

By: \_\_\_\_\_ .B. No. \_\_\_\_\_

Substitute the following for \_\_\_\_B. No. \_\_\_\_\_:

By: \_\_\_\_\_ C.S. \_\_\_\_B. No. \_\_\_\_\_

A BILL TO BE ENTITLED

AN ACT

relating to the procedure for approval of certain land development applications by a municipality or county.

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

SECTION 1. Section 212.001, Local Government Code, is amended by adding Subdivisions (1-a), (1-b), (1-c), (1-d), and (4) to read as follows:

(1-a) "File" means the act by a person of submitting, providing, delivering, or relaying by any means a copy of a land development application to a municipal body. The term includes all variations of the term, including "apply to and file," "filed," and "filing." The term does not include the acceptance,

acknowledgment, receipt, processing, or performance of a completeness check of the land development application or required document or any other action by a municipal body in response to the filing of a copy of the land development application.

(1-b) "Land development" means an activity relating to the development or redevelopment of land, including subdivision development, construction of subdivision improvements, site development, and development of on-site and off-site improvements.

(1-c) "Land development application" means an application or other document relating to land development under this chapter that is required to be approved by a municipal body before the land development may commence. The term includes a title or description used by municipalities to refer to those applications or other documents, including "preliminary plat," "plat," "final plat," "replat," "preliminary plan," "master

planning document," "master development plan," "plan," "general plan," "subdivision development plan," "subdivision construction plan," "subdivision plan," "site plan," or "site development plan." The term does not include an application or other document for which approval by a municipal body does not authorize the land development to commence.

(1-d) "Municipal body" means the applicable municipal authority for approving a land development application. The term includes a municipal planning commission or its designee, a municipality authority for approving land development applications or its designee, and the governing body of the municipality or its designee.

(4) "Required document" means a document required by the municipality or state or federal law for the approval of a land development application. The term includes, as applicable:

(A) associated drainage studies;

(B) traffic impact analyses;

(C) utility evaluations;

(D) geotechnical reports; and

(E) groundwater availability certifications

required under Section 212.0101.

SECTION 2. Section 212.008, Local Government Code, is amended to read as follows:

Sec. 212.008. APPLICATION FOR APPROVAL. (a) A person desiring approval of a land development application [~~plat~~] must apply to and file a copy of the application [~~plat~~] with the municipal planning commission or its designee or, if the municipality has no planning commission, the governing body of the municipality or its designee.

(b) Except as provided by Section 212.0101, a municipal body

may not require a person to file a required document or fulfill any other prerequisites or conditions before the person files a copy of a land development application with the body.

SECTION 3. Subchapter A, Chapter 212, Local Government Code, is amended by adding Sections 212.0082, 212.0083, and 212.0087 to read as follows:

Sec. 212.0082. APPROVAL PROCEDURE: REQUIRED DOCUMENTS. (a)  
A municipal body may require a person desiring approval of a land development application to submit a required document for the application only if:

(1) the governing body of the municipality has adopted the requirement by ordinance; and

(2) the municipality made available to the person before the filing of the application:

(A) a list of all required documents for the

application; or

(B) publications of all required documents for the application.

(b) A municipal body may not require a person to file new or additional required documents for which the requirements of Subsection (a) have not been met.

(c) A municipality body may not, on the grounds that a person has failed to file for a land development application a required document for which the requirements of Subsection (a) have not been met:

(1) refuse to accept, acknowledge, receive, or process the application or other required documents;

(2) disapprove the application or other required documents;

(3) consider the application or other required

documents incomplete; or

(4) refuse to comply with the procedures and timelines prescribed for land development applications and required documents under this subchapter with respect to the application and documents.

Sec. 212.0083. APPROVAL PROCEDURE: APPROVAL AND CONDITIONAL APPROVAL OF REQUIRED DOCUMENTS. (a) A person desiring approval of a land development application may file required documents with the application or after filing the application. If the person elects to file the documents afterwards, a municipal body may conditionally approve the application on the condition that the applicant file the documents in accordance with Subsection (c).

