



WEEKLY REPORT

JULY 5, 2019

TO: MAYOR SHETTER AND COUNCIL MEMBERS
FROM: BRYAN LANGLEY, CITY MANAGER

Burleson
TEXAS

MARKETING & COMMUNICATIONS
141 W RENFRO, BURLESON, TX 76028 | (817)426-9622

Weekly Report | July 5, 2019

I. Council Schedule

Meetings

- **Monday, July 15:** City Council Meeting at Bureson City Hall, Council Chambers, 141 W. Renfro St. Regular session starts at 7:00 p.m.

II. General Information and Status Updates

A. JoCo Community Radio Lease

The City entered into a lease agreement with Ensemble Media Group for the portion of the West Building located at 114 W. Ellison. Ensemble Media Group operates JoCo Community Radio, which has been at the 114 W. Ellison location since July of last year. The lease runs through September 30, 2019, but it contains provisions allowing the lease to continue on a month-to-month basis after that date or even terminate before September 30th. Such provisions give the City maximum flexibility to navigate the lease through the unknowns of plaza construction. Rent is set at market rate in the lease, and Ensemble Media Group is given some credit towards rent payments for improvements they made to the property. The lease does ensure that Ensemble Media Group will provide the City with proof that all property improvements have been paid for in full prior to any early termination initiated by the City.

B. Mayor Vera Calvin Plaza Weekly Update

Construction of the Mayor Vera Calvin Plaza is on schedule. Asbestos abatement of the “Wood Shopping Center” has been completed. Contractors are preparing the building for demolition, which will take place on Monday, July 8 and continue through July 11.

Construction activity for the next week, July 8 – 12, includes:

- Continue moisture control for structure foundations
- Tie cages for foundation piers
- Begin new sanitary sewer line

C. Pavilion at Centennial Park

Plans were released in March of 2011 for construction of Centennial Park, and part of that plan was to install a pavilion. Due to a lack of funding, the pavilion was delayed, but footings were installed for future installation of a pavilion during the initial construction. On December 10, 2018, Council approved a bid proposal from InSite Amenities to install the pavilion for \$59,953. The installation of the pavilion is complete. The pavilion will be

inspected by Texas Department of Liability Requirement (TDLR) on Tuesday, July 9 to confirm that it meets the all accessibility requirement. After the inspection the pavilion will be open to the public.



D. Informal Staff Reports (attached)

On page 9, please find the Legal and Purchasing Review Process Informal Staff Report. The report was sent from City Manager Bryan Langley to all directors on July 2 to update all city departments on the process by which the city reviews, executes, and records contracts. Additionally, this memo outlines improvements for the procurement process.

Starting on page 14, the Planning-Related Legislative Update includes information on which the Planning and Zoning Commission was briefed on by staff. Staff will be providing more information to the City Council later this summer in regards to the legislation.

III. Upcoming Road Construction/Closures

Upcoming Road Construction/Closures			
Project & Limits	Current Status	Traffic Affected	Estimated Completion
Renfro Street Medians in Old Town – Johnson to IH35W	<i>7/3 UPDATE</i> – Medians are under construction. Work on irrigation and streetlights is underway. Landscape will follow, with an asphalt overlay as the final step.	Middle lanes closed to traffic, one lane open in each direction. Striping was changed at IH35W intersection.	Contractor is behind schedule 2-3 weeks, but has committed to make up time to complete by original July 29 date.
Old Town Parking Lots - Bufford@Warren and Main@Renfro	<i>7/3 UPDATE</i> – Project is substantially complete.	4-way stops are now in place at Bufford/Wilson and Bufford/Warren due to limited sight	<i>7/3 UPDATE</i> – Project is substantially complete. Both lots are open for use. 154 total

