

By: Vasut

H.B. No. 878

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of residential land use and accessory dwelling units by a political subdivision; authorizing a fee.

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

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

SUBCHAPTER D. RESIDENTIAL ZONING LIMITATIONS IN CERTAIN MUNICIPALITIES

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

Sec. 211.052. APPLICABILITY. This subchapter applies only to a municipality:

(1) with a population of 85,000 or more; and

(2) that is wholly or partly located in a county with a population of one million or more.

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

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

(1) a residential lot to be:

(A) larger than 2,500 square feet;

(B) wider than 16 feet; or

1 (C) deeper than 30 feet; or

2 (2) if regulating the density of dwelling units on a
3 residential lot, a ratio of dwelling units per acre that results in
4 fewer than 31.1 units per acre.

5 Sec. 211.055. SMALL LOTS. (a) A municipality may not adopt
6 or enforce an ordinance, rule, or other measure that requires a
7 small lot to have:

8 (1) a building, waterway, plane, or other setback
9 greater than:

10 (A) five feet from the front or back of the
11 property; or

12 (B) five feet from the side of the property;

13 (2) covered parking;

14 (3) more than one parking space per unit;

15 (4) off-site parking;

16 (5) more than 30 percent open space or permeable
17 surface;

18 (6) fewer than three full stories not exceeding 10
19 feet in height measured from the interior floor to ceiling;

20 (7) a maximum building bulk;

21 (8) a wall articulation requirement; or

22 (9) any other zoning restriction that imposes
23 restrictions inconsistent with this subsection, including
24 restrictions through contiguous zoning districts or uses or from
25 the creation of an overlapping zoning district.

26 (b) A municipality may require with respect to a small lot:

27 (1) the sharing of a driveway with another lot; or

1 (2) permitting fees equivalent to the permitting fees
2 charged for the development of a lot the use of which is restricted
3 to a single-family residence.

4 Sec. 211.056. NO EFFECT ON OTHER ZONING AUTHORITY. This
5 subchapter does not prohibit a municipality from imposing
6 restrictions that are applicable to all similarly situated lots or
7 subdivisions, including requiring all subdivisions or all small
8 lots to fully mitigate stormwater runoff.

9 Sec. 211.057. NO EFFECT ON HOMEOWNERS' ASSOCIATIONS AND
10 OTHER PRIVATE AGREEMENTS. This subchapter does not prohibit
11 property owners from enforcing rules or deed restrictions imposed
12 by a homeowners' association or by other private agreement.

13 Sec. 211.058. SPECIAL EXCEPTION. (a) The owner of a
14 property that is subject to the provisions of this subchapter may
15 apply for a special exception from the lot or building requirements
16 of this subchapter.

17 (b) An application submitted under Subsection (a) must:

18 (1) propose to exempt a contiguous area subject to
19 this subchapter and designated only for single-family residential
20 use; and

21 (2) demonstrate:

22 (A) the approval of at least 51 percent of the
23 owners of the property located on a block face that is the subject
24 of the application, if the application proposes to exempt an area
25 containing all lots located on at least one block face and not more
26 than two opposing block faces; or

27 (B) the approval of at least 55 percent of the

1 owners of property located in the area that is the subject of the
2 application, if the application proposes to exempt an area
3 containing:

4 (i) all lots located on at least five block
5 faces composed of five or more lots; and

6 (ii) not more than 500 lots within the same
7 subdivision plat or 400 lots within two or more subdivision plats.

8 (c) A municipality shall adopt procedures that comply with
9 this chapter for providing notice, a hearing, and appeal of any
10 decision to approve or deny an application submitted under
11 Subsection (a).

12 (d) A special exception granted under this section may not
13 require a property to exceed the minimum lot size requirements for
14 other properties subject to the zoning regulations applicable to
15 the property.

16 Sec. 211.059. PROPERTY OWNER ACTION. (a) A property owner
17 may bring an action against a municipality that violates this
18 subchapter for damages resulting from the violation and appropriate
19 equitable relief.

20 (b) A court may award a prevailing claimant reasonable
21 attorney's fees incurred in bringing an action under this section.
22 The claimant may not recover exemplary damages in the action.

23 (c) Governmental immunity of a municipality to suit and from
24 liability is waived to the extent of liability created by this
25 section.

