

By: Cortez, Oliverson, Cain, et al.

H.B. No. 276

A BILL TO BE ENTITLED

1 AN ACT

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

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 this section, a municipality may not adopt or enforce an  
11 ordinance that prohibits any of the following activities on a  
12 single-family residential lot:

13 (1) growing fruits and vegetables; or

14 (2) raising or keeping:

15 (A) six or fewer domestic fowl; 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 fowl 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 fowl or rabbits, including:

8           (1) a limit on the number of fowl 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 fowl and  
13 rabbits, subject to the limits of Subsection (a)(2);

14           (2) a prohibition on raising or keeping 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 fowl 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 attract pests; or

27           (7) a requirement that the fowl or rabbits may only be

1 kept in the side or rear yard of a residence.

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

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

5 SECTION 2. Chapter 202, Property Code, is amended by adding  
6 Section 202.024 to read as follows:

7 Sec. 202.024. FOOD PRODUCTION ALLOWED ON SINGLE-FAMILY  
8 RESIDENTIAL LOT. (a) Notwithstanding any other law and except as  
9 provided by this section, a property owners' association may not  
10 adopt or enforce a restrictive covenant that prohibits any of the  
11 following activities on a single-family residential lot:

12 (1) growing fruits and vegetables;

13 (2) raising or keeping:

14 (A) six or fewer domestic fowl; or

15 (B) six or fewer adult rabbits; or

16 (3) producing food at a cottage food production  
17 operation, as defined by Section 437.001(2-b), Health and Safety  
18 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 fowl 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 fowl or rabbits, including:

9           (1) a limit on the number of fowl 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 fowl and  
14 rabbits, subject to the limits of Subsection (a)(2);

15           (2) a prohibition on raising or keeping 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 fowl 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 attract pests; or

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

3           (d) This section does not:

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

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

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

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

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

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

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

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

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

24           SECTION 3. This Act takes effect September 1, 2023.