

1-1 By: Bettencourt S.B. No. 1787
 1-2 (In the Senate - Filed March 7, 2023; March 20, 2023, read
 1-3 first time and referred to Committee on Local Government;
 1-4 May 4, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 7, Nays 2; May 4, 2023, sent
 1-6 to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Bettencourt	X			
1-9 Springer	X			
1-10 Eckhardt		X		
1-11 Gutierrez	X			
1-12 Hall	X			
1-13 Nichols	X			
1-14 Parker		X		
1-15 Paxton	X			
1-16 West	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1787 By: West

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to size and density requirements for residential lots in
 1-22 certain municipalities; authorizing a fee.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 211, Local Government Code, is amended
 1-25 by adding Subchapter D to read as follows:

1-26 SUBCHAPTER D. RESIDENTIAL ZONING LIMITATIONS IN MUNICIPALITIES
 1-27 LOCATED IN COUNTIES OF 300,000 OR MORE

1-28 Sec. 211.051. DEFINITION. In this subchapter, "small lot"
 1-29 means a residential lot that is 4,000 square feet or less.

1-30 Sec. 211.052. APPLICABILITY. This subchapter applies only
 1-31 to a municipality that is wholly or partly located in a county with
 1-32 a population of 300,000 or more.

1-33 Sec. 211.053. CONSTRUCTION OF SUBCHAPTER. This subchapter
 1-34 may not be construed to affect requirements directly related to
 1-35 sewer or water services.

1-36 Sec. 211.054. CERTAIN DWELLING UNIT LOT SIZE REQUIREMENTS
 1-37 PROHIBITED. A municipality may not adopt or enforce an ordinance,
 1-38 rule, or other measure that requires:

- 1-39 (1) a residential lot to be:
 1-40 (A) larger than 1,400 square feet;
 1-41 (B) wider than 20 feet; or
 1-42 (C) deeper than 60 feet; or
 1-43 (2) if regulating the density of dwelling units on a
 1-44 residential lot, a ratio of dwelling units per acre that results in
 1-45 fewer than 31.1 units per acre.

1-46 Sec. 211.055. SMALL LOTS. (a) A municipality may not adopt
 1-47 or enforce an ordinance, rule, or other measure that requires a
 1-48 small lot to have:

- 1-49 (1) a building, waterway, plane, or other setback
 1-50 greater than:
 1-51 (A) five feet from the front or back of the
 1-52 property; or
 1-53 (B) five feet from the side of the property;
 1-54 (2) covered parking;
 1-55 (3) more than one parking space per unit;
 1-56 (4) off-site parking;
 1-57 (5) more than 30 percent open space or permeable
 1-58 surface;
 1-59 (6) fewer than three full stories not exceeding 10
 1-60 feet in height measured from the interior floor to ceiling;

2-1 (7) a maximum building bulk;
2-2 (8) a wall articulation requirement; or
2-3 (9) any other zoning restriction that imposes
2-4 restrictions inconsistent with this subsection, including
2-5 restrictions through contiguous zoning districts or uses or from
2-6 the creation of an overlapping zoning district.

2-7 (b) A municipality may require with respect to a small lot:
2-8 (1) the sharing of a driveway with another lot; or
2-9 (2) permitting fees equivalent to the permitting fees
2-10 charged for the development of a lot the use of which is restricted
2-11 to a single-family residence.

2-12 Sec. 211.056. NO EFFECT ON OTHER ZONING AUTHORITY. This
2-13 subchapter does not prohibit a municipality from imposing
2-14 restrictions that are applicable to all similarly situated lots or
2-15 subdivisions, including requiring all subdivisions or all small
2-16 lots to fully mitigate stormwater runoff.

2-17 Sec. 211.057. NO EFFECT ON HOMEOWNERS' ASSOCIATIONS AND
2-18 OTHER PRIVATE AGREEMENTS. This subchapter does not prohibit
2-19 property owners from enforcing rules or deed restrictions imposed
2-20 by a homeowners' association or by other private agreement.

2-21 Sec. 211.058. SPECIAL EXCEPTION. (a) The owner of a
2-22 property that is subject to the provisions of this subchapter may
2-23 apply for a special exception from the lot or building requirements
2-24 of this subchapter.

2-25 (b) An application submitted under Subsection (a) must:
2-26 (1) propose to exempt a contiguous area subject to
2-27 this subchapter and designated only for single-family residential
2-28 use; and

2-29 (2) demonstrate:
2-30 (A) the approval of at least one property owner
2-31 of the property located on a block face that is the subject of the
2-32 application, if the application proposes to exempt an area
2-33 containing all lots located on at least one block face and not more
2-34 than two opposing block faces; or

2-35 (B) the approval of at least 55 percent of the
2-36 property owners of property located in the area that is the subject
2-37 of the application, if the application proposes to exempt an area
2-38 containing:

2-39 (i) all lots located on at least five block
2-40 faces composed of five or more lots; and

2-41 (ii) not more than 500 lots within the same
2-42 subdivision plat or 400 lots within two or more subdivision plats.

2-43 (c) A municipality shall adopt procedures that comply with
2-44 this chapter for providing notice, a hearing, and an appeal of any
2-45 decision to approve or deny an application submitted under
2-46 Subsection (a).

2-47 (d) A special exception granted under this section may not
2-48 require a property to exceed the minimum lot size requirements for
2-49 other properties subject to the zoning regulations applicable to
2-50 the property.

2-51 Sec. 211.059. PROPERTY OWNER ACTION. (a) A property owner
2-52 may bring an action against a municipality that violates this
2-53 subchapter for damages resulting from the violation and appropriate
2-54 equitable relief.

2-55 (b) A court may award a prevailing claimant reasonable
2-56 attorney's fees incurred in bringing an action under this section.
2-57 The claimant may not recover exemplary damages in the action.

2-58 (c) Governmental immunity of a municipality to suit and from
2-59 liability is waived to the extent of liability created by this
2-60 section.

2-61 SECTION 2. This Act takes effect September 1, 2023.

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