

By: Goldman

H.B. No. 3921

Substitute the following for H.B. No. 3921:

By: Burns

C.S.H.B. No. 3921

A BILL TO BE ENTITLED

AN ACT

relating to size and density requirements for residential lots in certain municipalities; authorizing a fee.

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

SECTION 1. Chapter 211, Local Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. RESIDENTIAL ZONING LIMITATIONS IN CERTAIN MUNICIPALITIES

Sec. 211.051. DEFINITION. In this subchapter, "small lot" means a residential lot that is 4,000 square feet or less.

Sec. 211.052. APPLICABILITY. This subchapter applies only to a municipality:

(1) with a population of 85,000 or more; and

(2) that is wholly or partly located in a county with a population of one million or more.

Sec. 211.053. CONSTRUCTION OF SUBCHAPTER. This subchapter may not be construed to affect requirements directly related to sewer or water services.

Sec. 211.054. CERTAIN DWELLING UNIT LOT SIZE REQUIREMENTS PROHIBITED. A municipality may not adopt or enforce an ordinance, rule, or other measure that requires:

(1) a residential lot to be:

(A) larger than 2,500 square feet;

(B) wider than 16 feet; or

1                   (C) deeper than 30 feet; or

2                   (2) if regulating the density of dwelling units on a  
3 residential lot, a ratio of dwelling units per acre that results in  
4 fewer than 31.1 units per acre.

5                   Sec. 211.055. SMALL LOTS. (a) A municipality may not adopt  
6 or enforce an ordinance, rule, or other measure that requires a  
7 small lot to have:

8                   (1) a building, waterway, plane, or other setback  
9 greater than:

10                   (A) five feet from the front or back of the  
11 property; or

12                   (B) five feet from the side of the property;

13                   (2) covered parking;

14                   (3) more than one parking space per unit;

15                   (4) off-site parking;

16                   (5) more than 30 percent open space or permeable  
17 surface;

18                   (6) fewer than three full stories not exceeding 10  
19 feet in height measured from the interior floor to ceiling;

20                   (7) a maximum building bulk;

21                   (8) a wall articulation requirement; or

22                   (9) any other zoning restriction that imposes  
23 restrictions inconsistent with this subsection, including  
24 restrictions through contiguous zoning districts or uses or from  
25 the creation of an overlapping zoning district.

26                   (b) A municipality may require with respect to a small lot:

27                   (1) the sharing of a driveway with another lot; or

1           (2) permitting fees equivalent to the permitting fees  
2 charged for the development of a lot the use of which is restricted  
3 to a single-family residence.

4           Sec. 211.056. NO EFFECT ON OTHER ZONING AUTHORITY. This  
5 subchapter does not prohibit a municipality from imposing  
6 restrictions that are applicable to all similarly situated lots or  
7 subdivisions, including requiring all subdivisions or all small  
8 lots to fully mitigate stormwater runoff.

9           Sec. 211.057. NO EFFECT ON HOMEOWNERS' ASSOCIATIONS AND  
10 OTHER PRIVATE AGREEMENTS. This subchapter does not prohibit  
11 property owners from enforcing rules or deed restrictions imposed  
12 by a homeowners' association or by other private agreement.

13           Sec. 211.058. SPECIAL EXCEPTION. (a) The owner of a  
14 property that is subject to the provisions of this subchapter may  
15 apply for a special exception from the lot or building requirements  
16 of this subchapter.

17           (b) An application submitted under Subsection (a) must:

18                   (1) propose to exempt a contiguous area subject to  
19 this subchapter and designated only for single-family residential  
20 use; and

21                   (2) demonstrate:

22                           (A) the approval of at least 51 percent of the  
23 owners of the property located on a block face that is the subject  
24 of the application, if the application proposes to exempt an area  
25 containing all lots located on at least one block face and not more  
26 than two opposing block faces; or

27                           (B) the approval of at least 55 percent of the

1 owners of property located in the area that is the subject of the  
2 application, if the application proposes to exempt an area  
3 containing:

4 (i) all lots located on at least five block  
5 faces composed of five or more lots; and

6 (ii) not more than 500 lots within the same  
7 subdivision plat or 400 lots within two or more subdivision plats.

8 (c) A municipality shall adopt procedures that comply with  
9 this chapter for providing notice, a hearing, and appeal of any  
10 decision to approve or deny an application submitted under  
11 Subsection (a).

12 (d) A special exception granted under this section may not  
13 require a property to exceed the minimum lot size requirements for  
14 other properties subject to the zoning regulations applicable to  
15 the property.

16 Sec. 211.059. PROPERTY OWNER ACTION. (a) A property owner  
17 may bring an action against a municipality that violates this  
18 subchapter for damages resulting from the violation and appropriate  
19 equitable relief.

20 (b) A court may award a prevailing claimant reasonable  
21 attorney's fees incurred in bringing an action under this section.  
22 The claimant may not recover exemplary damages in the action.

23 (c) Governmental immunity of a municipality to suit and from  
24 liability is waived to the extent of liability created by this  
25 section.

26 SECTION 2. This Act takes effect September 1, 2023.