

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 175**

**Representative Brinkman**

**Cosponsors: Representatives Becker, Vitale, Dever, Dean, Hood, Blessing, Riedel,  
Goodman, Wiggam, Ramos, Thompson, Patmon, LaTourette, Seitz, Keller,  
Hambley, Lipps, Hagan, Retherford, DeVitis**

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**A BILL**

To amend sections 303.21 and 519.21 and to enact 1  
section 901.60 of the Revised Code to allow an 2  
owner of residential property to keep, harbor, 3  
breed, or maintain small livestock on the 4  
property, and to prohibit zoning authorities 5  
from regulating certain agricultural activities 6  
conducted on residential property for 7  
noncommercial purposes. 8

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 303.21 and 519.21 be amended and 9  
section 901.60 of the Revised Code be enacted to read as 10  
follows: 11

**Sec. 303.21.** (A) Except as otherwise provided in division 12  
(B) of this section, sections 303.01 to 303.25 of the Revised 13  
Code do not confer any power on any county rural zoning 14  
commission, board of county commissioners, or board of zoning 15  
appeals to prohibit the use of any land for agricultural 16  
purposes or the construction or use of buildings or structures 17

incident to the use for agricultural purposes of the land on 18  
which such buildings or structures are located, including 19  
buildings or structures that are used primarily for vinting and 20  
selling wine and that are located on land any part of which is 21  
used for viticulture, and no zoning certificate shall be 22  
required for any such building or structure. 23

(B) ~~A-Except as provided in division (E) of this section,~~ 24  
a county zoning resolution, or an amendment to such resolution, 25  
may in any platted subdivision approved under section 711.05, 26  
711.09, or 711.10 of the Revised Code, or in any area consisting 27  
of fifteen or more lots approved under section 711.131 of the 28  
Revised Code that are contiguous to one another, or some of 29  
which are contiguous to one another and adjacent to one side of 30  
a dedicated public road, and the balance of which are contiguous 31  
to one another and adjacent to the opposite side of the same 32  
dedicated public road regulate: 33

(1) Agriculture on lots of one acre or less; 34

(2) Buildings or structures incident to the use of land 35  
for agricultural purposes on lots greater than one acre but not 36  
greater than five acres by: set back building lines; height; and 37  
size; 38

(3) Dairying and animal and poultry husbandry on lots 39  
greater than one acre but not greater than five acres when at 40  
least thirty-five per cent of the lots in the subdivision are 41  
developed with at least one building, structure, or improvement 42  
that is subject to real property taxation or that is subject to 43  
the tax on manufactured and mobile homes under section 4503.06 44  
of the Revised Code. After thirty-five per cent of the lots are 45  
so developed, dairying and animal and poultry husbandry shall be 46  
considered nonconforming use of land and buildings or structures 47

pursuant to section 303.19 of the Revised Code. 48

Division (B) of this section confers no power on any 49  
county rural zoning commission, board of county commissioners, 50  
or board of zoning appeals to regulate agriculture, buildings or 51  
structures, and dairying and animal and poultry husbandry on 52  
lots greater than five acres. 53

(C) Such sections confer no power on any board of county 54  
commissioners, county rural zoning commission, or board of 55  
zoning appeals to prohibit in a district zoned for agricultural, 56  
industrial, residential, or commercial uses, the use of any land 57  
for: 58

(1) A farm market where fifty per cent or more of the 59  
gross income received from the market is derived from produce 60  
raised on farms owned or operated by the market operator in a 61  
normal crop year. However, a board of county commissioners, as 62  
provided in section 303.02 of the Revised Code, may regulate 63  
such factors pertaining to farm markets as size of the 64  
structure, size of parking areas that may be required, set back 65  
building lines, and egress or ingress, where such regulation is 66  
necessary to protect the public health and safety. 67

(2) Biodiesel production, biomass energy production, or 68  
electric or heat energy production if the land on which the 69  
production facility is located qualifies as land devoted 70  
exclusively to agricultural use under sections 5713.30 to 71  
5713.37 of the Revised Code for real property tax purposes. As 72  
used in division (C) (2) of this section, "biodiesel," "biomass 73  
energy," and "electric or heat energy" have the same meanings as 74  
in section 5713.30 of the Revised Code. 75

(3) Biologically derived methane gas production if the 76

land on which the production facility is located qualifies as 77  
land devoted exclusively to agricultural use under sections 78  
5713.30 to 5713.37 of the Revised Code for real property tax 79  
purposes and if the facility that produces the biologically 80  
derived methane gas does not produce more than seventeen million 81  
sixty thousand seven hundred ten British thermal units, five 82  
megawatts, or both. 83

