

By: Gerdes

H.B. No. 4946

A BILL TO BE ENTITLED

AN ACT

relating to county zoning authority for certain counties; creating a criminal offense.

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

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

SUBCHAPTER N. ZONING IN CERTAIN COUNTIES

Sec. 231.301. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county with a population of:

(1) more than 93,000 and less than 99,000;

(2) more than 45,000 and less than 46,000;

(3) more than 24,600 and less than 26,000; or

(4) more than 17,000 and less than 17,700.

Sec. 231.302. ADOPTION OF SUBCHAPTER. This subchapter applies only to a county for which the commissioners court by order adopts this subchapter on the court's own motion or following an election as provided by Section 231.304(d).

Sec. 231.303. PETITION FOR ADOPTION. (a) A person may submit a petition to the county clerk of a county to request that the county hold an election on the question of adopting this subchapter.

(b) The petition must:

(1) be signed by a number of registered voters in the county that is equal to at least 10 percent of the number of votes

1 received by all candidates for governor in the most recent
2 gubernatorial general election in the area eligible to vote in the
3 election under Section 231.304;

4 (2) include each signer's current voter registration
5 number, printed name, and residence address, including zip code;

6 (3) include a signature date entered by each signer
7 next to the signer's signature; and

8 (4) include a statement on each page of the petition
9 preceding the space for signatures in substantially the following
10 form:

11 "This petition is to request that an election be held in (name of
12 county) to authorize the county to adopt zoning and building
13 regulations applicable in the unincorporated areas of the county
14 not subject to municipal zoning ordinances."

15 (c) A petition signature is not valid if:

16 (1) the signer fails to enter the date the signer signs
17 the petition; or

18 (2) the date is earlier than the 90th day before the
19 date the petition is submitted to the county clerk.

20 (d) Not later than the 30th day after the date the county
21 clerk receives a petition under this section, the clerk shall
22 provide a written determination on whether the petition is valid to
23 the commissioners court of the county.

24 (e) If the county clerk determines the petition is invalid,
25 the clerk shall provide written notice to the person submitting the
26 petition, which must include each reason the clerk determines the
27 petition is invalid.

1 Sec. 231.304. ADOPTION ELECTION. (a) After receipt of the
2 county clerk's determination of a valid petition under Section
3 231.303, the commissioners court of the county shall order an
4 election on the question of adopting this subchapter to be held on
5 the first uniform election date that allows sufficient time to
6 comply with any requirements of law.

7 (b) Only registered voters residing in a part of the
8 unincorporated area of the county that is not subject to a municipal
9 zoning ordinance are eligible to vote in the election.

10 (c) The ballot for the election must be printed to provide
11 for voting for or against the following proposition:

12 "Granting authority to the county to adopt zoning and building
13 regulations for the unincorporated areas of the county not subject
14 to municipal zoning ordinances."

15 (d) If a majority of the votes cast in the election favor the
16 proposition, the commissioners court shall adopt by order this
17 subchapter at the next scheduled meeting of the court.

18 Sec. 231.305. AUTHORITY TO REGULATE. (a) The
19 commissioners court of a county by order may adopt regulations
20 authorized by this subchapter that may be applied in the
21 unincorporated areas of the county that are not subject to
22 municipal zoning regulations adopted under Chapter 211.

23 (b) For an area designated by the Texas Historical
24 Commission as having historical significance, the commissioners
25 court may regulate, in accordance with rules adopted by the Texas
26 Historical Commission, the construction, reconstruction,
27 alteration, or razing of buildings or other structures in the area.

1 Sec. 231.306. PROHIBITED COUNTY REGULATION. This
2 subchapter does not authorize the commissioners court of a county
3 to:

4 (1) require the removal or destruction of property
5 that exists at the time the commissioners court adopts this
6 subchapter;

7 (2) regulate a billboard or outdoor advertising that
8 conflicts with a municipal ordinance or state agency rule;

9 (3) regulate, for siting or zoning purposes, new
10 manufactured or industrialized housing that is constructed to
11 preemptive state or federal building standards in a manner that is
12 different from site-built housing; or

13 (4) regulate the construction, use, design, or
14 placement of a public utility building or facility, including a
15 central office building used by a person engaged in providing
16 telephone services to the public.

17 Sec. 231.307. AGRICULTURAL AND RANCHING OPERATIONS. (a)
18 In this section, "agricultural or ranching operation" includes:

19 (1) cultivation of soil;

20 (2) production of crops for human food, animal feed,
21 planting seed, or fiber;

22 (3) floriculture;

23 (4) viticulture;

24 (5) horticulture;

25 (6) possession of livestock or poultry; and

26 (7) use of cover crops or idle land for the purpose of
27 participation in a governmental program or normal crop or livestock

1 rotation procedure.