		distance at the intersections. Main Street closed north of Renfro.	spaces are now available.
Old Town Quiet Zones - RR xings at Commerce, Renfro, Ellison, Eldred	<i>7/3 UPDATE</i> – Work started on 6/3. Work is focused on Renfro but occurring at all locations. Medians and pedestrian crossings will be constructed on Renfro. UPRR is on site and working on new crossing gates.	Closures at crossings when work is occurring. First location will be Renfro Street.	Start in June 2019, End in December 2019
NW Renfro Improvements – Wilshire Blvd. To Cindy Lane	Concrete work underway at Rand, Cindy & Murphy intersections. Work will improve street crossing safety for pedestrians and bicycles, and delineate on-street parking lane. Work also occurring near the SH174 intersection.	<i>7/3 UPDATE</i> – Lane closures on SH174 are scheduled to start the week of July 15 and will last at least 3 weeks. Look for message boards on site for updates. Lane closures on Renfro will also start in July. <i>These closures will cause major delays – please consider alternate routes.</i>	Early 2020
McNairn 16" Water Line & Sewer Rebuild- SH174 to Turkey Peak Water Facility Site on Jayellen	<i>7/3 UPDATE</i> – Water and sewer complete south of Hillside. Water line construction is progressing north, near Willow Circle and on Jayellen.	<i>7/3 UPDATE</i> – Sections of McNairn closed as work progresses. One lane of Jayellen will be open during construction in the area. Full closure may be required for short times, and alternate routes are available.	October 2019

iv. Upcoming Community Events

A. Events

- **Saturday, July 6:** Historic Home Tours and Demonstrations at Russell Farm from 10 a.m. - 2 p.m.

v. Attachments

A.Junior Fire Academy Photo Page.....page 5
B.Hot Sounds of Summer Concert Photo Page.....page 6
C.Texas Heritage Festival Photo Page.....page 7
D.Super Safety Saturday Photo Page.....page 8

VI. Informal Staff Reports

A. Legal and Purchasing Review Process.....page 9
B. Planning-Related Legislative Update.....page 14

Junior Fire Academy June 24-27



Hot Sounds of Summer Concert
featuring the King George – June 28



Texas Heritage Festival June 28-29



Super Safety Saturday June 29



141 West Renfro
Burleson, TX 76028-4261
817-426-9680
Fax 817-426-9376
www.burlesontx.com

Date: July 2, 2019
To: Department Directors
From: Bryan Langley, City Manager
Re: Legal and Purchasing Process Changes

The objective of this memo is to update all City departments with the process by which the city reviews, executes, and records contracts. Additionally, this memo outlines improvements for the procurement process.

I. CONTRACT NEGOTIATION

- a. Current Condition:** Contracts are currently negotiated at the department level, which is advantageous because the departments are knowledgeable of the underlying specification or goal the contract needs to accomplish. Typically, the contract presented is a form contract provided by the vendor. For example, the IT department will negotiate the terms of an IT contract with the city because they best understand the underlying topic of IT. Unfortunately, the departments are unaware of other key boilerplate terms, and often negotiate and settle on a deal that ignores the boilerplate terms on the vendor's form contract. The boilerplate terms (evergreen clauses, venue clauses, indemnification clauses, etc.) often agreed to be against the city's interest, but not properly negotiated. The result is that the city routinely enters into contracts with unfavorable terms that are usually very negotiable.
- b. Changes:**
1. Contracts should continue to be initially negotiated at the department level.
 2. Staff that negotiates contracts should be educated on the importance of certain boilerplate terms. Staff is encouraged to be upfront with vendors regarding the importance of certain boilerplate terms, even if it's nothing more than a simple statement that legal will care about the importance of the boilerplate.
 3. Exhibit A contains key boilerplate terms that should be placed on the back of vendor form contracts, especially relatively minor contracts under a \$25,000.

II. CONTRACT REVIEW

- a. Current Condition:** There is no uniform process by which contracts are legally reviewed before being submitted to Council or management. TOASE or the deputy city attorney review some contracts, but there is no official policy requiring staff submit contracts for legal review. The result is that an attorney never reviews many of the city's contracts.

b. Changes:

1. All contracts need to be legally reviewed before execution. Changes can be found in the Purchasing Policy under section 5.14. All contracts should initially be sent to the Purchasing Manager for review.

“The City Attorney shall review all documents, contracts and legal instruments in which the City may have an interest, unless otherwise determined by the City Attorney. Equipment, materials, supplies, and service contracts bearing any special terms and conditions, other than administrative provisions, not previously approved by the City Attorney, shall be submitted for such approval and must receive approval prior to issuance. Review and approval by an attorney at TOASE or by the Deputy City Attorney shall constitute the review and approval by the City Attorney required under this Section”.

