

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 124

Representative Brinkman

Cosponsors: Representatives Riedel, Kent, LaTourette, Hood, Seitz

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 small 3
livestock on the property and to prohibit zoning 4
authorities from regulating certain 5
noncommercial agricultural activities on 6
residential property. 7

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

Section 1. That sections 303.21 and 519.21 be amended and 8
section 901.60 of the Revised Code be enacted to read as 9
follows: 10

Sec. 303.21. (A) Except as otherwise provided in division 11
(B) of this section, sections 303.01 to 303.25 of the Revised 12
Code do not confer any power on any county rural zoning 13
commission, board of county commissioners, or board of zoning 14
appeals to prohibit the use of any land for agricultural 15
purposes or the construction or use of buildings or structures 16
incident to the use for agricultural purposes of the land on 17
which such buildings or structures are located, including 18

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

(B) ~~A~~ Except as provided in division (E) of this section, 23
a county zoning resolution, or an amendment to such resolution, 24
may in any platted subdivision approved under section 711.05, 25
711.09, or 711.10 of the Revised Code, or in any area consisting 26
of fifteen or more lots approved under section 711.131 of the 27
Revised Code that are contiguous to one another, or some of 28
which are contiguous to one another and adjacent to one side of 29
a dedicated public road, and the balance of which are contiguous 30
to one another and adjacent to the opposite side of the same 31
dedicated public road regulate: 32

(1) Agriculture on lots of one acre or less; 33

(2) Buildings or structures incident to the use of land 34
for agricultural purposes on lots greater than one acre but not 35
greater than five acres by: set back building lines; height; and 36
size; 37

(3) Dairying and animal and poultry husbandry on lots 38
greater than one acre but not greater than five acres when at 39
least thirty-five per cent of the lots in the subdivision are 40
developed with at least one building, structure, or improvement 41
that is subject to real property taxation or that is subject to 42
the tax on manufactured and mobile homes under section 4503.06 43
of the Revised Code. After thirty-five per cent of the lots are 44
so developed, dairying and animal and poultry husbandry shall be 45
considered nonconforming use of land and buildings or structures 46
pursuant to section 303.19 of the Revised Code. 47

Division (B) of this section confers no power on any 48
county rural zoning commission, board of county commissioners, 49
or board of zoning appeals to regulate agriculture, buildings or 50
structures, and dairying and animal and poultry husbandry on 51
lots greater than five acres. 52

(C) Such sections confer no power on any board of county 53
commissioners, county rural zoning commission, or board of 54
zoning appeals to prohibit in a district zoned for agricultural, 55
industrial, residential, or commercial uses, the use of any land 56
for: 57

(1) A farm market where fifty per cent or more of the 58
gross income received from the market is derived from produce 59
raised on farms owned or operated by the market operator in a 60
normal crop year. However, a board of county commissioners, as 61
provided in section 303.02 of the Revised Code, may regulate 62
such factors pertaining to farm markets as size of the 63
structure, size of parking areas that may be required, set back 64
building lines, and egress or ingress, where such regulation is 65
necessary to protect the public health and safety. 66

(2) Biodiesel production, biomass energy production, or 67
electric or heat energy production if the land on which the 68
production facility is located qualifies as land devoted 69
exclusively to agricultural use under sections 5713.30 to 70
5713.37 of the Revised Code for real property tax purposes. As 71
used in division (C) (2) of this section, "biodiesel," "biomass 72
energy," and "electric or heat energy" have the same meanings as 73
in section 5713.30 of the Revised Code. 74

(3) Biologically derived methane gas production if the 75
land on which the production facility is located qualifies as 76
land devoted exclusively to agricultural use under sections 77

5713.30 to 5713.37 of the Revised Code for real property tax 78
purposes and if the facility that produces the biologically 79
derived methane gas does not produce more than seventeen million 80
sixty thousand seven hundred ten British thermal units, five 81
megawatts, or both. 82

(4) Agritourism. However, a board of county commissioners, 83
as provided in section 303.02 of the Revised Code, may regulate 84
such factors pertaining to agritourism, except farm markets as 85
described in division (C) (1) of this section, as size of a 86
structure used primarily for agritourism, size of parking areas 87
that may be required, setback building lines for structures used 88
primarily for agritourism, and egress or ingress where such 89
regulation is necessary to protect public health and safety. 90

Nothing in division (C) (4) of this section confers power 91
on a county zoning commission, board of county commissioners, or 92
board of zoning appeals to require any parking area to be 93
improved in any manner, including requirements governing 94
drainage, parking area base, parking area paving, or any other 95
improvement. 96