2 (b) Except as provided by Subsection (c), the commissioners
3 court of a county may not restrict the right of a property owner to
4 construct an improvement for a noncommercial agricultural or
5 ranching operation, or to otherwise use the property for a
6 noncommercial agricultural or ranching operation.

7 (c) A commissioners court may impose a reasonably necessary
8 restriction or prohibition on a commercial agricultural or ranching
9 operation, including a commercial feed lot, to protect the public
10 health, safety, peace, morals, and general welfare from the dangers
11 of explosion, flooding, vermin, insects, physical injury,
12 contagious disease, contamination of water supplies, radiation,
13 storage of toxic materials, or other hazards.

14 Sec. 231.308. ZONING REGULATIONS. (a) The commissioners
15 court of a county by order may adopt zoning regulations.

16 (b) A commissioners court may regulate:

17 (1) population density;

18 (2) the location and use of buildings, other
19 structures, and land for business, industrial, residential, or
20 other purposes;

21 (3) the location, design, construction, extension,
22 size, and regulation of water, wastewater, and drainage facilities,
23 including requirements for connecting to a centralized water or
24 wastewater system; and

25 (4) the abatement of harm resulting from inadequate
26 water or wastewater facilities.

27 (c) In adopting zoning regulations, a commissioners court

1 must ensure that the regulations:

2 (1) comply with the county's comprehensive plan;

3 (2) are coordinated with the comprehensive plans of
4 each municipality located in the county;

5 (3) are uniform for each class or kind of building in a
6 district established under this subchapter, but may vary from
7 district to district; and

8 (4) are adopted with reasonable consideration for:

9 (A) preserving the character of each district and
10 its particular suitability for particular uses; and

11 (B) conserving the value of buildings and
12 encouraging the most appropriate use of land throughout a district.

13 Sec. 231.309. DISTRICTS. The commissioners court of a
14 county may divide the unincorporated area of the county into
15 districts of a number, shape, and size the court considers best for
16 implementing this subchapter.

17 Sec. 231.310. COMPREHENSIVE PLAN. (a) The commissioners
18 court of a county by order shall adopt a comprehensive plan for the
19 growth and development of the county.

20 (b) A comprehensive plan must be designed to:

21 (1) lessen congestion in the county's streets and
22 roads;

23 (2) secure safety from fire, panic, and other dangers;

24 (3) promote health and the general welfare;

25 (4) provide adequate light and air;

26 (5) prevent the overcrowding of land;

27 (6) avoid undue concentration of population;

1 (7) facilitate the adequate provision of
2 transportation, water, sewers, parks, and other public
3 requirements; and

4 (8) assist in developing land in the county into
5 parks, playgrounds, and recreational areas for the public.

6 Sec. 231.311. PLANNING COMMISSION. (a) The commissioners
7 court of a county shall appoint a planning commission.

8 (b) The planning commission consists of seven members who
9 must be county residents. If a county has a park or historic
10 commission, the commissioners court may designate the historic
11 commission to serve as the planning commission.

12 (c) The members of the planning commission shall elect a
13 presiding officer from among its members to serve a term set by the
14 members. If the presiding officer is absent from a meeting, the
15 members of the planning commission may designate a member to serve
16 as the acting presiding officer.

17 (d) The planning commission may employ a secretary and
18 necessary staff.

19 (e) A commissioners court shall fill any vacancy on the
20 planning commission.

21 (f) A member of the planning commission is not entitled to
22 compensation but may receive reimbursement of expenses actually
23 incurred while serving on the planning commission, as provided by
24 commissioners court order.

25 Sec. 231.312. PLANNING COMMISSION: POWERS AND DUTIES. (a)
26 The planning commission of a county established under this
27 subchapter shall recommend:

1 (1) boundaries for dividing the county into districts
2 described by Section 231.309; and

3 (2) appropriate zoning regulations for each district.

4 (b) A planning commission shall develop a preliminary
5 report on its recommendations and hold a public hearing on that
6 report before submitting the final report to the commissioners
7 court of the county.

8 (c) Not later than the 10th day before the hearing date, a
9 planning commission shall provide written notice of each public
10 hearing before the planning commission on a proposed change in a
11 classification in a district to:

12 (1) each owner of affected property or the person who
13 renders that property for county taxes; and

14 (2) each owner of property that is located within 200
15 feet of property affected by the change or the person who renders
16 that property for county taxes.

17 (d) For purposes of Subsection (c), a planning commission is
18 considered to have provided notice by depositing the notice, with
19 postage paid and a proper address, in the United States mail.

20 (e) After the public hearing is held under Subsection (b), a
21 planning commission shall develop and submit a written final report
22 to the commissioners court.

