

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**

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