

By: Bettencourt
(Goldman)

S.B. No. 1787

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 MUNICIPALITIES
LOCATED IN COUNTIES OF 300,000 OR MORE

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 that is wholly or partly located in a county with a population of 300,000 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 1,400 square feet;

(B) wider than 20 feet; or

(C) deeper than 60 feet; or

(2) if regulating the density of dwelling units on a

1 residential lot, a ratio of dwelling units per acre that results in
2 fewer than 31.1 units per acre.

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

6 (1) a building, waterway, plane, or other setback
7 greater than:

8 (A) five feet from the front or back of the
9 property; or

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

11 (2) covered parking;

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

13 (4) off-site parking;

14 (5) more than 30 percent open space or permeable
15 surface;

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

18 (7) a maximum building bulk;

19 (8) a wall articulation requirement; or

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

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

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

26 (2) permitting fees equivalent to the permitting fees
27 charged for the development of a lot the use of which is restricted

1 to a single-family residence.

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

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

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

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

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

19 (2) demonstrate:

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

25 (B) the approval of at least 55 percent of the
26 property owners of property located in the area that is the subject
27 of the application, if the application proposes to exempt an area

1 containing:

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

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

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

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

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

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

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

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