23 Sec. 231.313. PROCEDURES FOR ADOPTING ZONING DISTRICT
24 BOUNDARIES AND REGULATIONS. (a) The commissioners court of a
25 county may not adopt a zoning district boundary or zoning
26 regulation until the court receives the planning commission's final
27 report prepared under Section 231.312.

1 (b) A commissioners court shall establish procedures for
2 adopting zoning district boundaries and zoning regulations. The
3 procedures must:

4 (1) require the boundary or regulation to be adopted
5 by order;

6 (2) limit the court's consideration of a boundary or
7 regulation to a boundary or regulation recommended by the planning
8 commission;

9 (3) provide that the boundary or regulation is not
10 effective until after a public hearing on the matter at which the
11 public has an opportunity to be heard; and

12 (4) require notice of the time and place of the hearing
13 in a newspaper of general circulation in the county not later than
14 the 15th day before the date of the hearing.

15 (c) Except as provided by Subsection (f), a commissioners
16 court may by majority vote adopt, or adopt with amendment, a zoning
17 district boundary or zoning regulation proposed by the planning
18 commission.

19 (d) A person may protest an amendment by a commissioners
20 court to a zoning district boundary or zoning regulation proposed
21 by the planning commission by submitting a written protest to the
22 court that is signed by the owners of at least 20 percent of:

23 (1) the area of the lots covered by the proposed
24 change; or

25 (2) the property immediately adjacent to the rear of
26 the lots covered by the proposed change and extending 200 feet from:

27 (A) those lots; or

1 (B) the street frontage of the opposite lots.

2 (e) After receipt of a protest under Subsection (d), a
3 commissioners court shall hold a public hearing for which the court
4 provides notice in the manner provided by Subsection (b).

5 (f) A commissioners court may adopt with amendment a zoning
6 district boundary or zoning regulation proposed by the planning
7 commission for which the court receives a protest under Subsection
8 (d) only by an affirmative vote of at least three-fourths of all
9 members of the court.

10 Sec. 231.314. SPECIAL EXCEPTIONS. (a) A person aggrieved
11 by a zoning regulation adopted under this subchapter or an officer,
12 department, board, or bureau of the county or a municipality in the
13 county may petition the commissioners court of the county for a
14 special exception to the regulation.

15 (b) A commissioners court may grant a special exception to a
16 zoning regulation if the court finds that the exception:

17 (1) is not contrary to the public interest; and

18 (2) would prevent unnecessary hardship from the
19 literal enforcement of the regulation.

20 (c) A commissioners court shall adopt procedures governing
21 applications, notice, hearings, and other matters relating to
22 special exceptions.

23 Sec. 231.315. ENFORCEMENT. (a) The commissioners court of
24 a county may adopt orders to enforce this subchapter or an order
25 adopted under this subchapter.

26 (b) A person commits an offense if the person violates this
27 subchapter or an order adopted under this subchapter. An offense

1 under this subsection is a misdemeanor punishable by a fine of not
2 less than \$500 and not more than \$1,000. Each day that a violation
3 occurs without an effort to remedy the violation constitutes a
4 separate offense. An offense must be prosecuted in a district court
5 in the county in which the offense occurs.

6 (c) The appropriate county authority may bring an action
7 against the owner of:

8 (1) a building or other structure erected,
9 constructed, reconstructed, altered, repaired, converted, or
10 maintained in violation of this subchapter or an order adopted
11 under this subchapter; or

12 (2) a building, other structure, or land used in
13 violation of this subchapter or an order adopted under this
14 subchapter.

15 (d) In an action brought under Subsection (c), the county
16 may recover:

17 (1) injunctive relief to:

18 (A) prevent the unlawful action or use;

19 (B) restrain, correct, or abate the violation;

20 (C) prevent the occupancy of the building, other
21 structure, or land that is the subject of the action; or

22 (D) prevent any illegal act, conduct, business,
23 or use on or about the premises of the property that is the subject
24 of the action;

25 (2) court costs and attorney's fees incurred in
26 bringing the action; and

27 (3) other appropriate remedies.

1 Sec. 231.316. COOPERATION WITH MUNICIPALITIES. The
2 commissioners court of a county by order may enter into an agreement
3 with a municipality located in the county to assist in the
4 implementation and enforcement of regulations adopted under this
5 subchapter.

6 Sec. 231.317. CONFLICT WITH OTHER LAW. In the event of a
7 conflict between an order adopted under this subchapter and a
8 statute or local regulation, the more stringent regulation
9 prevails. A more stringent regulation is the regulation that
10 imposes a higher standard, including a requirement of:

11 (1) a greater width or size of a yard, court, or other
12 open space;

13 (2) a lower building height or fewer number of stories
14 for a building; or

15 (3) a greater percentage of a lot to be left
16 unoccupied.

17 SECTION 2. This Act takes effect September 1, 2025.