2. AgendaQuick is updated to include a section requiring legal review for all contracts presented to Council.

III. CONTRACT EXECUTION

a. Current Condition: Contracts are executed by a variety of city staff, including department heads and lower level city staff. Other than the Charter and a minute order specifying the ability for the City Manager to execute contracts, there is no city document or policy specifying who may execute contracts. Many contracts presented for execution lack exhibits, attachments, or other supplemental documents required by law. Further, there is no uniform method by which contracts are presented to the City Manager.

b. Changes:

1. Section 5.15 of the Purchasing Policy states:

“Only the City Manager has signature authority to execute contracts of any nature. Such signature authority is detailed and delegated below:

- a. The City Manager has authority to execute contracts under \$25,000.
 - b. The City Manager has authority to execute contracts equal to or in excess of \$25,000 if approved by City Council in the annual budget or as a city council agenda item.
 - c. The Purchasing Manager has authority to execute contracts under \$10,000 if the contracts are procured in compliance with this Purchasing Policy.
 - d. The City Manager may designate in writing a city employee to sign contracts in his absence”.
2. Utilize the cover page designed by the City Secretary for all contracts, which includes a section verifying legal review and other basic information. An example is attached to this memo as Exhibit D.
 3. AgendaQuick is updated to include a section verifying the submitted contract includes all attachments and exhibits.

IV. RECORDING CONTRACTS

a. Current Condition: Contracts delivered to the City Secretary are recorded, but many contracts are never given to the City Secretary’s Office. Many of the contracts delivered to the City Secretary’s Office lack exhibits or other key documents. The result is many contracts go missing and some of the recorded contracts are incomplete.

b. Changes:

1. All executed contracts (including exhibits, etc.) need to be delivered to the City Secretary for recording within five days after execution.

V. MONITORING CONTRACTS

a. Current Condition: Contracts are monitored at the department level, similar to the negotiation process. Internal staff is designated if the process applies to their department, in the field they supervise. The result of the current system is a variety of inefficiencies. For example, staff is

often unaware aware of standard contract terms, staff typically lacks experience in contract management, and staff is unaware of internal processes for reporting, change orders, financial reporting thresholds, and proper documentation storage.

b. Changes:

1. Centralize contract monitoring with Purchasing, in conjunction with internal departments to ensure proper reporting, financial tracking, documentation storage, and contract efficiency.

VI. PURCHASING PROCEDURES

a. Current Condition: Goods and services that are within existing procurement guidelines are purchased and received at the department level. This practice is efficient in order to receive products and maintain adequate service levels, however, all bids and proposals for the City of Burleson need to be channeled through Purchasing. This includes buying on cooperative purchasing agreements that require City Council approval prior to placing orders. Departments must have a purchase order prior to ordering goods and services.

b. Changes:

1. Contracts including construction and professional services will follow the contract process outline above.
2. All bids and proposals will come from the Purchasing Manager.
3. Any purchase related to cooperative contracts must have pricing documentation to ensure the city is receiving the proper contract pricing.
4. All purchase orders in excess of \$3,000 require at least three quotes per state law. Bids/proposals are required for items greater than \$50,000. In some cases, purchase orders have been increased through a change order to exceed these thresholds and have bypassed the bid process. Going forward, purchase orders will only be allowed to be increased on a case by case basis and the purchasing staff will ensure procedures are being followed.

Procurement of all goods and services must follow the Purchasing Policy. Departments will be expected to follow these guidelines in its entirety. User departments should consult the Purchasing Manager if there are questions about projects, placing orders, soliciting business or reporting structure regarding the Purchasing Policy. The City Manager will review monthly reports that list by department, invoices dated prior to the issuance of a purchase order to ensure work is not being requested prior to the approval process being initiated.

This process will be implemented immediately. The contract/lease size will dictate the process that we follow. For questions or clarifications of that process, contact the Purchasing Manager. Please note that signing authority for contracts is not delegated past the City Manager or his/her designee unless the amount is less than \$10,000 and that must be signed and channeled through the process by the Purchasing Manager.

