

AN ACT

relating to the applicability of certain city requirements to agricultural operations.

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

SECTION 1. The heading to Chapter 251, Agriculture Code, is amended to read as follows:

CHAPTER 251. EFFECT OF NUISANCE ACTIONS AND GOVERNMENTAL REQUIREMENTS ON CERTAIN [~~PREEXISTING~~] AGRICULTURAL OPERATIONS

SECTION 2. Sections 251.002(1) and (2), Agriculture Code, are amended to read as follows:

(1) "Agricultural operation" includes the following activities:

- (A) cultivating the soil;
- (B) producing crops or growing vegetation for human food, animal feed, livestock forage, forage for wildlife management, planting seed, or fiber;
- (C) floriculture;
- (D) viticulture;
- (E) horticulture;
- (F) silviculture;
- (G) wildlife management;
- (H) raising or keeping livestock or poultry, including veterinary services; and
- (I) planting cover crops or leaving land idle for

1 the purpose of participating in any governmental program or normal
2 crop or livestock rotation procedure.

3 (2) "Governmental requirement" includes any rule,
4 regulation, ordinance, zoning, license or permit requirement, or
5 other requirement or restriction enacted or promulgated by a
6 county, city, or other municipal corporation that has the power to
7 enact or promulgate the requirement or restriction.

8 SECTION 3. Section 251.005(c), Agriculture Code, is amended
9 to read as follows:

10 (c) A governmental requirement of a city:

11 (1) does not apply to any agricultural operation
12 located [situated] outside the corporate boundaries of the city;
13 and

14 (2) applies to an agricultural operation located in
15 the corporate boundaries of the city only if the governmental
16 requirement complies with Section 251.0055 [on the effective date
17 of this chapter. If an agricultural operation so situated is
18 subsequently annexed or otherwise brought within the corporate
19 boundaries of the city, the governmental requirements of the city
20 do not apply to the agricultural operation unless the requirement
21 is reasonably necessary to protect persons who reside in the
22 immediate vicinity or persons on public property in the immediate
23 vicinity of the agricultural operation from the danger of:

24 [~~(1) explosion, flooding, vermin, insects, physical~~
25 ~~injury, contagious disease, removal of lateral or subjacent~~
26 ~~support, contamination of water supplies, radiation, storage of~~
27 ~~toxic materials, or traffic hazards, or~~

1 ~~[(2) discharge of firearms or other weapons, subject~~
2 ~~to the restrictions in Section 229.002, Local Government Code].~~

3 SECTION 4. Chapter 251, Agriculture Code, is amended by
4 adding Section 251.0055 to read as follows:

5 Sec. 251.0055. LIMITATIONS ON CITY GOVERNMENTAL
6 REQUIREMENTS APPLICABLE WITHIN CORPORATE BOUNDARIES. (a) A city
7 may not impose a governmental requirement that applies to
8 agricultural operations located in the corporate boundaries of the
9 city unless:

10 (1) there is clear and convincing evidence that the
11 purposes of the requirement cannot be addressed through less
12 restrictive means and that the requirement is necessary to protect
13 persons who reside in the immediate vicinity or persons on public
14 property in the immediate vicinity of the agricultural operation
15 from the imminent danger of:

16 (A) explosion;

17 (B) flooding;

18 (C) an infestation of vermin or insects;

19 (D) physical injury;

20 (E) the spread of an identified contagious
21 disease that is directly attributable to the agricultural
22 operation;

23 (F) the removal of lateral or subjacent support;

24 (G) an identified source of contamination of
25 water supplies;

26 (H) radiation;

27 (I) improper storage of toxic materials;

1 (J) crops planted or vegetation grown in a manner
2 that will cause traffic hazards; or

3 (K) discharge of firearms or other weapons,
4 subject to the restrictions in Section 229.002, Local Government
5 Code;

6 (2) the governing body of the city makes a finding by
7 resolution, based on a report described by Subsection (b), that the
8 requirement is necessary to protect public health; and

9 (3) the requirement is not otherwise prohibited by
10 this section.