(b) An election by a person to file the required documents after filing a land development application is not grounds for a municipal body to:

(1) refuse to accept, acknowledge, receive, or process the application or documents;

(2) disapprove the application or documents;

(3) consider the application or documents incomplete;

or

(4) refuse to comply with the procedures and timelines prescribed for land development applications and required documents under this subchapter with respect to the person's application and documents.

(c) A municipal body that conditionally approves a land development application under Subsection (a) must:

(1) make an approval determination on each individual required document under the same approval procedures and timelines as those prescribed for a land development application under this subchapter;



(2) approve or disapprove, but not conditionally approve, each individual required document;

(3) provide to the applicant comments on a required document not later than the 30th day after the date the applicant files the document; and

(4) make an approval determination on a required document not later than the 60th day after the date the applicant files the document.

(d) On disapproval of a required document, an applicant may submit to the municipal body a written response that remedies each reason for disapproval. The municipal body may not establish a deadline for the applicant to submit the response.

(e) On receipt of a response under Subsection (d), a municipal body shall determine whether to approve or disapprove the applicant's previously disapproved required document not later

than the 15th day after the date the applicant submits the response.

Sec. 212.0087. APPROVAL PROCEDURE: BIFURCATED APPROVAL. (a) After receiving a request from at least five applicants and conducting a public hearing on the matter at which interested parties must be heard, a municipality shall establish a bifurcated approval procedure under this subchapter, including a phased approach to the approval of a land development application.

(b) Each phase of a bifurcated approval procedure adopted under Subsection (a) must be subject to the approval procedures prescribed by this subchapter.

(c) An applicant may, but is not required to, opt in to the bifurcated approval procedure established by a municipality under Subsection (a).

SECTION 4. 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 land development application [~~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 5. Sections 212.0093, 212.0095, 212.0096, 212.0097, and 212.0099, 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 land development application [~~plan or plat~~] under Section 212.0091, the applicant may submit to the

municipal [~~authority or governing~~] body that conditionally approved or disapproved the application [~~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 land development application [~~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 land development

application [~~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 application [~~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 land development application [~~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 land development application [~~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 application [~~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 212.0083, 212.009, 212.0091, 212.0093, and 212.0095, an applicant may elect at any time to seek approval for a land development application [~~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 212.0083, 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

212.0083, 212.009, 212.0091, 212.0093, and 212.0095 before bringing an action challenging a disapproval of a land development application [~~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.

Sec. 212.0097. APPROVAL PROCEDURE: WAIVER PROHIBITED. (a) A municipal [~~authority responsible for approving plats or the governing~~] body [~~of a municipality~~] may not request or require an applicant to waive a deadline or other approval procedure under this subchapter.

(b) An applicant may not waive a deadline or other approval procedure or any other provision or requirement under this subchapter.

Sec. 212.0099. JUDICIAL REVIEW OF DISAPPROVAL. In a legal

action challenging a disapproval of a land development application [~~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 6. Subchapter A, Chapter 232, Local Government Code, is amended by adding Section 232.0001 to read as follows:

Sec. 232.0001. DEFINITIONS. In this subchapter:

(1) "File" means the act by a person of submitting, providing, delivering, or relaying by any means a copy of a land development application to the commissioners court or the court's designee. The term includes all variations of the term, including "apply to and file," "filed," and "filing." The term does not include the acceptance, acknowledgment, receipt, processing, or performance of a completeness check of the land development



application or required document or any other action by the commissioners court or the court's designee in response to the filing of a copy of the land development application.

(2) "Land development" means an activity relating to the development or redevelopment of land, including subdivision development, construction of subdivision improvements, site development, and development of on-site and off-site improvements.

(3) "Land development application" means an application or other document relating to land development under this chapter that is required to be approved by the commissioners court or the court's designee before the land development may commence. The term includes a title or description used by counties to refer to those applications or other documents, including "preliminary plat," "plat," "final plat," and "replat." The term does not include an application or other document for which approval by the

commissioners court or the court's designee does not authorize the land development to commence.

(4) "Required document" means a document required by law for the approval of a land development application. The term includes groundwater availability certifications required under Section 232.0032, if applicable.

SECTION 7. Section 232.0023, Local Government Code, is amended to read as follows:

Sec. 232.0023. APPROVAL PROCEDURE: APPLICABILITY. The land development [~~plat~~] application approval procedures under this subchapter apply to a county regardless of whether the county has entered into an interlocal agreement, including an interlocal agreement between a municipality and county under Section 242.001(d).

