

1-1 By: Burns, et al. (Senate Sponsor - Perry) H.B. No. 1750  
 1-2 (In the Senate - Received from the House April 11, 2023;  
 1-3 April 20, 2023, read first time and referred to Committee on Water,  
 1-4 Agriculture & Rural Affairs; May 3, 2023, reported favorably by the  
 1-5 following vote: Yeas 8, Nays 0; May 3, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the applicability of certain city requirements to  
 1-20 agricultural operations.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. The heading to Chapter 251, Agriculture Code, is  
 1-23 amended to read as follows:

1-24 CHAPTER 251. EFFECT OF NUISANCE ACTIONS AND GOVERNMENTAL  
 1-25 REQUIREMENTS ON CERTAIN ~~PREEXISTING~~ AGRICULTURAL OPERATIONS

1-26 SECTION 2. Sections 251.002(1) and (2), Agriculture Code,  
 1-27 are amended to read as follows:

1-28 (1) "Agricultural operation" includes the following  
 1-29 activities:

1-30 (A) cultivating the soil;

1-31 (B) producing crops or growing vegetation for  
 1-32 human food, animal feed, livestock forage, forage for wildlife  
 1-33 management, planting seed, or fiber;

1-34 (C) floriculture;

1-35 (D) viticulture;

1-36 (E) horticulture;

1-37 (F) silviculture;

1-38 (G) wildlife management;

1-39 (H) raising or keeping livestock or poultry,  
 1-40 including veterinary services; and

1-41 (I) planting cover crops or leaving land idle for  
 1-42 the purpose of participating in any governmental program or normal  
 1-43 crop or livestock rotation procedure.

1-44 (2) "Governmental requirement" includes any rule,  
 1-45 regulation, ordinance, zoning, license or permit requirement, or  
 1-46 other requirement or restriction enacted or promulgated by a  
 1-47 county, city, or other municipal corporation that has the power to  
 1-48 enact or promulgate the requirement or restriction.

1-49 SECTION 3. Section 251.005(c), Agriculture Code, is amended  
 1-50 to read as follows:

1-51 (c) A governmental requirement of a city:

1-52 (1) does not apply to any agricultural operation  
 1-53 located [situated] outside the corporate boundaries of the city;  
 1-54 and

1-55 (2) applies to an agricultural operation located in  
 1-56 the corporate boundaries of the city only if the governmental  
 1-57 requirement complies with Section 251.0055 [on the effective date  
 1-58 of this chapter. If an agricultural operation so situated is  
 1-59 subsequently annexed or otherwise brought within the corporate  
 1-60 boundaries of the city, the governmental requirements of the city  
 1-61 do not apply to the agricultural operation unless the requirement

2-1 ~~is reasonably necessary to protect persons who reside in the~~  
2-2 ~~immediate vicinity or persons on public property in the immediate~~  
2-3 ~~vicinity of the agricultural operation from the danger of:~~

2-4 ~~(1) explosion, flooding, vermin, insects, physical~~  
2-5 ~~injury, contagious disease, removal of lateral or subjacent~~  
2-6 ~~support, contamination of water supplies, radiation, storage of~~  
2-7 ~~toxic materials, or traffic hazards; or~~

2-8 ~~(2) discharge of firearms or other weapons, subject~~  
2-9 ~~to the restrictions in Section 229.002, Local Government Code].~~

2-10 SECTION 4. Chapter 251, Agriculture Code, is amended by  
2-11 adding Section 251.0055 to read as follows:

2-12 Sec. 251.0055. LIMITATIONS ON CITY GOVERNMENTAL  
2-13 REQUIREMENTS APPLICABLE WITHIN CORPORATE BOUNDARIES. (a) A city  
2-14 may not impose a governmental requirement that applies to  
2-15 agricultural operations located in the corporate boundaries of the  
2-16 city unless:

2-17     (1) there is clear and convincing evidence that the  
2-18 purposes of the requirement cannot be addressed through less  
2-19 restrictive means and that the requirement is necessary to protect  
2-20 persons who reside in the immediate vicinity or persons on public  
2-21 property in the immediate vicinity of the agricultural operation  
2-22 from the imminent danger of:

2-23         (A) explosion;  
2-24         (B) flooding;  
2-25         (C) an infestation of vermin or insects;  
2-26         (D) physical injury;  
2-27         (E) the spread of an identified contagious  
2-28 disease that is directly attributable to the agricultural  
2-29 operation;

2-30         (F) the removal of lateral or subjacent support;  
2-31         (G) an identified source of contamination of  
2-32 water supplies;

2-33         (H) radiation;  
2-34         (I) improper storage of toxic materials;  
2-35         (J) crops planted or vegetation grown in a manner  
2-36 that will cause traffic hazards; or

2-37         (K) discharge of firearms or other weapons,  
2-38 subject to the restrictions in Section 229.002, Local Government  
2-39 Code;

2-40     (2) the governing body of the city makes a finding by  
2-41 resolution, based on a report described by Subsection (b), that the  
2-42 requirement is necessary to protect public health; and

2-43     (3) the requirement is not otherwise prohibited by  
2-44 this section.