26 SECTION 2. Chapter 231, Local Government Code, is amended
27 by adding Subchapter N to read as follows:

1 SUBCHAPTER N. LAND USE REGULATIONS FOR HIGH DENSITY RESIDENTIAL
2 AREAS IN CERTAIN COUNTIES

3 Sec. 231.301. DEFINITION. In this subchapter, "high
4 density residential area" means an area of land that:

5 (1) is in the unincorporated area of a county; and

6 (2) has more than two dwelling units per acre.

7 Sec. 231.302. APPLICABILITY. This subchapter applies only
8 to a high density residential area that:

9 (1) is located in a county with a population of less
10 than one million; and

11 (2) is not subject to other zoning authority provided
12 by this chapter.

13 Sec. 231.303. LIMITED LAND USE REGULATION IN HIGH DENSITY
14 RESIDENTIAL AREAS. (a) The commissioners court of a county may by
15 order regulate the use of land located in a high density residential
16 area in relation to:

17 (1) health and safety; or

18 (2) the quiet enjoyment of property, including
19 regulations of noise and signage.

20 (b) The commissioners court of a county may enter into an
21 agreement under Chapter 791, Government Code, with a law
22 enforcement agency for the purpose of enforcing an order adopted
23 under this section.

24 Sec. 231.304. PLATTING IN HIGH DENSITY RESIDENTIAL AREAS.
25 The commissioners court of a county may by order regulate the
26 platting of high density residential areas. The order may not
27 limit:

1 (1) lot sizes to be less than 10,000 square feet; or

2 (2) lot width to be less than 100 square feet.

3 SECTION 3. Subtitle C, Title 7, Local Government Code, is
4 amended by adding Chapter 249 to read as follows:

5 CHAPTER 249. REGULATION OF ACCESSORY DWELLING UNITS BY POLITICAL
6 SUBDIVISIONS

7 Sec. 249.001. DEFINITION. In this chapter, "accessory
8 dwelling unit" means a residential housing unit that is:

9 (1) located on any lot that is zoned for a
10 single-family home or duplex or is not zoned;

11 (2) independent of the attached or detached primary
12 dwelling unit; and

13 (3) a complete and independent living facility for at
14 least one individual.

15 Sec. 249.002. CERTAIN REGULATIONS PROHIBITED. (a) A
16 political subdivision may not adopt or enforce an order, ordinance,
17 or other measure that:

18 (1) prohibits an owner of a lot described by Section
19 249.001(1) from building an accessory dwelling unit before, after,
20 or concurrently with the building of the primary dwelling unit on
21 the lot;

22 (2) subject to Section 249.003(e), prohibits the owner
23 from selling or entering into a residential lease of an accessory
24 dwelling unit;

25 (3) requires any owner occupancy of the primary
26 dwelling unit;

27 (4) subject to Subsection (b), requires parking for an

1 accessory dwelling unit;

2 (5) requires a minimum lot size for an accessory
3 dwelling unit that is larger than the minimum lot size required by
4 the political subdivision for:

5 (A) a single-family home or duplex, as
6 applicable, in a lot zoned for that purpose; or

7 (B) an accessory dwelling unit on September 1,
8 2025, if the political subdivision only required a property owner
9 to provide notice to the political subdivision of the proposed unit
10 in order to be authorized to build the unit;

11 (6) requires side or rear building, waterway, plane,
12 or other setbacks larger than five feet for an accessory dwelling
13 unit;

14 (7) prevents an owner of a lot zoned for a
15 single-family home or duplex from converting an existing structure
16 to an accessory dwelling unit by requiring setbacks larger than the
17 current structure's setbacks;

18 (8) applies the political subdivision's local growth
19 restrictions or density or bulk limitations to an accessory
20 dwelling unit;

21 (9) provides a limitation on the square footage of an
22 accessory dwelling unit that is less than:

23 (A) 50 percent of the square footage of the
24 primary dwelling unit; or

25 (B) 800 square feet;

26 (10) regulates the design of an accessory dwelling
27 unit, including the shape, size, massing, or distribution of square

1 footage between floors;

2 (11) requires the height of a room in an accessory
3 dwelling unit to be more than 14 feet, measured from floor to
4 ceiling;

5 (12) charges an impact fee:

6 (A) in any amount for an accessory dwelling unit
7 that is less than 800 square feet; or