SECTION 8. Subchapter A, Chapter 232, Local Government Code,

is amended by adding Sections 232.00235 and 232.0024 to read as follows:

Sec. 232.00235. APPROVAL PROCEDURE: REQUIRED DOCUMENTS AND CONDITIONAL APPROVAL. (a) A person desiring approval of a land development application may file required documents with the application or after filing the application. If the person elects to file the documents afterwards, the commissioners court or the court's designee may conditionally approve the application on the condition that the applicant file the documents in accordance with Subsection (c).

(b) An election by a person to file the required documents after filing a land development application is not grounds for the commissioners court or the court's designee to:

(1) refuse to accept, acknowledge, receive, or process the application or documents;

(2) disapprove the application or documents;

(3) consider the application or documents incomplete;

or

(4) refuse to comply with the procedures and timelines prescribed for land development applications and required documents under this subchapter with respect to the person's application and documents.

(c) The commissioners court or court's designee that conditionally approves a land development application under Subsection (a) must:

(1) make an approval determination on each individual required document under the same approval procedures and timelines as those prescribed for a land development application under this subchapter;

(2) approve or disapprove, but not conditionally

approve, each individual required document;

(3) provide to the applicant comments on a required document not later than the 30th day after the date the applicant files the document; and

(4) make an approval determination on a required document not later than the 60th day after the date the applicant files the document.

(d) On disapproval of a required document, an applicant may submit to the commissioners court or the court's designee a written response that remedies each reason for disapproval. The commissioners court or the court's designee may not establish a deadline for the applicant to submit the response.

(e) On receipt of a response under Subsection (d), a commissioners court or the court's designee shall determine whether to approve or disapprove the applicant's previously

disapproved required document not later than the 15th day after the date the applicant submits the response.

Sec. 232.0024. APPROVAL PROCEDURE: BIFURCATED APPROVAL. (a) After receiving a request from at least five applicants and conducting a public hearing on the matter at which interested parties must be heard, a county shall establish a bifurcated approval procedure under this subchapter, including a phased approach to the approval of a land development application.

(b) Each phase of a bifurcated approval procedure adopted under Subsection (a) must be subject to the approval procedures prescribed by this subchapter.

(c) An applicant may, but is not required to, opt in to the bifurcated approval procedure established by a county under Subsection (a).

SECTION 9. The heading to Section 232.0025, Local Government

Code, is amended to read as follows:

Sec. 232.0025. APPROVAL PROCEDURE: TIMELY APPROVAL OF APPLICATIONS AND REQUIRED DOCUMENTS [~~PLATS AND PLANS~~].

SECTION 10. Section 232.0025, Local Government Code, is amended by amending Subsections (a), (b), (c), (d), (f), (g), (h), and (i) and adding Subsections (b-1), (b-2), and (b-3) to read as follows:

(a) The commissioners court of a county or a person designated by the commissioners court shall issue a written list or publication of the required documents [~~documentation~~] and other information that must be submitted with a land development [~~plat~~] application. The documentation or other information must relate to a requirement authorized under this section or other applicable law and have been adopted as a requirement by the county by order. An application submitted to the commissioners court or the person

designated by the commissioners court that contains the documents and other information on the list is considered complete.

(b) If a person submits a land development [~~plat~~] application to the commissioners court that does not include all of the required documents [~~documentation~~] or other information required by Subsection (a), the commissioners court or the court's designee shall, not later than the 10th business day after the date the commissioners court receives the application, notify the applicant of the missing documents or other information. The commissioners court shall allow an applicant to timely submit the missing documents or other information.

(b-1) Except as provided by Section 232.0032, a commissioners court or the court's designee may not require a person to file a required document or fulfill any other prerequisites or conditions before the person files a copy of a



land development application.

(b-2) A commissioners court or the court's designee may not require a person to file new or additional required documents for which the requirements of Subsection (a) have not been met.