11 (b) Before making a finding described by Subsection (a)(2),
12 the governing body of the city must obtain and review a report
13 prepared by the city health officer or a consultant that:

14 (1) identifies evidence of the health hazards related
15 to agricultural operations;

16 (2) determines the necessity of regulation and the
17 manner in which agricultural operation should be regulated;

18 (3) states whether each manner of regulation under
19 Subdivision (2) will restrict or prohibit a generally accepted
20 agricultural practice listed in the manual prepared under Section
21 251.007; and

22 (4) if applicable, includes an explanation why the
23 report recommends a manner of regulation that will restrict the use
24 of a generally accepted agricultural practice that the manual
25 indicates does not pose a threat to public health.

26 (c) A city may not impose a governmental requirement that
27 directly or indirectly:

1 (1) prohibits the use of a generally accepted
2 agricultural practice listed in the manual prepared under Section
3 251.007, except as provided by Subsections (a) and (b);

4 (2) prohibits or restricts the growing or harvesting
5 of vegetation for animal feed, livestock forage, or forage for
6 wildlife management, except as provided by Subsection (d);

7 (3) prohibits the use of pesticides or other measures
8 to control vermin or disease-bearing insects to the extent
9 necessary to prevent an infestation; or

10 (4) requires an agricultural operation be designated
11 for:

12 (A) agricultural use under Section 1-d, Article
13 VIII, Texas Constitution; or

14 (B) farm, ranch, wildlife management, or timber
15 production use under Section 1-d-1, Article VIII, Texas
16 Constitution.

17 (d) A city may impose a maximum height for vegetation that
18 applies to agricultural operations only if:

19 (1) the maximum vegetation height is at least 12
20 inches; and

21 (2) the requirement applies only to portions of an
22 agricultural operation located no more than 10 feet from a property
23 boundary that is adjacent to:

24 (A) a public sidewalk, street, or highway; or

25 (B) a property that:

26 (i) is owned by a person other than the
27 owner of the agricultural operation; and

1 (ii) has a structure that is inhabited.

2 (e) A governmental requirement of a city relating to the
3 restraint of a dog that would apply to an agricultural operation
4 does not apply to a dog used to protect livestock on property
5 controlled by the property owner while the dog is being used on such
6 property for that purpose.

7 (f) A city may require a person to provide a written
8 management plan that meets the specifications described by Section
9 23.521(c), Tax Code, to establish that activities constitute an
10 agricultural operation on the basis of being wildlife management
11 activities.

12 SECTION 5. Chapter 251, Agriculture Code, is amended by
13 adding Sections 251.007 and 251.008 to read as follows:

14 Sec. 251.007. GENERALLY ACCEPTED AGRICULTURAL PRACTICES.
15 The Texas A&M AgriLife Extension Service shall develop a manual
16 that identifies generally accepted agricultural practices and
17 indicates which of those practices do not pose a threat to public
18 health, including a threat to public health posed by a danger listed
19 in Section 251.0055(a)(1).

20 Sec. 251.008. CONFLICT WITH OTHER LAW. If there is a
21 conflict between this chapter and other law, this chapter prevails.

22 SECTION 6. Sections 251.005(c-1) and (c-2), Agriculture
23 Code, are repealed.

24 SECTION 7. As soon as practicable after the effective date
25 of this Act, the Texas A&M AgriLife Extension Service shall develop
26 the manual described by Section 251.007, Agriculture Code, as added
27 by this Act.

1 SECTION 8. Sections 251.002 and 251.005, Agriculture Code,
2 as amended by this Act, and Section 251.0055, Agriculture Code, as
3 added by this Act, apply to a governmental requirement adopted
4 before, on, or after the effective date of this Act.

5 SECTION 9. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 1750 was passed by the House on April 11, 2023, by the following vote: Yeas 143, Nays 3, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1750 was passed by the Senate on May 15, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor