

By: Minjarez

H.B. No. 1562

A BILL TO BE ENTITLED

AN ACT

relating to zoning and building construction regulations in certain counties; providing a criminal penalty.

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 AND BUILDING CONSTRUCTION ORDINANCES IN URBAN COUNTIES

Sec. 231.301. PURPOSE. The powers granted under this subchapter are for the purpose of protecting the public health, safety, welfare, and morals.

Sec. 231.302. APPLICABILITY. This subchapter applies only to:

(1) a county that has a population of 100,000 or more;

or

(2) a county that contains part of a metropolitan statistical area with a total population greater than 100,000.

Sec. 231.303. ZONING AND BUILDING CONSTRUCTION ORDINANCES; RULES. (a) The commissioners court of a county may adopt ordinances, not inconsistent with state law, that apply only to the unincorporated area of the county and that regulate:

(1) the height, number of stories, or size of buildings;

(2) the percentage of a lot that may be occupied;

1 (3) the size of yards and other spaces;

2 (4) population density;

3 (5) the location and use of buildings and land for
4 commercial, industrial, residential, or other purposes; and

5 (6) building construction standards.

6 (b) The commissioners court may not regulate the use,
7 design, or placement of public utility buildings, land, or
8 facilities.

9 (c) The commissioners court may not regulate for siting or
10 zoning purposes new manufactured or industrialized housing that is
11 constructed to preemptive state or federal building standards in
12 any manner that is different from regulation of site-built housing.

13 (d) The commissioners court shall adopt rules as necessary
14 to carry out this subchapter.

15 Sec. 231.304. LOCAL OPTION ELECTION. (a) This subchapter
16 applies only to a county in which a majority of the voters of the
17 unincorporated area of the county voting on the question approve
18 this subchapter's grant of authority to the county. The
19 commissioners court shall order and hold an election in the
20 unincorporated area of the county if the court is petitioned to do
21 so under Section 231.305. The commissioners court may not order and
22 hold the election on its own motion.

23 (b) If an election is held, the ballot shall be printed to
24 provide for voting for or against the proposition: "Granting
25 authority to the county to adopt zoning and building construction
26 ordinances for the unincorporated area of (name of county)."

27 Sec. 231.305. PETITION; VERIFICATION. (a) A petition for

1 the local option election must include a statement worded
2 substantially as provided by this subsection and located on each
3 page of the petition preceding the space reserved for signatures:
4 "This petition is to request that an election be held in the
5 unincorporated area of (name of county) to authorize the county to
6 adopt zoning and building construction ordinances for the
7 unincorporated area of (name of county)."

8 (b) To be valid, a petition must:

9 (1) be signed by registered voters of the
10 unincorporated area of the county in a number equal to at least five
11 percent of the number of registered voters in the unincorporated
12 area of the county on the date of the most recent general election
13 for state and county officers; and

14 (2) comply with Chapter 277, Election Code.

15 (c) Within five days after the date a petition is received
16 in the office of the commissioners court, the commissioners court
17 shall submit the petition for verification to the county clerk, who
18 shall determine whether the petition meets the requirements imposed
19 by this section. Within 30 days after the date the petition is
20 submitted to the county clerk for verification, the county clerk
21 shall certify in writing to the commissioners court whether the
22 petition is valid. If the county clerk determines that the petition
23 is invalid, the clerk shall state the reasons for that
24 determination.

25 (d) If the county clerk certifies that a petition is valid,
26 the commissioners court shall order the election to be held on the
27 next uniform election date authorized by Section 41.001, Election

1 Code, that:

2 (1) occurs after the date the court receives the
3 county clerk's certification; and

4 (2) allows enough time to hold the election in the
5 manner required by law.

6 Sec. 231.306. COUNTY PLANNING COMMISSION. (a) A county
7 planning commission is composed of:

8 (1) three residents of the county who own land in the
9 county, appointed by the county judge;

10 (2) one resident of each commissioners precinct in the
11 county, appointed by the county commissioner for that precinct; and

12 (3) for each municipality with a population of 25,000
13 or more located wholly or partly in the county:

14 (A) the mayor of the municipality, if the mayor
15 resides in the county; or

16 (B) a person who is a resident of the
17 municipality and the county, appointed by the mayor, if the mayor
18 does not reside in the county.

19 (b) Except for the initial appointed members, the appointed
20 members of a commission are appointed for terms of two years
21 expiring on February 1 of each odd-numbered year. The initial
22 appointed members are appointed for terms expiring on the first
23 February 1 of an odd-numbered year occurring after the date of their
24 appointment.

25 (c) A commission annually shall elect a chair and vice-chair
26 from its members. The commissioners court shall employ staff for
27 the use of the commission in performing its functions.

1 Sec. 231.307. COMMISSION DUTIES. The commissioners court
2 may assign the planning commission any duties that the court
3 considers appropriate and that are not inconsistent with this
4 subchapter.

5 Sec. 231.308. COMMISSION STUDIES; REPORTS; HEARINGS. (a)
6 At the request of the commissioners court, a planning commission
7 shall, or on its own initiative a commission may, conduct studies of
8 the unincorporated area of the county and prepare reports to advise
9 the commissioners court about:

10 (1) the initial boundaries of zoning districts and
11 other initial regulations for the unincorporated area of the
12 county; and

13 (2) changes to those districts or regulations.

14 (b) Before the commission may prepare a report, the
15 commission must hold a public hearing at which members of the public
16 may present testimony about any subject to be included in the
17 commission's report. The commission shall give notice of the
18 hearing as required by the commissioners court.

19 (c) If a report will advise the commissioners court about a
20 proposed action regarding the zoning classification of a parcel of
21 land, the commission shall send written notice to each landowner,
22 as listed on the county tax rolls, whose land is directly affected
23 by the proposed action or whose land is located within 200 feet of
24 land directly affected. The notice must inform the landowner of the
25 time and place of the public hearing at which the landowner may
26 present testimony to the commission about the proposed action and
27 must be deposited in the United States mail before the 10th day

1 before the date of the hearing.

2 Sec. 231.309. ADOPTION OF ORDINANCE AFTER RECEIPT OF
3 REPORT. The commissioners court may adopt a proposed ordinance
4 only after the court receives a planning commission's report
5 prepared under Section 231.308 relating to the proposed ordinance.

6 Sec. 231.310. SPECIAL EXCEPTIONS. (a) The commissioners
7 court may grant a special exception to an ordinance adopted under
8 this subchapter if the court finds that the grant of the special
9 exception will not be contrary to the public interest and that a
10 literal enforcement of the ordinance would result in an unnecessary
11 hardship.

12 (b) The commissioners court shall adopt procedures
13 governing applications, notice, hearings, and other matters
14 relating to the grant of a special exception.

15 Sec. 231.311. CONFLICT WITH OTHER ACTION. If an ordinance
16 adopted under this subchapter conflicts with an action of a
17 municipality in the municipality's extraterritorial jurisdiction,
18 the municipal action controls to the extent of the conflict.

19 Sec. 231.312. ENFORCEMENT. (a) The county attorney or
20 other prosecuting attorney representing the county in the district
21 court may file an action to enjoin the violation or threatened
22 violation of an ordinance adopted under this subchapter. The court
23 may grant appropriate relief.

24 (b) If an ordinance adopted under this subchapter defines an
25 offense, an offense under that order is a Class C misdemeanor. The
26 offense shall be prosecuted in the same manner as an offense defined
27 by state law.

1 SECTION 2. This Act takes effect September 1, 2017.