The purpose of these guidelines is to enable the City to operate more efficiently and eliminate small incremental contracts that contain terms and conditions that are not in the City's best interest. Thank you all for making adjustments to accommodate this process.

Best regards,



Bryan Langley
City Manager

EXHIBIT A

Exhibit “ _____ ”

This exhibit shall be attached to the agreement or contract dated _____ between _____ (Vendor Name) (the “Vendor”) and the city of Burleson, Texas (the “City”). In the event of a conflict between any provision in this exhibit and any other provision in the agreement or contract or any other exhibit, the terms provided in this exhibit shall govern.

1. No Waiver of Governmental Immunity. Nothing contained in this Agreement shall be construed as a waiver of City’s governmental immunity, or of any damage caps or limitations imposed by law, or any other legal protections granted to City by law, except to the extent expressly provided or necessarily implied herein.

2. Applicable Law; Venue. Notwithstanding anything in this Agreement or any exhibit to the contrary, this Agreement is subject to and governed by the laws of the State of Texas. Any disputes arising from or relating to this Agreement shall be resolved in a court of competent jurisdiction located in Johnson County, Texas, or the federal courts for the United States for the Northern District of Texas. The parties hereto irrevocably waive any right to object to the jurisdiction of such courts or to a trial by jury in any dispute arising from or relating to this Agreement.

3. Termination Due to Lack of Appropriations. If City should not appropriate or otherwise receive funds sufficient to purchase, lease, operate, or maintain the equipment or services set forth in this Agreement, City may unilaterally terminate this Agreement effective on the final day of the fiscal year through which City has funding. City will make every effort to give Vendor at least thirty (30) days written notice prior to a termination for lack of appropriations. In the event of termination due to a lack of appropriations, City will pay Vendor for all undisputed fees and expenses related to the equipment and/or services City has received, or Vendor has incurred or delivered, prior to the effective date of termination.

City of Burleson, Texas: _____(Vendor):

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT D

CONTRACT/BID COVER PAGE FORM

***You MUST include all documents, exhibits, and attachments
DUE to CSO 5PM on the THURSDAY PRIOR to COUNCIL MEETING***

Section I - Department All Fields Must Be Completed

Check one

<input type="checkbox"/>	Bid Award
<input type="checkbox"/>	Co-Op
<input type="checkbox"/>	Professional Services
<input type="checkbox"/>	Other – provide description

Title (Description)	
Company/Other Party to this contract	
Effective Date (Date the contract begins)	
End date of terms (when the contract will end and if there are automatic renewal terms)	
TSL Retention Schedule (CSO will help you establish date)	

Council Meeting Date	
Agenda Item #	
Staff Contact – include phone number	
Special Instructions (Be Specific)	
Note: CSO retains all original executed documents for City Records; if third party requires original provide CSO with two documents to execute.	

Section 2 – Legal approval/notes

<input type="checkbox"/>	Approved
<input type="checkbox"/>	See notes

Notes:

DEVELOPMENT SERVICES

Informal Report

To: Mayor & Council

From: Mandy Clark, Development Services Director

RE: Planning-Related Legislative Update

DATE: July 5, 2019

This past legislative season was particularly impactful with respect to some of the City's planning-related ordinances. At the July 2 Planning and Zoning Commission meeting, David Gattis, Interim Planning Manager, provided an update on planning-related bills and their potential impacts to our ordinances and operations. Attached are the report and attachments. Staff will present this information and proposed action steps related to the legislation in an upcoming work session. If you would like to watch the presentation, please visit this link: <http://burlesontx.swagit.com/play/07022019-2057/#15>

Please let me know if you have any questions or need additional information.

Planning & Zoning Commission

3.A.

TO: Burleson Planning & Zoning Commission
FROM: David Gattis, Interim Planning Manager
DATE: 07/02/2019
SUBJECT: Staff Briefing on Planning-Related Legislation

Commission Action Requested:

None required.

Background Information:

The 86th Texas Legislature ended its session on May 27th and June 16th was the last day for the Governor to sign or veto bills. Staff will summarize the planning-related bills and their effect on development activities in Burleson.

