

By: Cortez, Wilson, Toth, et al.

H.B. No. 1686

Substitute the following for H.B. No. 1686:

By: Cyrier

C.S.H.B. No. 1686

A BILL TO BE ENTITLED

AN ACT

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

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

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

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

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

(1) the growing of fruits and vegetables; or

(2) the raising or keeping of:

(A) six or fewer domestic fowls; or

(B) six or fewer adult rabbits.

(b) A municipality may impose reasonable regulations on the growing of fruits and vegetables on a single-family residential lot that do not have the effect of prohibiting the growing of the fruits or vegetables in the front, side, or rear yard of a residence, including a requirement that the growing area be maintained in good condition if visible from the street faced by the lot or from an adjoining lot.

(c) A municipality may impose reasonable regulations on the

1 raising or keeping of fowls or rabbits on a single-family  
2 residential lot to control odor, noise, safety, or sanitary  
3 conditions that do not have the effect of prohibiting the raising or  
4 keeping of the fowls or rabbits, including:

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

7 (A) the minimum number allowed by Subsection  
8 (a)(2); or

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

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

12 (3) the minimum distance between an animal shelter and  
13 a residential structure other than the animal owner's own  
14 residence;

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

17 (5) minimum requirements for combined housing and  
18 outdoor space of at least:

19 (A) 20 square feet per fowl; and

20 (B) nine square feet per rabbit; or

21 (6) a requirement to address sanitary conditions in a  
22 manner that prevents accumulation of animal waste in a quantity  
23 sufficient to create an offensive odor or the attraction of pests.

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

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

27 SECTION 2. Chapter 202, Property Code, is amended by adding

1 Section 202.022 to read as follows:

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

7 (1) the growing of fruits and vegetables;

8 (2) the raising or keeping of:

9 (A) six or fewer domestic fowls; or

10 (B) six or fewer adult rabbits; or

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

13 (b) A property owners' association may adopt and enforce a  
14 restrictive covenant imposing reasonable requirements on the  
15 growing of fruits and vegetables on a single-family residential lot  
16 that do not have the effect of prohibiting the growing of the fruits  
17 or vegetables in the front, side, or rear yard of a residence,  
18 including a requirement that the growing area be maintained in good  
19 condition if visible from the street faced by the lot or from an  
20 adjoining lot.

21 (c) A property owners' association may adopt and enforce a  
22 restrictive covenant imposing reasonable requirements on the  
23 raising or keeping of fowls or rabbits on a single-family  
24 residential lot to control odor, noise, safety, or sanitary  
25 conditions that do not have the effect of prohibiting the raising or  
26 keeping of the fowls or rabbits, including:

27 (1) a limit on the number of fowls or rabbits that is

1 more than:

2 (A) the minimum number allowed by Subsection

3 (a)(2); or

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

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

7 (3) the minimum distance between an animal shelter and  
8 a residential structure other than the animal owner's own  
9 residence;

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

12 (5) minimum requirements for combined housing and  
13 outdoor space of at least:

14 (A) 20 square feet per fowl; and

15 (B) nine square feet per rabbit; or

16 (6) a requirement to address sanitary conditions in a  
17 manner that prevents accumulation of animal waste in a quantity  
18 sufficient to create an offensive odor or the attraction of pests.

19 (d) This section does not:

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

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

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

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

3                    (2) require a property owners' association to permit  
4 the growing of fruits or vegetables or the raising or keeping of  
5 fowls or rabbits on property:

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

7                    (B) owned in common by the members of the  
8 property owners' association.

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

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

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