

By: Harris, Hunter, Gates, Metcalf, et al.

H.B. No. 23

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain persons to obtain third-party review of plats and property development plans, permits, and similar documents, and the inspection of an improvement related to such a document.

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

SECTION 1. Section 247.001(4), Local Government Code, as added by Chapter 654 (H.B. 14), Acts of the 88th Legislature, Regular Session, 2023, is amended to read as follows:

(4) "Plan" means a subdivision development plan, including a subdivision plan, subdivision construction plan, land development application, and site development plan ~~[has the meaning assigned by Section 212.001]~~.

SECTION 2. Chapter 247, Local Government Code, as added by Chapter 654 (H.B. 14), Acts of the 88th Legislature, Regular Session, 2023, is amended by adding Section 247.0015 to read as follows:

Sec. 247.0015. CONSTRUCTION OF CHAPTER. This chapter may not be construed to exempt an applicant or property owner from compliance with:

(1) the requirements of Chapters 7 and 16, Water Code, or health and safety requirements under state and federal law; or

(2) the requirements of the stormwater permitting program under the national pollutant discharge elimination system

1 established by 33 U.S.C. Section 1342.

2 SECTION 3. Section 247.002, Local Government Code, as added  
3 by Chapter 654 (H.B. 14), Acts of the 88th Legislature, Regular  
4 Session, 2023, is amended to read as follows:

5 Sec. 247.002. OPTION FOR THIRD-PARTY REVIEW OR INSPECTION  
6 ~~[REQUIRED]~~. (a) Notwithstanding any other law and except as  
7 provided by Section 247.0021, an applicant for ~~[If a regulatory~~  
8 ~~authority does not approve, conditionally approve, or disapprove a~~  
9 ~~development document by the 15th day after the date prescribed by a~~  
10 ~~provision of this code for the approval, conditional approval, or~~  
11 ~~disapproval of the document,]~~ any required review of a development  
12 ~~[the]~~ document may obtain review of the document from ~~[be performed~~  
13 ~~by]~~ a person:

14 (1) other than:

15 (A) the applicant; or

16 (B) a person whose work is the subject of the  
17 application; and

18 (2) who is:

19 (A) employed by the regulatory authority to  
20 review development documents;

21 (B) employed by another political subdivision to  
22 review development documents, if the regulatory authority has  
23 approved the person to review development documents; or

24 (C) an engineer:

25 (i) licensed under Chapter 1001,  
26 Occupations Code; and

27 (ii) competent in a branch of engineering

applicable to the development document and designated by the engineer as an area of competency to the Texas Board of Professional Engineers.

(b) Notwithstanding any other law and except as provided by Section 247.0021, an owner of land or an improvement to the land that requires a development ~~[If a regulatory authority does not conduct a required development inspection by the 15th day after the date prescribed by a provision of this code for conducting the inspection, the]~~ inspection may obtain the inspection from ~~[be conducted by]~~ a person:

(1) other than:

(A) the owner of the land or improvement to the land that is the subject of the inspection; or

(B) a person whose work is the subject of the inspection; and

(2) who is:

(A) certified to inspect buildings by the International Code Council;

(B) employed by the regulatory authority as a building inspector;

(C) employed by another political subdivision as a building inspector, if the regulatory authority has approved the person to perform inspections; or

(D) an engineer:

(i) licensed under Chapter 1001, Occupations Code; and

(ii) competent in a branch of engineering

applicable to development inspection and designated by the engineer as an area of competency to the Texas Board of Professional Engineers.

(c) Notwithstanding any other law and except as provided by Subsection (d), an applicant or owner of land or an improvement to land who uses a person to conduct a review or inspection under this section may rely on the determinations made by the person, and any permits and approvals issued based on those determinations are binding on the regulatory authority.

(d) A regulatory authority may rescind a development document granted as the result of a review or development inspection conducted by a person under Section 247.002 if the review or inspection did not comply with this chapter or violated a law, rule, standard, or other measure applicable to the regulatory authority for the review or inspection. After the rescission, the regulatory authority may prohibit a person from conducting another review or inspection for the regulatory authority in accordance with Section 247.007.