(4) Agritourism. However, a board of county commissioners, 84  
as provided in section 303.02 of the Revised Code, may regulate 85  
such factors pertaining to agritourism, except farm markets as 86  
described in division (C) (1) of this section, as size of a 87  
structure used primarily for agritourism, size of parking areas 88  
that may be required, setback building lines for structures used 89  
primarily for agritourism, and egress or ingress where such 90  
regulation is necessary to protect public health and safety. 91

Nothing in division (C) (4) of this section confers power 92  
on a county zoning commission, board of county commissioners, or 93  
board of zoning appeals to require any parking area to be 94  
improved in any manner, including requirements governing 95  
drainage, parking area base, parking area paving, or any other 96  
improvement. 97

Nothing in division (C) (4) of this section confers power 98  
on a county zoning commission, board of county commissioners, or 99  
board of zoning appeals to prohibit the use of any land or the 100  
construction or use of buildings or structures that are used 101  
primarily for vinting and selling wine that are located on land 102  
any part of which is used for viticulture as provided in 103  
division (A) of this section. 104

(D) (1) As used in division (C) (3) of this section, 105  
"biologically derived methane gas" has the same meaning as in 106

section 5713.30 of the Revised Code. 107

(2) As used in division (C) (4) of this section, 108  
"agritourism" has the same meaning as in section 901.80 of the 109  
Revised Code. 110

(E) For purposes of division (B) of this section, 111  
"agriculture" does not include agricultural activities conducted 112  
on residential property for noncommercial purposes for an 113  
individual's personal use and enjoyment. 114

**Sec. 519.21.** (A) Except as otherwise provided in divisions 115  
(B) and (D) of this section, sections 519.02 to 519.25 of the 116  
Revised Code confer no power on any township zoning commission, 117  
board of township trustees, or board of zoning appeals to 118  
prohibit the use of any land for agricultural purposes or the 119  
construction or use of buildings or structures incident to the 120  
use for agricultural purposes of the land on which such 121  
buildings or structures are located, including buildings or 122  
structures that are used primarily for vinting and selling wine 123  
and that are located on land any part of which is used for 124  
viticulture, and no zoning certificate shall be required for any 125  
such building or structure. 126

(B) ~~A~~ Except as provided in division (F) of this section, 127  
a township zoning resolution, or an amendment to such 128  
resolution, may in any platted subdivision approved under 129  
section 711.05, 711.09, or 711.10 of the Revised Code, or in any 130  
area consisting of fifteen or more lots approved under section 131  
711.131 of the Revised Code that are contiguous to one another, 132  
or some of which are contiguous to one another and adjacent to 133  
one side of a dedicated public road, and the balance of which 134  
are contiguous to one another and adjacent to the opposite side 135  
of the same dedicated public road regulate: 136

(1) Agriculture on lots of one acre or less;	137
(2) Buildings or structures incident to the use of land	138
for agricultural purposes on lots greater than one acre but not	139
greater than five acres by: set back building lines; height; and	140
size;	141
(3) Dairying and animal and poultry husbandry on lots	142
greater than one acre but not greater than five acres when at	143
least thirty-five per cent of the lots in the subdivision are	144
developed with at least one building, structure, or improvement	145
that is subject to real property taxation or that is subject to	146
the tax on manufactured and mobile homes under section 4503.06	147
of the Revised Code. After thirty-five per cent of the lots are	148
so developed, dairying and animal and poultry husbandry shall be	149
considered nonconforming use of land and buildings or structures	150
pursuant to section 519.19 of the Revised Code.	151
Division (B) of this section confers no power on any	152
township zoning commission, board of township trustees, or board	153
of zoning appeals to regulate agriculture, buildings or	154
structures, and dairying and animal and poultry husbandry on	155
lots greater than five acres.	156
(C) Such sections confer no power on any township zoning	157
commission, board of township trustees, or board of zoning	158
appeals to prohibit in a district zoned for agricultural,	159
industrial, residential, or commercial uses, the use of any land	160
for:	161
(1) A farm market where fifty per cent or more of the	162
gross income received from the market is derived from produce	163
raised on farms owned or operated by the market operator in a	164
normal crop year. However, a board of township trustees, as	165

provided in section 519.02 of the Revised Code, may regulate 166  
such factors pertaining to farm markets as size of the 167  
structure, size of parking areas that may be required, set back 168  
building lines, and egress or ingress, where such regulation is 169  
necessary to protect the public health and safety. 170

(2) Biodiesel production, biomass energy production, or 171  
electric or heat energy production if the land on which the 172  
production facility is located qualifies as land devoted 173  
exclusively to agricultural use under sections 5713.30 to 174  
5713.37 of the Revised Code for real property tax purposes. As 175  
used in division (C)(2) of this section, "biodiesel," "biomass 176  
energy," and "electric or heat energy" have the same meanings as 177  
in section 5713.30 of the Revised Code. 178

