



American Planning Association
Texas Chapter

Creating Great Communities for All

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March 22, 2023

Re: HB No. 14
House Committee: Land & Resource Management

Thank you, Chairman Burns. We are submitting the following information from the American Planning Association - Texas Chapter (APATX). **We are testifying on HB 14 and the substitute language in CS HB 14 as written.** We are prepared to offer up amending language and could support a substitute bill that takes our suggestions into account.

APATX represents both public and private sector planners, developers, planning academics and students, elected officials, and citizen planners in the great state of Texas. Our suggested amendments are based on the following factors:

1. All references to plats conflict with CH 212 of the Texas Local Government Code and should be removed. In addition, there is a bill, CSHB 866, that will have both private and public sector support, that addresses these issues.
2. Adding 15 days for additional third party plat review, which is already addressed in the platting statutes with a statutory approval for a 30+ day delay, would seem to weaken the statute and not be beneficial to the development community.
3. The third party outside review should be changed from just “engineers” to “qualified professionals as appropriate and in accordance with state law.”
4. The third party reviewer should be acceptable to both parties (applicant and regulatory authority).
5. While the applicant should not have to pay for third-party review twice, if the review is pursuant to a contract with the regulatory authority, then a reasonable fee should be allowed.
6. The reason for Sec. 247.002. (b) for inspections taking longer than 15 days is unclear. Many of our members work in numerous jurisdictions and are not aware of inspections taking that long. Once it is called in, most jurisdictions will make the inspection in less than 48 hours.

Attached to this document are our recommended changes that we feel will make the bill acceptable to the “regulatory authorities” yet provide the relief the *The Texas Chapter of the American Planning Association is a 501(c)3 organization (23-7431522) as determined by the Internal Revenue Service. Gifts are tax deductible as allowed by law. Please consult your tax advisor for more information.*

development community is looking for. APATX members work with the public and the development community in many ways, every day. Our members stand ready to assist you in this legislation.

Respectfully submitted,

A handwritten signature in black ink that reads "Heather Nick". The signature is written in a cursive, flowing style.

**Heather Nick, AICP, MPA
Chapter President,
Texas Chapter,
American Planning Association**

By: Harris

SH.B. No. 14

Substitute the following for H.B. No. 14:

By: _____

C.S.H.B. No. 14

A BILL TO BE ENTITLED

AN ACT

relating to 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. Subtitle C, Title 7, Local Government Code, is amended by adding Chapter 247 to read as follows:

CHAPTER 247. THIRD-PARTY REVIEW OF DEVELOPMENT DOCUMENTS AND INSPECTION OF IMPROVEMENTS

Sec. 247.001. DEFINITIONS. In this chapter:

(1) "Development document: means a document, including an application for a ~~plat,~~ plan, or development permit, related to the development of or improvement to land that is required by law, ordinance, rule, or other measure to be approved by a regulatory authority in order for a person to initiate, engage in, or complete the development or improvement.

(2) "Development inspection" means the inspection of an improvement to land required by a regulatory authority as part of a project to develop the land or construct or improve an improvement to the land.

(3) "Development permit" means a permit required by a regulatory authority to develop land or construct or improve an improvement to land.

(4) "Plan" has the meaning assigned by Section

1 212.001.

2 ~~(5) —“Plat” has the meaning assigned by Section 212.001~~
3 ~~except that the term includes a development plat under Subchapter~~
4 ~~B, Chapter 212.~~

5 (565) "Regulatory authority" means the governing body of
6 a political subdivision, or a department, board, commission, or
7 other entity of the political subdivision, responsible for
8 processing or approving a development document or conducting a
9 development inspection.

10 Sec. 247.002. THIRD-PARTY REVIEW OR INSPECTION REQUIRED.

11 (a) If a regulatory authority does not approve, conditionally
12 approve, or disapprove a development document by the 15th day after
13 the date prescribed by a provision of this code for the approval,
14 conditional approval, or disapproval of the document, any required
15 review of the document may be performed by a person:

16 (1) other than:

17 (A) the applicant; or

18 (B) a person whose work is the subject of the
19 application; and .

20 (2) who is:

21 (A) employed by the regulatory authority to
22 review development documents;

23 (B) employed by another regulatory authority
~~political subdivision to~~

24 review development documents, if the regulatory authority has
25 approved the person to review development documents; or

26 (C) an engineer licensed under Chapter 1001,
27 Occupations Code.

1 (b) If a regulatory authority does not conduct a required
2 development inspection by the 15th day after the date prescribed by
3 a provision of this code for conducting the inspection, the
4 inspection may be conducted by a person:

5 (1) other than:

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

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

10 (2) who is:

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

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

15 (C) employed by another ~~political subdivision~~
regulatory authority as

16 a building inspector, if the regulatory authority has approved the
17 person to perform inspections; or

18 (D) a professional, as appropriate and required for the
necessary review, licensed if required in accordance
with state law, and acceptable to both parties. ~~an~~
~~engineer licensed under Chapter 1001,~~

19 ~~Occupations Code.~~

20 Sec. 247.003. ADDITIONAL FEE PROHIBITED. A regulatory
21 authority may not impose a fee related to the review of a

22 development document or the inspection of an improvement conducted

23 under Section 247.002, with the exception of a reasonable fee that may be
charged if the third party review is done pursuant to a contract with the
regulatory authority for such services. Such fees shall not exceed the
actual costs incurred.

24 Sec. 247.004. THIRD-PARTY REQUIREMENTS. (A) A person who
25 reviews a development document or conducts a development inspection

26 under Section 247.002 shall:

27 (1) review the document, conduct the inspection, and

1 take all other related actions in accordance with all applicable
2 provisions of law; and

3 (2) not later than the 15th day after the date the
4 person completes the review or inspection, provide notice to the
5 regulatory authority of the results of the review or inspection.

6 (b) A regulatory authority may prescribe a reasonable
7 format for the notice required under Subsection (a).

8 Sec. 247.005. WAIVER PROHIBITED. A regulatory authority
9 may not request or require an applicant to waive a deadline or other
10 procedure under this chapter.

11 Sec. 247.006. APPEAL. (a) A person may appeal to the
12 governing body of a ~~regulatory authority~~ ~~political subdivision~~:

13 (1) a decision to conditionally approve or disapprove
14 a development document made by the regulatory authority ~~for the~~
15 ~~political subdivision~~ or a person authorized by Section 247.002(a)
16 to perform the review of the document; or

17 (2) a decision regarding a development inspection
18 conducted by the regulatory authority or a person authorized by
19 Section 247.002(b) to perform the inspection.

20 (b) A person must file an appeal under this section not
21 later than the 15th day after the date the decision being appealed
22 is made

23 (c) If the governing body hearing the appeal does not affirm
24 the decision being appealed by a majority vote on or before the 60th
25 day after the date the appeal is filed:

26 (1) the development document that is the subject of
27 the appeal is considered approved; or

1 (2) the development inspection that is the subject of
2 the appeal is waived.

3 SECTION 2. Chapter 247, Local Government Code, as added
4 by this Act, applies only to a development document or a request for a
5 development inspection, as those terms are defined by Section
6 247.001 of that code, that is submitted to the appropriate
7 regulatory authority on or after the effective date of this Act.

8 SECTION 3. This Act takes effect September 1, 2023.