

AN ACT

relating to municipal regulation of subdivisions and approval of subdivision plans or plats.

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

SECTION 1. Sections 212.001(2) and (3), Local Government Code, are amended to read as follows:

(2) ~~["Plan" means a subdivision development plan, including a subdivision plan, subdivision construction plan, site plan, land development application, and site development plan.~~

~~[(3)]~~ "Plat" includes a preliminary plat, ~~[general plan,]~~ final plat, and replat.

SECTION 2. Subchapter A, Chapter 212, Local Government Code, is amended by adding Section 212.0015 to read as follows:

Sec. 212.0015. CONSTRUCTION OF SUBCHAPTER. This subchapter may not be construed to restrict a municipality from establishing a submittal calendar to be used by an applicant to facilitate compliance with the approval process described by Sections 212.009, 212.0091, 212.0093, and 212.0095.

SECTION 3. Subchapter A, Chapter 212, Local Government Code, is amended by adding Section 212.0021 to read as follows:

Sec. 212.0021. SUBDIVISION REQUIREMENTS. The governing body of a municipality, by ordinance and after notice is published in a newspaper of general circulation in the municipality, may:

(1) adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road; and

(2) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices.

SECTION 4. Section 212.004, Local Government Code, is amended by amending Subsections (a) and (b) and adding Subsections (f) and (g) to read as follows:

(a) The owner of a tract of land located within the limits or in the extraterritorial jurisdiction of a municipality who divides the tract in two or more parts to lay out a subdivision of the tract, including an addition to a municipality, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended by the owner of the tract to be dedicated to public use ~~[or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts]~~ must have a plat of the subdivision prepared. A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A division of land under this subsection does not include a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated.

(b) To be recorded, the plat must:

(1) describe the subdivision by metes and bounds;

(2) locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part; and

(3) state the dimensions of the subdivision and of each street, alley, square, park, or other part of the tract intended by the owner of the tract to be dedicated to public use ~~[or for the use of purchasers or owners of lots fronting on or adjacent~~

~~to the street, alley, square, park, or other part].~~

(f) A plat is considered filed on the date the applicant submits the plat, along with a completed plat application and the application fees and other requirements prescribed by or under this subchapter, to:

(1) the governing body of the municipality; or

(2) the municipal authority responsible for approving plats.

(g) The governing body of a municipality or the municipal authority responsible for approving plats may not require an analysis, study, document, agreement, or similar requirement to be included in or as part of an application for a plat, development permit, or subdivision of land that is not explicitly allowed by state law.

SECTION 5. Section 212.005, Local Government Code, is amended to read as follows:

Sec. 212.005. APPROVAL BY MUNICIPALITY REQUIRED. (a) The municipal authority responsible for approving plats must approve a plat or replat that is required to be prepared under this subchapter and that satisfies the requirements of this subchapter ~~[all applicable regulations].~~

(b) This subchapter may not be construed to convey any authority to a municipality regarding the completeness of an application or the approval of a plat or replat that is not explicitly granted by this subchapter.

SECTION 6. Sections 212.0065(a) and (c), Local Government Code, are amended to read as follows:

(a) The governing body of a municipality or the municipal planning commission may delegate to one or more officers or employees of the municipality or of a utility owned or operated by the municipality the ability to approve, approve with conditions, or disapprove a plat ~~[÷~~

~~[(1) amending plats described by Section 212.016;~~

~~[(2) minor plats or replats involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities; or~~

~~[(3) a replat under Section 212.0145 that does not require the creation of any new street or the extension of municipal facilities].~~

(c) An applicant has the right to appeal to the governing body of the municipality or the municipal planning commission if the designated [The] person disapproves a [or persons shall not disapprove the] plat [and shall be required to refer any plat which the person or persons refuse to approve to the municipal authority responsible for approving plats within the time period specified in Section 212.009].

SECTION 7. Subchapter A, Chapter 212, Local Government Code, is amended by adding Section 212.0081 to read as follows:

Sec. 212.0081. REQUIRED APPLICATION MATERIALS. (a) Each municipality to which this subchapter applies shall adopt and make available to the public a complete, written list of all documentation and other information that the municipality requires to be submitted with a plat application. The required documentation and other information must be related to a requirement authorized under this subchapter.