Nothing in division (C) (4) of this section confers power 97
on a county zoning commission, board of county commissioners, or 98
board of zoning appeals to prohibit the use of any land or the 99
construction or use of buildings or structures that are used 100
primarily for vinting and selling wine that are located on land 101
any part of which is used for viticulture as provided in 102
division (A) of this section. 103

(D) (1) As used in division (C) (3) of this section, 104
"biologically derived methane gas" has the same meaning as in 105
section 5713.30 of the Revised Code. 106

(2) As used in division (C)(4) of this section, 107
"agritourism" has the same meaning as in section 901.80 of the 108
Revised Code. 109

(E) For purposes of division (B) of this section, 110
"agriculture" does not include agricultural activities conducted 111
on residential property for noncommercial purposes for an 112
individual's personal use and enjoyment. 113

Sec. 519.21. (A) Except as otherwise provided in divisions 114
(B) and (D) of this section, sections 519.02 to 519.25 of the 115
Revised Code confer no power on any township zoning commission, 116
board of township trustees, or board of zoning appeals to 117
prohibit the use of any land for agricultural purposes or the 118
construction or use of buildings or structures incident to the 119
use for agricultural purposes of the land on which such 120
buildings or structures are located, including buildings or 121
structures that are used primarily for vinting and selling wine 122
and that are located on land any part of which is used for 123
viticulture, and no zoning certificate shall be required for any 124
such building or structure. 125

(B) ~~A-Except as provided in division (F) of this section,~~ 126
a township zoning resolution, or an amendment to such 127
resolution, may in any platted subdivision approved under 128
section 711.05, 711.09, or 711.10 of the Revised Code, or in any 129
area consisting of fifteen or more lots approved under section 130
711.131 of the Revised Code that are contiguous to one another, 131
or some of which are contiguous to one another and adjacent to 132
one side of a dedicated public road, and the balance of which 133
are contiguous to one another and adjacent to the opposite side 134
of the same dedicated public road regulate: 135

(1) Agriculture on lots of one acre or less; 136

(2) Buildings or structures incident to the use of land 137
for agricultural purposes on lots greater than one acre but not 138
greater than five acres by: set back building lines; height; and 139
size; 140

(3) Dairying and animal and poultry husbandry on lots 141
greater than one acre but not greater than five acres when at 142
least thirty-five per cent of the lots in the subdivision are 143
developed with at least one building, structure, or improvement 144
that is subject to real property taxation or that is subject to 145
the tax on manufactured and mobile homes under section 4503.06 146
of the Revised Code. After thirty-five per cent of the lots are 147
so developed, dairying and animal and poultry husbandry shall be 148
considered nonconforming use of land and buildings or structures 149
pursuant to section 519.19 of the Revised Code. 150

Division (B) of this section confers no power on any 151
township zoning commission, board of township trustees, or board 152
of zoning appeals to regulate agriculture, buildings or 153
structures, and dairying and animal and poultry husbandry on 154
lots greater than five acres. 155

(C) Such sections confer no power on any township zoning 156
commission, board of township trustees, or board of zoning 157
appeals to prohibit in a district zoned for agricultural, 158
industrial, residential, or commercial uses, the use of any land 159
for: 160

(1) A farm market where fifty per cent or more of the 161
gross income received from the market is derived from produce 162
raised on farms owned or operated by the market operator in a 163
normal crop year. However, a board of township trustees, as 164
provided in section 519.02 of the Revised Code, may regulate 165
such factors pertaining to farm markets as size of the 166

structure, size of parking areas that may be required, set back 167
building lines, and egress or ingress, where such regulation is 168
necessary to protect the public health and safety. 169

(2) Biodiesel production, biomass energy production, or 170
electric or heat energy production if the land on which the 171
production facility is located qualifies as land devoted 172
exclusively to agricultural use under sections 5713.30 to 173
5713.37 of the Revised Code for real property tax purposes. As 174
used in division (C) (2) of this section, "biodiesel," "biomass 175
energy," and "electric or heat energy" have the same meanings as 176
in section 5713.30 of the Revised Code. 177

(3) Biologically derived methane gas production if the 178
land on which the production facility is located qualifies as 179
land devoted exclusively to agricultural use under sections 180
5713.30 to 5713.37 of the Revised Code for real property tax 181
purposes and if the facility that produces the biologically 182
derived methane gas does not produce more than seventeen million 183
sixty thousand seven hundred ten British thermal units, five 184
megawatts, or both. 185

