

By: Pickett

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 (7) ~~[(8)]~~ regulations for utility connections;

12 (8) ~~[(9)]~~ regulations to prevent imminent destruction
13 of property or injury to persons from flooding that are effective
14 only within a flood plain established by a federal flood control
15 program and enacted to prevent the flooding of buildings intended
16 for public occupancy;

17 (9) ~~[(10)]~~ construction standards for public works
18 located on public lands or easements; or

19 (10) ~~[(11)]~~ regulations to prevent the imminent
20 destruction of property or injury to persons if the regulations do
21 not:

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

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

1 Sec. 245.005. DORMANT PROJECTS. A [~~Notwithstanding any~~
 2 ~~other provision of this chapter, after the first anniversary of the~~
 3 ~~effective date of this chapter, a~~] regulatory agency may enact an
 4 ordinance, rule, or regulation that places an expiration date on a
 5 permit if [~~as of the first anniversary of the effective date of this~~
 6 ~~chapter: (i) the permit does not have an expiration date; and~~
 7 ~~(ii)~~] no progress has been made towards completion of the project.
 8 Notwithstanding any other provision of this chapter, any [~~Any~~]
 9 ordinance, rule, or regulation enacted pursuant to this section
 10 shall place an expiration date on a permit of no earlier than the
 11 fifth anniversary of the [~~effective~~] date the permit application
 12 was filed [~~of this chapter~~]. Progress towards completion of the
 13 project shall include any one [~~or more~~] of the following:

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

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

19 (3) costs have been incurred for developing the
 20 project including, without limitation, costs associated with
 21 roadway, utility, and other infrastructure facilities designed to
 22 serve, in whole or in part, the project (but exclusive of land
 23 acquisition) in the aggregate amount of five percent of the most
 24 recent appraised market value of the real property on which the
 25 project is located;

26 (4) fiscal security is posted with a regulatory agency
 27 to ensure performance of an obligation required by the regulatory

1 agency; or

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

4 Sec. 245.006. ENFORCEMENT OF CHAPTER. (a) This chapter may
5 be enforced only through mandamus or declaratory or injunctive
6 relief.

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

9 SECTION 2. (a) Sections 245.004 and 245.005, Local
10 Government Code, as amended by this Act, apply to a person who files
11 a permit application before, on, or after September 1, 2005.

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

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