(b) An application submitted to the municipal authority responsible for approving plats that contains all documents and other information on the list provided under Subsection (a) is considered complete.

(c) A municipality that operates an Internet website shall publish and continuously maintain the list described by Subsection (a) on the Internet website not later than the 30th day after the date the municipality adopts or amends the list.

(d) A municipality that does not operate an Internet website shall publish the list described by Subsection (a) on adoption of

the list or an amendment to the list in:

(1) a newspaper of general circulation in the municipality; and

(2) a public place in the location in which the governing body of the municipality meets.

SECTION 8. Sections 212.009(a), (b), (b-2), (c), and (d), Local Government Code, are amended to read as follows:

(a) The municipal authority responsible for approving plats shall approve, approve with conditions, or disapprove a ~~[plan or]~~ plat within 30 days after the date the ~~[plan or]~~ plat is filed. A ~~[plan or]~~ plat is approved by the municipal authority unless it is disapproved within that period and in accordance with Section 212.0091.

(b) If an ordinance requires that a ~~[plan or]~~ plat be approved by the governing body of the municipality in addition to the planning commission, the governing body shall approve, approve with conditions, or disapprove the ~~[plan or]~~ plat within 30 days after the date the ~~[plan or]~~ plat is approved by the planning commission or is approved by the inaction of the commission. A ~~[plan or]~~ plat is approved by the governing body unless it is disapproved within that period and in accordance with Section 212.0091.

(b-2) Notwithstanding Subsection (a) or (b), the parties ~~shall~~ ~~[may]~~ extend the 30-day period described by those subsections for one or more periods, each ~~[a period]~~ not to exceed 30 days if:

(1) both:

(A) the applicant requests the extension in writing to the municipal authority responsible for approving plats or the governing body of the municipality, as applicable; and

(B) ~~[-2-]~~ the municipal authority or governing body, as applicable, approves the extension request; or

(2) Chapter 2007, Government Code, requires the municipality to perform a takings impact assessment in connection with the plan or plat.

(c) If a ~~[plan or]~~ plat is approved, the municipal authority giving the approval shall endorse the ~~[plan or]~~ plat with a certificate indicating the approval. The certificate must be signed by:

(1) the authority's presiding officer and attested by the authority's secretary; or

(2) a majority of the members of the authority.

(d) If the municipal authority responsible for approving plats fails to approve, approve with conditions, or disapprove a ~~[plan or]~~ plat within the prescribed period, the authority on the applicant's request shall issue a certificate stating the date the ~~[plan or]~~ plat was filed and that the authority failed to act on the ~~[plan or]~~ plat within the period. The certificate is effective in place of the endorsement required by Subsection (c).

SECTION 9. Section 212.0091(a), Local Government Code, is amended to read as follows:

(a) A municipal authority or governing body that conditionally approves or disapproves a ~~[plan or]~~ plat under this subchapter shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval.

SECTION 10. Sections 212.0093, 212.0095, and 212.0096, Local Government Code, are amended to read as follows:

Sec. 212.0093. APPROVAL PROCEDURE: APPLICANT RESPONSE TO CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional approval or disapproval of a ~~[plan or]~~ plat under Section 212.0091, the applicant may submit to the municipal authority or governing body that conditionally approved or disapproved the ~~[plan or]~~ plat a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval

provided. The municipal authority or governing body may not establish a deadline for an applicant to submit the response.

Sec. 212.0095. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL OF RESPONSE. (a) A municipal authority or governing body that receives a response under Section 212.0093 shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved ~~[plan or]~~ plat not later than the 15th day after the date the response was submitted.

(b) A municipal authority or governing body that conditionally approves or disapproves a ~~[plan or]~~ plat following the submission of a response under Section 212.0093:

(1) must comply with Section 212.0091; and

(2) may disapprove the ~~[plan or]~~ plat only for a specific condition or reason provided to the applicant under Section 212.0091.