2-45     (b) Before making a finding described by Subsection (a)(2),  
2-46 the governing body of the city must obtain and review a report  
2-47 prepared by the city health officer or a consultant that:

2-48         (1) identifies evidence of the health hazards related  
2-49 to agricultural operations;

2-50         (2) determines the necessity of regulation and the  
2-51 manner in which agricultural operation should be regulated;

2-52         (3) states whether each manner of regulation under  
2-53 Subdivision (2) will restrict or prohibit a generally accepted  
2-54 agricultural practice listed in the manual prepared under Section  
2-55 251.007; and

2-56         (4) if applicable, includes an explanation why the  
2-57 report recommends a manner of regulation that will restrict the use  
2-58 of a generally accepted agricultural practice that the manual  
2-59 indicates does not pose a threat to public health.

2-60     (c) A city may not impose a governmental requirement that  
2-61 directly or indirectly:

2-62         (1) prohibits the use of a generally accepted  
2-63 agricultural practice listed in the manual prepared under Section  
2-64 251.007, except as provided by Subsections (a) and (b);

2-65         (2) prohibits or restricts the growing or harvesting  
2-66 of vegetation for animal feed, livestock forage, or forage for  
2-67 wildlife management, except as provided by Subsection (d);

2-68         (3) prohibits the use of pesticides or other measures  
2-69 to control vermin or disease-bearing insects to the extent

3-1 necessary to prevent an infestation; or  
3-2 (4) requires an agricultural operation be designated  
3-3 for:  
3-4 (A) agricultural use under Section 1-d, Article  
3-5 VIII, Texas Constitution; or  
3-6 (B) farm, ranch, wildlife management, or timber  
3-7 production use under Section 1-d-1, Article VIII, Texas  
3-8 Constitution.  
3-9 (d) A city may impose a maximum height for vegetation that  
3-10 applies to agricultural operations only if:  
3-11 (1) the maximum vegetation height is at least 12  
3-12 inches; and  
3-13 (2) the requirement applies only to portions of an  
3-14 agricultural operation located no more than 10 feet from a property  
3-15 boundary that is adjacent to:  
3-16 (A) a public sidewalk, street, or highway; or  
3-17 (B) a property that:  
3-18 (i) is owned by a person other than the  
3-19 owner of the agricultural operation; and  
3-20 (ii) has a structure that is inhabited.  
3-21 (e) A governmental requirement of a city relating to the  
3-22 restraint of a dog that would apply to an agricultural operation  
3-23 does not apply to a dog used to protect livestock on property  
3-24 controlled by the property owner while the dog is being used on such  
3-25 property for that purpose.  
3-26 (f) A city may require a person to provide a written  
3-27 management plan that meets the specifications described by Section  
3-28 23.521(c), Tax Code, to establish that activities constitute an  
3-29 agricultural operation on the basis of being wildlife management  
3-30 activities.  
3-31 SECTION 5. Chapter 251, Agriculture Code, is amended by  
3-32 adding Sections 251.007 and 251.008 to read as follows:  
3-33 Sec. 251.007. GENERALLY ACCEPTED AGRICULTURAL PRACTICES.  
3-34 The Texas A&M AgriLife Extension Service shall develop a manual  
3-35 that identifies generally accepted agricultural practices and  
3-36 indicates which of those practices do not pose a threat to public  
3-37 health, including a threat to public health posed by a danger listed  
3-38 in Section 251.0055(a)(1).  
3-39 Sec. 251.008. CONFLICT WITH OTHER LAW. If there is a  
3-40 conflict between this chapter and other law, this chapter prevails.  
3-41 SECTION 6. Sections 251.005(c-1) and (c-2), Agriculture  
3-42 Code, are repealed.  
3-43 SECTION 7. As soon as practicable after the effective date  
3-44 of this Act, the Texas A&M AgriLife Extension Service shall develop  
3-45 the manual described by Section 251.007, Agriculture Code, as added  
3-46 by this Act.  
3-47 SECTION 8. Sections 251.002 and 251.005, Agriculture Code,  
3-48 as amended by this Act, and Section 251.0055, Agriculture Code, as  
3-49 added by this Act, apply to a governmental requirement adopted  
3-50 before, on, or after the effective date of this Act.  
3-51 SECTION 9. This Act takes effect September 1, 2023.

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