

By: Cortez

H.B. No. 276

A BILL TO BE ENTITLED

AN ACT

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

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

(1) growing fruits and vegetables; or

(2) raising or keeping:

(A) six or fewer domestic fowl; 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:

(1) 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; 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.