; and

1 (2) a requirement for the trimming or removal of a tree
2 as necessary for the maintenance of a utility easement.

3 (c) A municipality may impose reasonable regulations on the
4 raising or keeping of fowls or rabbits on a single-family
5 residential lot to control odor, noise, safety, or sanitary
6 conditions that do not have the effect of prohibiting the raising or
7 keeping of the fowls or rabbits, including:

8 (1) a limit on the number of fowls or rabbits that is
9 more than:

10 (A) the minimum number allowed by Subsection
11 (a)(2); or

12 (B) a total combined number of eight fowls and
13 rabbits, subject to the limits of Subsection (a)(2);

14 (2) a prohibition on raising or keeping of a rooster;

15 (3) the minimum distance between an animal shelter and
16 a residential structure other than the animal owner's own
17 residence;

18 (4) a requirement for fencing or shelter sufficient to
19 contain the fowls or rabbits on the owner's property;

20 (5) minimum requirements for combined housing and
21 outdoor space of at least:

22 (A) 20 square feet per fowl; and

23 (B) nine square feet per rabbit;

24 (6) a requirement to address sanitary conditions in a
25 manner that prevents accumulation of animal waste in a quantity
26 sufficient to create an offensive odor or the attraction of pests;

27 or

1 (7) a requirement that the fowls or rabbits may only be
2 kept in the side or rear yard of a residence.

3 (d) This section does not apply to a condominium unit.

4 (e) An ordinance adopted by a municipality that violates
5 this section is void.

6 SECTION 2. Chapter 202, Property Code, is amended by adding
7 Section 202.022 to read as follows:

8 Sec. 202.022. FOOD PRODUCTION ALLOWED ON SINGLE-FAMILY
9 RESIDENTIAL LOT. (a) Notwithstanding any other law and except as
10 provided by this section, a property owners' association may not
11 adopt or enforce a restrictive covenant that prohibits any of the
12 following activities on a single-family residential lot:

13 (1) the growing of fruits and vegetables;

14 (2) the raising or keeping of:

15 (A) six or fewer domestic fowls; or

16 (B) six or fewer adult rabbits; or

17 (3) a cottage food production operation, as defined by
18 Section 437.001(2-b), Health and Safety Code.

19 (b) A property owners' association may adopt and enforce a
20 restrictive covenant imposing reasonable requirements on the
21 growing of fruits and vegetables on a single-family residential lot
22 that do not have the effect of prohibiting the growing of the fruits
23 or vegetables in the front, side, or rear yard of a residence,
24 including:

25 (1) a requirement that the growing area be maintained
26 in good condition if visible from the street faced by the lot or
27 from an adjoining lot; and

1 (2) a requirement for the trimming or removal of a tree
2 as necessary for the maintenance of a utility easement.

3 (c) A property owners' association may adopt and enforce a
4 restrictive covenant imposing reasonable requirements on the
5 raising or keeping of fowls or rabbits on a single-family
6 residential lot to control odor, noise, safety, or sanitary
7 conditions that do not have the effect of prohibiting the raising or
8 keeping of the fowls or rabbits, including:

9 (1) a limit on the number of fowls or rabbits that is
10 more than:

11 (A) the minimum number allowed by Subsection
12 (a)(2); or

13 (B) a total combined number of eight fowls and
14 rabbits, subject to the limits of Subsection (a)(2);

15 (2) a prohibition on raising or keeping of a rooster;

16 (3) the minimum distance between an animal shelter and
17 a residential structure other than the animal owner's own
18 residence;

19 (4) a requirement for fencing or shelter sufficient to
20 contain the fowls or rabbits on the owner's property;

21 (5) minimum requirements for combined housing and
22 outdoor space of at least:

23 (A) 20 square feet per fowl; and

24 (B) nine square feet per rabbit;

25 (6) a requirement to address sanitary conditions in a
26 manner that prevents accumulation of animal waste in a quantity
27 sufficient to create an offensive odor or the attraction of pests;

1 or

2 (7) a requirement that the fowls or rabbits may only be
3 kept in the side or rear yard of a residence.

4 (d) This section does not:

5 (1) restrict a property owners' association from:

6 (A) regulating the size and shielding of, or the
7 materials used in the construction of, an animal shelter that is
8 visible from a street, another lot, or a common area if the
9 restriction does not prohibit the economic installation of the
10 animal shelter on the property owner's property;

11 (B) regulating or prohibiting the installation
12 of signage by a cottage food operation; or

13 (C) regulating parking or vehicular or
14 pedestrian traffic associated with a cottage food operation; or

15 (2) require a property owners' association to permit
16 the growing of fruits or vegetables or the raising or keeping of
17 fowls or rabbits on property:

18 (A) owned by the property owners' association; or

19 (B) owned in common by the members of the
20 property owners' association.

21 (e) This section does not apply to a condominium council of
22 owners governed by Chapter 81 or unit owners' association governed
23 by Chapter 82.

24 (f) A provision that violates this section is void.

25 SECTION 3. This Act takes effect September 1, 2021.