(b-3) A commissioners court or the court's designee may not, on the grounds that a person has failed to file for a land development application a required document for which the requirements of Subsection (a) have not been met:

(1) refuse to accept, acknowledge, receive, or process the application or other required documents;

(2) disapprove the application or other required documents;

(3) consider the application or other required documents incomplete; or

(4) refuse to comply with the procedures and timelines

prescribed for land development applications and required documents under this subchapter with respect to the application and documents.

(c) An application is considered complete when all required documents [~~documentation~~] or other information required by Subsection (a) is received. Acceptance by the commissioners court or the court's designee of a completed land development [~~plat~~] application with the required documents [~~documentation~~] or other information required by Subsection (a) shall not be construed as approval of the documentation or other information.

(d) Except as provided by Subsection (f), the commissioners court or the court's designee shall approve, approve with conditions, or disapprove a land development [~~plat~~] application not later than the 30th day after the date the completed application is received by the commissioners court or the court's

designee. An application is approved by the commissioners court or the court's designee unless the application is disapproved within that period and in accordance with Section 232.0026.

(f) The 30-day period under Subsection (d):

(1) may be extended for a period not to exceed 30 days, if:

(A) requested and agreed to in writing by the applicant and approved by the commissioners court or the court's designee; or

(B) Chapter 2007, Government Code, requires the county to perform a takings impact assessment in connection with the land development [~~plat~~] application; and

(2) applies only to a decision wholly within the control of the commissioners court or the court's designee.

(g) The commissioners court or the court's designee shall

make the determination under Subsection (f) (1) of whether the 30-day period will be extended not later than the 20th day after the date a completed land development [~~plat~~] application is received by the commissioners court or the court's designee.

(h) The commissioners court or the court's designee may not require an applicant to waive the time limits or approval procedure contained in this subchapter. An applicant may not waive the time limits or approval procedures contained in this subchapter.

(i) If the commissioners court or the court's designee fails to approve, approve with conditions, or disapprove a land development [~~plat~~] application as required by this subchapter:

(1) the commissioners court shall refund the greater of the unexpended portion of any application fee or deposit or 50 percent of an application fee or deposit that has been paid;

(2) the application is granted by operation of law; and

(3) the applicant may apply to a district court in the county where the tract of land is located for a writ of mandamus to compel the commissioners court to issue documents recognizing the land development [~~plat~~] application's approval.

SECTION 11. Section 232.0026(a), Local Government Code, is amended to read as follows:

(a) A commissioners court or designee that conditionally approves or disapproves of a land development [~~plat~~] application under this subchapter shall provide the applicant a written statement of the conditions for the conditional approval or the reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval.

SECTION 12. Sections 232.0027 and 232.0028, Local Government Code, are amended to read as follows:

Sec. 232.0027. APPROVAL PROCEDURE: APPLICANT RESPONSE TO

CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional approval or disapproval of a land development [~~plat~~] application under Section 232.0026, the applicant may submit to the commissioners court or designee that conditionally approved or disapproved the application a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided. The commissioners court or designee may not establish a deadline for an applicant to submit the response.

Sec. 232.0028. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL OF RESPONSE. (a) A commissioners court or designee that receives a response under Section 232.0027 shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved land development [~~plat~~] application not later than the 15th day after the date the response was submitted under Section 232.0027.

(b) A commissioners court or designee that conditionally approves or disapproves a land development [~~plat~~] application following the submission of a response under Section 232.0027:

(1) must comply with Section 232.0026; and

(2) may disapprove the application only for a specific condition or reason provided to the applicant for the original application under Section 232.0026.

(c) A commissioners court or designee that receives a response under Section 232.0027 shall approve a previously conditionally approved or disapproved land development [~~plat~~] application if the applicant's response adequately addresses each condition for the conditional approval or each reason for the disapproval.

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

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

(2) the commissioners court or designee that received the response does not disapprove the application on or before the date required by Subsection (a) and in accordance with Section 232.0026.

SECTION 13. Section 232.0029, Local Government Code, is amended to read as follows:

Sec. 232.0029. JUDICIAL REVIEW OF DISAPPROVAL. In a legal action challenging a disapproval of a land development [~~plat~~] application under this subchapter, the county 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 14. Section 212.001(2), Local Government Code, is



repealed.

SECTION 15. The changes in law made by this Act apply only to a land development application filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 16. This Act takes effect September 1, 2021.