(c) A municipal authority or governing body that receives a response under Section 212.0093 shall approve a previously conditionally approved or disapproved ~~[plan or]~~ plat if the response adequately addresses each condition of the conditional approval or each reason for the disapproval.

(d) A previously conditionally approved or disapproved ~~[plan or]~~ plat is approved if:

(1) the applicant filed a response that meets the requirements of Subsection (c); and

(2) the municipal authority or governing body that received the response does not disapprove the ~~[plan or]~~ plat on or before the date required by Subsection (a) and in accordance with Section 212.0091.

Sec. 212.0096. APPROVAL PROCEDURE: ALTERNATIVE APPROVAL PROCESS. (a) Notwithstanding Sections 212.009, 212.0091, 212.0093, and 212.0095, an applicant may elect at any time to seek approval for a ~~[plan or]~~ plat under an alternative approval process adopted by a municipality if the process allows for a shorter approval period than the approval process described by Sections 212.009, 212.0091, 212.0093, and 212.0095.

(b) An applicant that elects to seek approval under the alternative approval process described by Subsection (a) is not:

(1) required to satisfy the requirements of Sections 212.009, 212.0091, 212.0093, and 212.0095 before bringing an action challenging a disapproval of a ~~[plan or]~~ plat under this subchapter; and

(2) prejudiced in any manner in bringing the action described by Subdivision (1), including satisfying a requirement to exhaust any and all remedies.

SECTION 11. Section 212.0099, Local Government Code, is amended to read as follows:

Sec. 212.0099. JUDICIAL REVIEW OF DISAPPROVAL. In a legal action challenging a disapproval of a ~~[plan or]~~ plat under this subchapter, the municipality has the burden of proving by clear and convincing evidence that the disapproval meets the requirements of this subchapter or any applicable case law. The court may not use a deferential standard.

SECTION 12. Section 212.010, Local Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) The municipal authority responsible for approving plats may not require the dedication of land within a subdivision for a future street or alley that is:

(1) not intended by the owner of the tract; and

(2) not included, funded, and approved in:

(A) a capital improvement plan adopted by the municipality; or

(B) a similar plan adopted by a county in which the municipality is located or the state.

(d) A municipal authority responsible for approving plats may not refuse to review a plat or to approve a plat for recordation

for failure to identify a corridor, as defined by Section 201.619, Transportation Code, unless the corridor is part of an agreement between the Texas Department of Transportation and a county in which the municipality is located under that section.

(e) If a municipal authority responsible for approving plats fails or refuses to approve a plat that meets the requirements of this subchapter, the owner of the tract that is the subject of the plat may bring an action in a district court in a county in which the tract is located for a writ of mandamus to compel the municipal authority to approve the plat by issuing to the owner applicable approval documentation. The applicant shall recover reasonable attorney's fees and court costs in the action if the applicant prevails. The municipality may recover reasonable attorney's fees and court costs in the action if the municipality prevails and the court finds the action is frivolous.

SECTION 13. As soon as practicable after the effective date of this Act but not later than January 1, 2024, each municipality shall adopt and publish the list described by Section 212.0081, Local Government Code, as added by this Act.

SECTION 14. The changes in law made by this Act apply only to an application submitted on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law applicable to the application immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 15. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 3699 was passed by the House on May 9, 2023, by the following vote: Yeas 130, Nays 12, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3699 on May 25, 2023, and requested the appointment of a conference committee to consider the differences between the two houses; that the House adopted the conference committee report on H.B. No. 3699 on May 28, 2023, by the following vote: Yeas 139, Nays 3, 1 present, not voting; and that the House adopted H.C.R. No. 126 authorizing certain corrections in H.B. No. 3699 on May 28, 2023, by the following vote: Yeas 142, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3699 was passed by the Senate, with amendments, on May 21, 2023, by the following vote: Yeas 22, Nays 9; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; that the Senate adopted the conference committee report on H.B. No. 3699 on May 28, 2023, by the following vote: Yeas 20, Nays 11; and that the Senate adopted H.C.R. No. 126 authorizing certain corrections in H.B. No. 3699 on May 28, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____
Date

Governor