(4) Agritourism. However, a board of township trustees, as 186
provided in section 519.02 of the Revised Code, may regulate 187
such factors pertaining to agritourism, except farm markets as 188
described in division (C) (1) of this section, as size of a 189
structure used primarily for agritourism, size of parking areas 190
that may be required, setback building lines for structures used 191
primarily for agritourism, and egress or ingress where such 192
regulation is necessary to protect public health and safety. 193

Nothing in division (C) (4) of this section confers power 194
on a township zoning commission, board of township trustees, or 195
board of zoning appeals to require any parking area to be 196

improved in any manner, including requirements governing 197
drainage, parking area base, parking area paving, or any other 198
improvement. 199

Nothing in division (C) (4) of this section confers power 200
on a township zoning commission, board of township trustees, or 201
board of zoning appeals to prohibit the use of any land or the 202
construction or use of buildings or structures that are used 203
primarily for vinting and selling wine that are located on land 204
any part of which is used for viticulture as provided in 205
division (A) of this section. 206

(D) Nothing in this section prohibits a township zoning 207
commission, board of township trustees, or board of zoning 208
appeals from regulating the location of medical marijuana 209
cultivators, processors, or retail dispensaries or from 210
prohibiting such cultivators, processors, or dispensaries from 211
being located in the unincorporated territory of the township. 212

~~(D)~~(E) (1) As used in division (C) (3) of this section, 213
"biologically derived methane gas" has the same meaning as in 214
section 5713.30 of the Revised Code. 215

(2) As used in division (C) (4) of this section, 216
"agritourism" has the same meaning as in section 901.80 of the 217
Revised Code. 218

(F) For purposes of division (B) of this section, 219
"agriculture" does not include agricultural activities conducted 220
on residential property for noncommercial purposes for an 221
individual's personal use and enjoyment. 222

Sec. 901.60. (A) As used in this section: 223

(1) "Acreage of the residential property" means the 224
precise acreage of a parcel of residential property as listed by 225

<u>the county auditor.</u>	226
<u>(2) "Nuisance" means the loud and frequent or habitual</u>	227
<u>sounds from small livestock kept in accordance with this section</u>	228
<u>that causes serious annoyance or disturbance to other persons.</u>	229
<u>(3) "Small livestock" means goats, chickens and similar</u>	230
<u>fowl, and rabbits and similar small animals. For purposes of</u>	231
<u>this section, roosters are not small livestock.</u>	232
<u>(B) A person who owns a parcel of residential property not</u>	233
<u>generally used for agricultural purposes may keep, harbor,</u>	234
<u>breed, or maintain small livestock on the residential property</u>	235
<u>unless any of the following applies:</u>	236
<u>(1) The small livestock creates a nuisance.</u>	237
<u>(2) The small livestock is kept in a manner so as to cause</u>	238
<u>noxious odors or unsanitary conditions that result in a public</u>	239
<u>health concern.</u>	240
<u>(3) The structure used to house the small livestock is not</u>	241
<u>solidly constructed, of an adequate size necessary to house the</u>	242
<u>small livestock in a comfortable and sanitary manner, or kept</u>	243
<u>more than ten feet from neighboring property lines.</u>	244
<u>(4) The number of units of small livestock kept, harbored,</u>	245
<u>bred, or maintained on the residential property divided by the</u>	246
<u>acreage of the residential property exceeds a ratio of one small</u>	247
<u>livestock unit per one acre of residential property, in</u>	248
<u>accordance with the small livestock unit chart as follows:</u>	249
<u>Small livestock unit chart</u>	250
<u>Type of animal: Unit measurement:</u>	251
<u>Goat 1 goat = 0.3 unit</u>	252

Chicken or similar fowl 1 fowl = 0.05 unit 253

Rabbit or similar small animal 1 animal = 0.05 unit 254

(C) Division (B) (4) of this section does not apply to a 255
person if a local government, by law, allows the number of units 256
of small livestock kept, harbored, bred, or maintained on a 257
parcel of residential property to exceed a ratio of one small 258
livestock unit per one acre of residential property, and the 259
person is in compliance with that law. 260

Section 2. That existing sections 303.21 and 519.21 of the 261
Revised Code are hereby repealed. 262

Section 3. Section 519.21 of the Revised Code is presented 263
in this act as a composite of the section as amended by both 264
Sub. H.B. 523 and Sub. S.B. 75 of the 131st General Assembly. 265
The General Assembly, applying the principle stated in division 266
(B) of section 1.52 of the Revised Code that amendments are to 267
be harmonized if reasonably capable of simultaneous operation, 268
finds that the composite is the resulting version of the section 269
in effect prior to the effective date of the section as 270
presented in this act. 271