8 (B) that conflicts with Chapter 395;

9 (13) charges any additional fee or any exaction,
10 including a parkland or right-of-way dedication, specific to
11 accessory dwelling units;

12 (14) imposes any restriction of accessory dwelling
13 unit occupancy on the basis of age or employment relationship with
14 the primary dwelling unit owner;

15 (15) prohibits an owner of a lot that is at least
16 10,000 square feet that is described by Section 249.001(1) from
17 building two accessory dwelling units before, after, or
18 concurrently with the primary dwelling unit; or

19 (16) prohibits the construction of accessory dwelling
20 units consistent with this chapter under otherwise applicable open
21 space or permeable surface restrictions.

22 (b) Subsection (a)(4) does not limit a political
23 subdivision's authority to require the replacement of parking
24 required for the primary dwelling unit if the accessory dwelling
25 unit construction eliminates the primary dwelling unit's existing
26 parking.

27 Sec. 249.003. AUTHORIZED REGULATION. (a) Except as

1 provided by this chapter, a political subdivision's height
2 limitations, front setback limitations, site plan review, and other
3 zoning requirements that are generally applicable to residential
4 construction for the area in which an accessory dwelling unit is
5 built apply to the accessory dwelling unit.

6 (b) A political subdivision may publish accessory dwelling
7 unit plans, building codes, and design standards that are permitted
8 in the political subdivision. Subject to Section 249.002, standards
9 may include height, setback, landscape, aesthetics standards, and
10 maximum size of an accessory dwelling unit.

11 (c) A political subdivision may authorize an accessory
12 dwelling unit on a lot that:

13 (1) contains a structure subject to a historic
14 preservation law, subject to a political subdivision's authority to
15 regulate under other law, including Section 211.003;

16 (2) is located in an area used to implement a water
17 conservation plan described by Section 11.1271 or 13.146, Water
18 Code; or

19 (3) is located in an area subject to a standard imposed
20 by the Texas Water Development Board as described by Section
21 3000.002(c), Government Code.

22 (d) A political subdivision may apply the political
23 subdivision's regulations on short-term rental units to an
24 accessory dwelling unit.

25 (e) A political subdivision may prohibit the sale of an
26 accessory dwelling unit separately from the primary dwelling unit.

27 Sec. 249.004. PERMIT APPROVAL REQUIREMENTS. (a) A

1 political subdivision that requires a permit to construct an
2 accessory dwelling unit shall:

3 (1) process the application for the permit
4 ministerially without discretionary review or a hearing;

5 (2) consider only whether the application satisfies
6 the applicable building codes, design standards, and fire codes;
7 and

8 (3) approve or deny the application not later than the
9 60th day after the date the applicant submits the completed
10 application.

11 (b) A permit application described by Subsection (a) is
12 considered approved if the political subdivision to which the
13 application is submitted does not approve or deny the application
14 on or before the 60th day after the date the applicant submits the
15 application.

16 Sec. 249.005. EFFECT ON OTHER RESTRICTIONS AND RULES. This
17 chapter does not supersede, preempt, or apply to a historic
18 preservation rule, deed restriction, or homeowners' association
19 rule that limits or prohibits the construction of an accessory
20 dwelling unit.

21 Sec. 249.006. ATTORNEY GENERAL ENFORCEMENT. (a) In this
22 section:

23 (1) "No-new-revenue tax rate" means the
24 no-new-revenue tax rate calculated under Chapter 26, Tax Code.

25 (2) "Tax year" has the meaning assigned by Section
26 1.04, Tax Code.

27 (b) A person may submit a complaint to the attorney general

1 of a suspected violation of this chapter.

2 (c) Notwithstanding any other law, if the attorney general
3 determines that a political subdivision has violated this chapter,
4 the political subdivision may not adopt an ad valorem tax rate that
5 exceeds the political subdivision's no-new-revenue tax rate for the
6 tax year that begins on or after the date of the determination.

7 SECTION 4. Chapter 249, Local Government Code, as added by
8 this Act, applies only to a permit application submitted on or after
9 the effective date of this Act.

10 SECTION 5. (a) Except as provided by Subsection (b) of this
11 section, this Act takes effect September 1, 2025.

12 (b) Subchapter N, Chapter 231, Local Government Code, as
13 added by this Act, takes effect September 1, 2027.