

By: Macias

H.B. No. 3956

A BILL TO BE ENTITLED

AN ACT

relating to county authority to adopt development regulations in Kendall County; providing a criminal penalty.

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

SECTION 1. Chapter 231, Local Government Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. DEVELOPMENT REGULATIONS IN KENDALL COUNTY

Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) most of Kendall County is located within the watershed that drains into Boerne City Lake, the Guadalupe River, and the Cibolo Creek;

(2) the watershed and tributaries are major contributors to the recharge of the Trinity and Edwards aquifers;

(3) those aquifers are the major source of drinking water for over three million people;

(4) Kendall County has been declared a Priority Groundwater Management Area by the Texas Commission on Environmental Quality;

(5) the area that surrounds Boerne City Lake, the Guadalupe River, and the Cibolo Creek in Kendall County is or will be frequented for recreational purposes by residents from every part of the state;

(6) because of the proximity to Bexar County, Kendall

1 County is a rapidly growing area;

2 (7) orderly development of the area and the watershed
3 is of concern to the entire state;

4 (8) because the city of Boerne and a portion of the
5 city of Fair Oaks Ranch are the only incorporated areas in Kendall
6 County, the Commissioners Court of Kendall County is responsible
7 for regulating development in the majority of the county; and

8 (9) without adequate development regulations, the
9 area and the watershed will be developed in ways that endanger
10 public water supplies and interfere with the proper use of the area
11 as a place of recreation to the detriment of the public health,
12 safety, morals, and general welfare.

13 (b) The powers granted under this subchapter are for the
14 purpose of:

15 (1) promoting the public health, safety, peace,
16 morals, and general welfare;

17 (2) encouraging recreation;

18 (3) safeguarding and preventing the pollution of the
19 state's rivers, lakes, and public water supplies; and

20 (4) encouraging economically sound and orderly land
21 development.

22 Sec. 231.252. AREAS SUBJECT TO REGULATION. This subchapter
23 applies only to the unincorporated areas of Kendall County.

24 Sec. 231.253. APPLICABILITY. This subchapter does not
25 apply to property that:

26 (1) is not in a platted subdivision;

27 (2) is in a subdivision platted and developed before

1 the effective date of this subchapter, including historic town
2 sites, and is used solely for residential or agricultural purposes;

3 (3) is being used for residential, commercial,
4 business, or agricultural purposes before the effective date of
5 this subchapter, if there is no change in the use of the property;

6 (4) is jointly owned by and divided among persons
7 related within the third degree by consanguinity or affinity, or is
8 conveyed to persons related to the owner within the third degree by
9 consanguinity or affinity, and:

10 (A) is used primarily for residential or
11 agricultural purposes;

12 (B) is divided into lots each of which is at least
13 six acres; and

14 (C) has at least 250 feet of road frontage on a
15 county road, state highway, or road constructed in compliance with
16 county specifications;

17 (5) is conveyed to persons related to the owner within
18 the third degree by consanguinity or affinity, and:

19 (A) is used primarily for residential or
20 agricultural purposes;

21 (B) is divided into lots each of which is at least
22 five acres; and

23 (C) has at least 250 feet of road frontage on a
24 county road, state highway, or road constructed in compliance with
25 county specifications; or

26 (6) is divided for mortgage purposes into two lots if:

27 (A) one lot is at least three acres and the other

1 lot is at least nine acres;

2 (B) each lot has at least 60 feet of road frontage
3 on a county road, state highway, or road constructed in compliance
4 with county specifications; and

5 (C) the lots are restricted to residential or
6 agricultural uses.

7 Sec. 231.254. DEVELOPMENT REGULATIONS GENERALLY. The
8 Commissioners Court of Kendall County may regulate the following:

9 (1) the density of residential development;

10 (2) the reconstruction, alteration, or razing of
11 buildings or other structures of historical, cultural, or
12 architectural significance;

13 (3) road frontage and building set-backs from roads,
14 streets, or alleys;

15 (4) the location, design, construction, extension,
16 and size of streets and roads;

17 (5) the location, design, construction, extension,
18 size, and installation of water supply and wastewater treatment
19 facilities, including the requirements for connecting to a
20 centralized water supply or wastewater treatment system; and

21 (6) the location, design, construction, extension,
22 size, and installation of drainage facilities and other required
23 public facilities.

24 Sec. 231.255. ELECTION. (a) A development regulation
25 adopted under this subchapter is not effective until it is ratified
26 by a majority of the county residents voting at an election called
27 for that purpose by the commissioners court.

1 (b) An election under this section must be held on the
2 November uniform election date.

3 Sec. 231.256. SPECIAL EXCEPTION. (a) A person aggrieved by
4 a development regulation adopted under this subchapter may petition
5 the commissioners court for a special exception to a development
6 regulation adopted by the commissioners court.

7 (b) The commissioners court shall adopt procedures
8 governing applications, notice, hearings, and other matters
9 relating to the grant of a special exception, including standards
10 for granting a special exception.

11 Sec. 231.257. ENFORCEMENT; PENALTY. (a) At the request of
12 the commissioners court, the county attorney or another attorney
13 representing the county may file an action to:

14 (1) enjoin the violation of a development regulation
15 adopted by the commissioners court under this subchapter; or

16 (2) recover damages in an amount adequate for the
17 county to undertake construction or other activity necessary to
18 comply with a development regulation adopted by the commissioners
19 court under this subchapter.

20 (b) A person commits an offense if the person knowingly or
21 intentionally violates a development regulation adopted by the
22 commissioners court under this subchapter. An offense under this
23 subsection is a Class B misdemeanor.

24 Sec. 231.258. COOPERATION WITH MUNICIPALITIES. The
25 commissioners court by order may enter into agreements with any
26 municipality located in the county to assist in the implementation
27 and enforcement of development regulations adopted under this

1 subchapter.

2 Sec. 231.259. CONFLICT WITH OTHER LAWS. If a development
3 regulation adopted under this subchapter imposes higher standards
4 than those required under another statute or local order or
5 regulation, the regulation adopted under this subchapter controls.
6 If the other statute or local order or regulation imposes higher
7 standards, that statute, order, or regulation controls.

8 SECTION 2. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2007.