(e) This section does not limit the authority of a municipally owned utility, as that term is defined under Section 11.003, Utilities Code, to review development documents to ensure the safe interconnection of electrical installations within the utility's service area.

SECTION 4. Chapter 247, Local Government Code, as added by Chapter 654 (H.B. 14), Acts of the 88th Legislature, Regular Session, 2023, is amended by adding Section 247.0021 to read as follows:

1       Sec. 247.0021. CERTIFICATE OF OCCUPANCY INSPECTION BY  
2 REGULATORY AUTHORITY. As the final approval required for a land  
3 development or improvement, a regulatory authority may require and  
4 conduct a development inspection as a condition to receive a  
5 certificate of occupancy issued by the regulatory authority. If the  
6 regulatory authority requires an inspection under this section, the  
7 regulatory authority:

8           (1) shall conduct the inspection, make a final  
9 determination on whether to issue a certificate of occupancy, issue  
10 the certificate if approved, and notify the applicant of the  
11 results of the determination not later than the 10th day after the  
12 date the applicant requests the inspection; and

13           (2) except as provided by Section 247.002(d), may not  
14 use the inspection to affect the validity of the review of a  
15 development document or development inspection previously  
16 conducted by a third party for the property that is the subject of  
17 the inspection.

18       SECTION 5. Section 247.004, Local Government Code, as added  
19 by Chapter 654 (H.B. 14), Acts of the 88th Legislature, Regular  
20 Session, 2023, is amended to read as follows:

21       Sec. 247.004. THIRD-PARTY REQUIREMENTS. (a) A person who  
22 reviews a development document or conducts a development inspection  
23 under Section 247.002 shall:

24           (1) review the document, conduct the inspection, and  
25 take all other related actions in accordance with all applicable  
26 provisions of law as if the person is the regulatory authority; and

27           (2) not later than the 15th day after the date the

1 person completes the review or inspection, provide notice to the  
2 regulatory authority of the results of the review or inspection.

3 (b) A regulatory authority may:

4 (1) prescribe a reasonable format for the notice  
5 required under Subsection (a); and

6 (2) require a person who reviews a development  
7 document or conducts a development inspection to provide to the  
8 regulatory authority a copy of any development document or  
9 inspection-related note or report the person creates as part of the  
10 review or inspection.

11 (c) A person who reviews a development document or conducts  
12 a development inspection under Section 247.002 shall maintain  
13 commercially reasonable professional liability insurance with a  
14 minimum annual limit of \$500,000 per occurrence and \$1 million in  
15 the aggregate and that names the regulatory authority and the  
16 applicant as additional insureds. The person shall provide a  
17 certificate of the required insurance to the regulatory authority  
18 before the person may commence a review or inspection under Section  
19 247.002.

20 SECTION 6. Chapter 247, Local Government Code, as added by  
21 Chapter 654 (H.B. 14), Acts of the 88th Legislature, Regular  
22 Session, 2023, is amended by adding Section 247.0043 to read as  
23 follows:

24 Sec. 247.0043. LIABILITY. (a) A regulatory authority is  
25 not liable for a review or inspection conducted by a person under  
26 Section 247.002.

27 (b) A person reviewing a development document or conducting

1 a development inspection under Section 247.002 is liable for  
2 damages resulting from the person's acts or omissions in conducting  
3 the review or inspection.

4 SECTION 7. Chapter 247, Local Government Code, as added by  
5 Chapter 654 (H.B. 14), Acts of the 88th Legislature, Regular  
6 Session, 2023, is amended by adding Section 247.0047 to read as  
7 follows:

8 Sec. 247.0047. REQUIRED PROVISION OF NECESSARY  
9 INFORMATION; RELIANCE. (a) A regulatory authority shall:

10 (1) post on the regulatory authority's Internet  
11 website each law, rule, standard, fee schedule, and other document  
12 necessary for a person to review a development document or conduct a  
13 development inspection under Section 247.002; or

14 (2) provide an electronic copy of the information  
15 described by Subdivision (1) on request not later than the second  
16 business day after the date the request is made.

