

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, property classification, 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) After

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

11 (b) A regulatory agency may enact an ordinance, rule, or
12 regulation that places an expiration date of not less than two years
13 on an individual permit if no progress has been made towards
14 completion of the project. Notwithstanding any other provision of
15 this chapter, any ordinance, rule, or regulation enacted pursuant
16 to this section shall place an expiration date on a project of no
17 earlier than the fifth anniversary of the date the first permit
18 application was filed for the project if no progress has been made
19 towards completion of the project. Nothing in this subsection
20 shall be deemed to affect the timing of a permit issued solely under
21 the authority of Chapter 366, Health and Safety Code, by the Texas
22 Commission on Environmental Quality or its authorized agent.

23 (c) Progress towards completion of the project shall
24 include any one ~~[or more]~~ of the following:

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

27 (2) a good-faith attempt is made to file with a

1 regulatory agency an application for a permit necessary to begin or
2 continue towards completion of the project;

3 (3) costs have been incurred for developing the
4 project including, without limitation, costs associated with
5 roadway, utility, and other infrastructure facilities designed to
6 serve, in whole or in part, the project (but exclusive of land
7 acquisition) in the aggregate amount of five percent of the most
8 recent appraised market value of the real property on which the
9 project is located;

10 (4) fiscal security is posted with a regulatory agency
11 to ensure performance of an obligation required by the regulatory
12 agency; or

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

15 Sec. 245.006. ENFORCEMENT OF CHAPTER. (a) This chapter
16 may be enforced only through mandamus or declaratory or injunctive
17 relief.

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

20 SECTION 2. (a) Section 245.004, Local Government Code, as
21 amended by this Act, applies to a permit where a person files a
22 permit application and demonstrates progress towards completion of
23 a project before, on, or after September 1, 2005.

24 (b) Subsection (b), Section 245.005, Local Government Code,
25 as amended by this Act, applies to a permit where a person files a
26 permit application on or after September 1, 2005.

27 (c) Section 245.006, Local Government Code, as amended by

1 this Act, applies to a suit pending before a trial court on, or
2 filed on or after, September 1, 2005.

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

David Newkirk
President of the Senate

Tom Craddick
Speaker of the House

I hereby certify that S.B. No. 574 passed the Senate on April 14, 2005, by the following vote: Yeas 30, Nays 1; and that the Senate concurred in House amendments on April 29, 2005, by the following vote: Yeas 28, Nays 1.

Datsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 574 passed the House, with amendments, on April 27, 2005, by a non-record vote.

Robert Haney
Chief Clerk of the House

Approved:

9 MAY '05

Date

RICK PERRY
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
6 PM O'CLOCK

Roger Williams
Secretary of State
MAY 09 2005