(3) Biologically derived methane gas production if the 179  
land on which the production facility is located qualifies as 180  
land devoted exclusively to agricultural use under sections 181  
5713.30 to 5713.37 of the Revised Code for real property tax 182  
purposes and if the facility that produces the biologically 183  
derived methane gas does not produce more than seventeen million 184  
sixty thousand seven hundred ten British thermal units, five 185  
megawatts, or both. 186

(4) Agritourism. However, a board of township trustees, as 187  
provided in section 519.02 of the Revised Code, may regulate 188  
such factors pertaining to agritourism, except farm markets as 189  
described in division (C)(1) of this section, as size of a 190  
structure used primarily for agritourism, size of parking areas 191  
that may be required, setback building lines for structures used 192  
primarily for agritourism, and egress or ingress where such 193  
regulation is necessary to protect public health and safety. 194

Nothing in division (C)(4) of this section confers power 195

on a township zoning commission, board of township trustees, or 196  
board of zoning appeals to require any parking area to be 197  
improved in any manner, including requirements governing 198  
drainage, parking area base, parking area paving, or any other 199  
improvement. 200

Nothing in division (C) (4) of this section confers power 201  
on a township zoning commission, board of township trustees, or 202  
board of zoning appeals to prohibit the use of any land or the 203  
construction or use of buildings or structures that are used 204  
primarily for vinting and selling wine that are located on land 205  
any part of which is used for viticulture as provided in 206  
division (A) of this section. 207

(D) Nothing in this section prohibits a township zoning 208  
commission, board of township trustees, or board of zoning 209  
appeals from regulating the location of medical marijuana 210  
cultivators, processors, or retail dispensaries or from 211  
prohibiting such cultivators, processors, or dispensaries from 212  
being located in the unincorporated territory of the township. 213

~~(D)~~ (E) (1) As used in division (C) (3) of this section, 214  
"biologically derived methane gas" has the same meaning as in 215  
section 5713.30 of the Revised Code. 216

(2) As used in division (C) (4) of this section, 217  
"agritourism" has the same meaning as in section 901.80 of the 218  
Revised Code. 219

(F) For purposes of division (B) of this section, 220  
"agriculture" does not include agricultural activities conducted 221  
on residential property for noncommercial purposes for an 222  
individual's personal use and enjoyment. 223

Sec. 901.60. (A) As used in this section: 224

(1) "Acreage of the residential property" means the 225  
precise acreage of a parcel of residential property as listed by 226  
the county auditor. 227

(2) "Nuisance" means the loud and frequent or habitual 228  
sounds from small livestock kept in accordance with this section 229  
that causes serious annoyance or disturbance to other persons. 230

(3) "Small livestock" means goats, chickens and similar 231  
fowl, and rabbits and similar small animals. For purposes of 232  
this section, roosters are not small livestock. 233

(B) A person who owns a parcel of residential property not 234  
generally used for agricultural purposes may keep, harbor, 235  
breed, or maintain small livestock on the residential property 236  
unless any of the following applies: 237

(1) The small livestock creates a nuisance. 238

(2) The small livestock is kept in a manner so as to cause 239  
noxious odors or unsanitary conditions that result in a public 240  
health concern. 241

(3) The structure used to house the small livestock is not 242  
solidly constructed, of an adequate size necessary to house the 243  
small livestock in a comfortable and sanitary manner, or kept 244  
more than ten feet from neighboring property lines. 245

(4) The number of units of small livestock kept, harbored, 246  
bred, or maintained on the residential property divided by the 247  
acreage of the residential property exceeds a ratio of one small 248  
livestock unit per one acre of residential property, in 249  
accordance with the small livestock unit chart as follows: 250

Small livestock unit chart 251

Type of animal: \_\_\_\_\_ Unit measurement: 252

Goat 1 goat = 0.3 unit 253

Chicken or similar fowl 1 fowl = 0.05 unit 254

Rabbit or similar small animal 1 animal = 0.05 unit 255

(C) Division (B) (4) of this section does not apply to a 256  
person if a local government, by law, allows the number of units 257  
of small livestock kept, harbored, bred, or maintained on a 258  
parcel of residential property to exceed a ratio of one small 259  
livestock unit per one acre of residential property, and the 260  
person is in compliance with that law. 261

**Section 2.** That existing sections 303.21 and 519.21 of the 262  
Revised Code are hereby repealed. 263

**Section 3.** Section 519.21 of the Revised Code is presented 264  
in this act as a composite of the section as amended by both 265  
Sub. H.B. 523 and Sub. S.B. 75 of the 131st General Assembly. 266  
The General Assembly, applying the principle stated in division 267  
(B) of section 1.52 of the Revised Code that amendments are to 268  
be harmonized if reasonably capable of simultaneous operation, 269  
finds that the composite is the resulting version of the section 270  
in effect prior to the effective date of the section as 271  
presented in this act. 272