17 (b) A person who reviews a development document or conducts  
18 a development inspection under Section 247.002 may rely on the  
19 accuracy and completeness of the information provided by a  
20 regulatory authority under Subsection (a).

21 SECTION 8. Section 247.005, Local Government Code, as added  
22 by Chapter 654 (H.B. 14), Acts of the 88th Legislature, Regular  
23 Session, 2023, is amended to read as follows:

24 Sec. 247.005. WAIVER AND ADDITIONAL APPROVAL PROHIBITED. A  
25 regulatory authority may not request or require an applicant to:

26 (1) waive:

27 (A) the applicant's right to obtain third-party

1 review under Section 247.002; or

2 (B) a deadline or other procedure under this  
3 chapter; or

4 (2) obtain the regulatory authority's approval for a  
5 development document or development inspection that a third-party  
6 reviewer has approved.

7 SECTION 9. Chapter 247, Local Government Code, as added by  
8 Chapter 654 (H.B. 14), Acts of the 88th Legislature, Regular  
9 Session, 2023, is amended by adding Section 247.007 to read as  
10 follows:

11 Sec. 247.007. REGULATORY AUTHORITY ENFORCEMENT. A  
12 regulatory authority may prohibit a person from performing a  
13 development document review or conducting a development inspection  
14 under Section 247.002 for the regulatory authority if the person:

15 (1) has repeatedly violated this chapter or a relevant  
16 law, rule, standard, or measure applicable to the regulatory  
17 authority for a review or inspection for the regulatory authority  
18 not fewer than five times; or

19 (2) knowingly or intentionally makes a  
20 misrepresentation, as determined by the regulatory authority,  
21 related to a review of a development document or development  
22 inspection conducted under Section 247.002 for any regulatory  
23 authority.

24 SECTION 10. Chapter 247, Local Government Code, as added by  
25 Chapter 654 (H.B. 14), Acts of the 88th Legislature, Regular  
26 Session, 2023, is amended by adding Section 247.008 to read as  
27 follows:



1       Sec. 247.008. AUTHORIZED REGULATORY AUTHORITY DISAPPROVAL  
2 OF LAND DEVELOPMENT. A regulatory authority may disapprove land  
3 development for which a person is reviewing a development document  
4 or performing a development inspection under Section 247.002 if:

5           (1) the regulatory authority believes that the  
6 fundamental constitutional rights of persons in the area of the  
7 development are being violated by the approval of the development;  
8 or

9           (2) the applicant or owner of the land or improvement  
10 that is the subject of a development inspection under Section  
11 247.002 is under a felony criminal investigation or an  
12 investigation for violating fundamental constitutional rights by  
13 the attorney general, a county attorney, or a district attorney.

14       SECTION 11. (a) Except as provided by Subsection (b) of  
15 this section, Chapter 247, Local Government Code, as amended by  
16 this Act, applies only to a development document or a request for a  
17 development inspection, as those terms are defined by Section  
18 247.001 of that chapter, that was not final on the effective date of  
19 this Act. A development document or request for a development  
20 inspection that was final before the effective date of this Act is  
21 governed by the law applicable to the document or inspection  
22 immediately before the effective date of this Act, and that law is  
23 continued in effect for that purpose.

24       (b) Section 247.004(c), Local Government Code, as added by  
25 this Act, applies only to the review of a development document or  
26 development inspection, as those terms are defined by Section  
27 247.001, Local Government Code, that begins on or after September

1 1, 2025.

2       SECTION 12. This Act takes effect immediately if it  
3 receives a vote of two-thirds of all the members elected to each  
4 house, as provided by Section 39, Article III, Texas Constitution.  
5 If this Act does not receive the vote necessary for immediate  
6 effect, this Act takes effect September 1, 2025.