By:  Cortez, Wilson, Toth, Rodriguez, et al. H.B. No. 1686

A BILL TO BE ENTITLED

AN ACT

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

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 Subsection (b) or (c), a municipality may not adopt or enforce an ordinance that prohibits any of the following activities on a single-family residential lot:

(1)  the growing of fruits and vegetables; or

(2)  the raising or keeping of:

(A)  six or fewer domestic fowls; 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

(2)  a requirement for the trimming or removal of a tree as necessary for the maintenance of a utility easement.

(c)  A municipality may impose reasonable regulations on the raising or keeping of fowls or rabbits on a single-family residential lot to control odor, noise, safety, or sanitary conditions that do not have the effect of prohibiting the raising or keeping of the fowls or rabbits, including:

(1)  a limit on the number of fowls or rabbits that is more than:

(A)  the minimum number allowed by Subsection (a)(2); or

(B)  a total combined number of eight fowls and rabbits, subject to the limits of Subsection (a)(2);

(2)  a prohibition on raising or keeping of a rooster;

(3)  the minimum distance between an animal shelter and a residential structure other than the animal owner's own residence;

(4)  a requirement for fencing or shelter sufficient to contain the fowls or rabbits on the owner's property;

(5)  minimum requirements for combined housing and outdoor space of at least:

(A)  20 square feet per fowl; and

(B)  nine square feet per rabbit;

(6)  a requirement to address sanitary conditions in a manner that prevents accumulation of animal waste in a quantity sufficient to create an offensive odor or the attraction of pests; or

(7)  a requirement that the fowls or rabbits may only be kept in the side or rear yard of a residence.

(d)  This section does not apply to a condominium unit.

(e)  An ordinance adopted by a municipality that violates this section is void.

SECTION 2.  Chapter 202, Property Code, is amended by adding Section 202.022 to read as follows:

Sec. 202.022.  FOOD PRODUCTION ALLOWED ON SINGLE-FAMILY RESIDENTIAL LOT. (a) Notwithstanding any other law and except as provided by this section, a property owners' association may not adopt or enforce a restrictive covenant that prohibits any of the following activities on a single-family residential lot:

(1)  the growing of fruits and vegetables;

(2)  the raising or keeping of:

(A)  six or fewer domestic fowls; or

(B)  six or fewer adult rabbits; or

(3)  a cottage food production operation, as defined by Section 437.001(2-b), Health and Safety Code.

(b)  A property owners' association may adopt and enforce a restrictive covenant imposing reasonable requirements 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

(2)  a requirement for the trimming or removal of a tree as necessary for the maintenance of a utility easement.

(c)  A property owners' association may adopt and enforce a restrictive covenant imposing reasonable requirements on the raising or keeping of fowls or rabbits on a single-family residential lot to control odor, noise, safety, or sanitary conditions that do not have the effect of prohibiting the raising or keeping of the fowls or rabbits, including:

(1)  a limit on the number of fowls or rabbits that is more than:

(A)  the minimum number allowed by Subsection (a)(2); or

(B)  a total combined number of eight fowls and rabbits, subject to the limits of Subsection (a)(2);

(2)  a prohibition on raising or keeping of a rooster;

(3)  the minimum distance between an animal shelter and a residential structure other than the animal owner's own residence;

(4)  a requirement for fencing or shelter sufficient to contain the fowls or rabbits on the owner's property;

(5)  minimum requirements for combined housing and outdoor space of at least:

(A)  20 square feet per fowl; and

(B)  nine square feet per rabbit;

(6)  a requirement to address sanitary conditions in a manner that prevents accumulation of animal waste in a quantity sufficient to create an offensive odor or the attraction of pests; or

(7)  a requirement that the fowls or rabbits may only be kept in the side or rear yard of a residence.

(d)  This section does not:

(1)  restrict a property owners' association from:

(A)  regulating the size and shielding of, or the materials used in the construction of, an animal shelter that is visible from a street, another lot, or a common area if the restriction does not prohibit the economic installation of the animal shelter on the property owner's property;

(B)  regulating or prohibiting the installation of signage by a cottage food operation; or

(C)  regulating parking or vehicular or pedestrian traffic associated with a cottage food operation; or

(2)  require a property owners' association to permit the growing of fruits or vegetables or the raising or keeping of fowls or rabbits on property:

(A)  owned by the property owners' association; or

(B)  owned in common by the members of the property owners' association.

(e)  This section does not apply to a condominium council of owners governed by Chapter 81 or unit owners' association governed by Chapter 82.

(f)  A provision that violates this section is void.

SECTION 3.  This Act takes effect September 1, 2021.