

By: Pickett

H.B. No. 2748

Substitute the following for H.B. No. 2748:

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C.S.H.B. No. 2748

A BILL TO BE ENTITLED

AN ACT

relating to requirements for the issuance of land development permits by political subdivisions.

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

SECTION 1. Sections 245.004, 245.005, and 245.006, Local Government Code, are amended to read as follows:

Sec. 245.004. EXEMPTIONS. This chapter does not apply to:

(1) a permit that is at least two years old, is issued for the construction of a building or structure intended for human occupancy or habitation, and is issued under laws, ordinances, procedures, rules, or regulations adopting only:

(A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; or

(B) local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons;

(2) municipal zoning regulations that do not affect landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage, or building size or that do not change development permitted by a restrictive covenant required by a municipality;

(3) regulations that specifically control only the use of land in a municipality that does not have zoning and that do not

1 affect landscaping or tree preservation, open space or park
2 dedication, lot size, lot dimensions, lot coverage, or building
3 size;

4 (4) regulations for sexually oriented businesses;

5 (5) municipal or county ordinances, rules,
6 regulations, or other requirements affecting colonias;

7 (6) fees imposed in conjunction with development
8 permits;

9 (7) regulations for annexation that do not affect
10 landscaping or tree preservation or open space or park dedication;

11 (8) regulations for utility connections;

12 (9) regulations to prevent imminent destruction of
13 property or injury to persons from flooding that are effective only
14 within a flood plain established by a federal flood control program
15 and enacted to prevent the flooding of buildings intended for
16 public occupancy;

17 (10) construction standards for public works located
18 on public lands or easements; or

19 (11) regulations to prevent the imminent destruction
20 of property or injury to persons if the regulations do not:

21 (A) affect landscaping or tree preservation,
22 open space or park dedication, lot size, lot dimensions, lot
23 coverage, building size, residential or commercial density, or the
24 timing of a project; or

25 (B) change development permitted by a
26 restrictive covenant required by a municipality.

27 Sec. 245.005. DORMANT PROJECTS. (a) ~~Notwithstanding any~~

1 ~~other provision of this chapter, [A]~~after the first anniversary of
2 the effective date of this chapter, a regulatory agency may enact an
3 ordinance, rule, or regulation that places an expiration date on a
4 permit if as of the first anniversary of the effective date of this
5 chapter: (i) the permit does not have an expiration date; and (ii)
6 no progress has been made towards completion of the project. Any
7 ordinance, rule, or regulation enacted pursuant to this subsection
8 shall place an expiration date of no earlier than the fifth
9 anniversary of the effective date of this chapter.

10 (b) A regulatory agency may enact an ordinance, rule, or
11 regulation that places an expiration date of not less than two years
12 on a permit if no progress has been made towards completion of the
13 project. Notwithstanding any other provision of this chapter, any
14 ordinance, rule, or regulation enacted pursuant to this section
15 shall place an expiration date on a project of no earlier than the
16 fifth anniversary of the date the first permit application was
17 filed for the project if no progress has been made towards
18 completion of the project.

19 (c) Progress towards completion of the project shall
20 include any one ~~or more~~ of the following:

21 (1) an application for a final plat or plan is
22 submitted to a regulatory agency;

23 (2) a good-faith attempt is made to file with a
24 regulatory agency an application for a permit necessary to begin or
25 continue towards completion of the project;

26 (3) costs have been incurred for developing the
27 project including, without limitation, costs associated with

1 roadway, utility, and other infrastructure facilities designed to
2 serve, in whole or in part, the project (but exclusive of land
3 acquisition) in the aggregate amount of five percent of the most
4 recent appraised market value of the real property on which the
5 project is located;

6 (4) fiscal security is posted with a regulatory agency
7 to ensure performance of an obligation required by the regulatory
8 agency; or

9 (5) utility connection fees or impact fees for the
10 project have been paid to a regulatory agency.

11 Sec. 245.006. ENFORCEMENT OF CHAPTER. (a) This chapter
12 may be enforced only through mandamus or declaratory or injunctive
13 relief.

14 (b) A political subdivision's immunity from suit is waived
15 in regard to an action under this chapter.

16 SECTION 2. (a) Sections 245.004 and 245.005, Local
17 Government Code, as amended by this Act, apply to a person who files
18 a permit application and demonstrates progress towards completion
19 of a project on or after September 1, 2005.

20 (b) Section 245.006, Local Government Code, as amended by
21 this Act, applies to a suit pending before a trial court on, or
22 filed on or after, September 1, 2005.

23 SECTION 3. This Act takes effect September 1, 2005.