Planning Analysis:

The two most significant planning-related bills passed are HB 2439 and HB 3167:

- HB 2439 restricts a city's ability to regulate exterior materials and must allow any material that is allowed in any national building code. While there are some limited exceptions, this effectively eliminates the imposition of masonry requirements by the City.
- HB 3167 tightens the requirements to approve or disapprove a plat or plan submittal. Any disapproval requires a written explanation along with citations of the applicable Ordinance section.

There were many city-related bills passed this legislative season and the Texas Municipal League (TML) has provided a summary of those that may have some impact on city planning. The TML summary is attached.

The staff presentation will focus on HB 2439 and HB 3167 with a discussion of others that will require specific, timely city action. Attachments include the presentation, the text of the bills and the TML summary of planning-related legislation.

Board/Citizen Input:

None required.

Attachments

1. Presentation
 2. HB 2439 - Building Materials
 3. HB 3167 - Approval Timeframes
 4. Summary of Legislation
-

Staff Contact:

David R. Gattis, FAICP, CFM, ICMA (ret)
Interim Planning Manager
Development Services
(817) 426-9648
dgattis@burlesontx.com

Legislative Summary

Schedule

1. 86th Legislative Session ended on May 27th;
2. Governor had until June 16th to sign or veto bills;

3.

Total bills introduced	7,541
Total bills passed	1,437
City-related bills introduced	2,000+
City-related bills passed	330+

Legislative Summary

HB 2439 – Building Products, Materials or Methods

1. Government may not adopt or enforce a rule, charter provision, ordinance, order, building code or other regulation that
 1. prohibits or limits the use of a building material if the material is allowed by a national building code within the last three cycles, or
 2. establishes a standard for an aesthetic method in construction if the standard is more stringent than allowed by a national building code within the last three cycles.

Legislative Summary

HB 2439 – Exemptions

2. Exemptions:
 - A. State agency requirements
 - B. Requirement for Windstorm and hail insurance
 - C. Requirement for outdoor lighting, if
 1. Necessary to meet Dark Sky Community requirements or within 5 miles of a military base
 - D. A building located in a place designated for its historical, cultural or architectural importance, if
 1. City is a Certified Local Government (CLG) under the National Historic Preservation Act, or
 2. Has an applicable landmark ordinance under CLG recognized by Texas Historic Commission, or
 3. Is an area designated for historic, cultural or architectural importance prior to April 1, 2019,
 4. Is a designated historic district on National Register of Historic Places

Legislative Summary

HB 2439 – Exemptions continued

2. Exemptions, continued:

- D. A building located in a place designated for its historical, cultural or architectural importance, if
 - 5. Designated as a Recorded Texas Historic Landmark
 - 6. Is designated as a State Archeological Landmark or State Antiquities Landmark,
 - 7. Listed on the National Register of Historic Places or designated as a landmark
 - 8. A building located in a World Heritage Buffer Zone,
 - 9. An area designated in a Main Street Program
- E. If building is not designated under CLG program, then City can only enforce regulations in an area designated after April 1, 2019 if the owner consents. (incorporates HB 2496)
- F. Does not apply to fire sprinkler systems

Legislative Summary

HB 2439 – continued

3. Any rule, ordinance, or regulation that conflicts with HB 2439 is void (retroactive)
4. Attorney General or “aggrieved party” may file injunction in district court
 - A. Attorney General may recover reasonable attorney’s fees and costs
 - B. Sovereign and governmental immunity is waived

Effective September 1, 2019

Vote in House: 133 Yeas, 9 Nays, 1 present not voting

Vote in Senate: 26 Yeas, 9 Nays

Legislative Summary

Vinyl Siding Institute

📢 Breaking News: Markets reopened to vinyl siding in Texas! Texas Governor Greg Abbott signed H.B. 2439 into law last week - Prohibition on Governmental Product Mandates. The bill bars local governments from prohibiting the use of specific building products, among other things, as long as they're approved by a national code. Citizens in Texas faced a virtual monopoly when it came to building products. 233 counties prohibited the use of any building material besides brick. The Vinyl Siding Institute is proud to have helped deliver this victory for our industry! Thank you to our VSI members for their grassroots efforts on this bill! And congratulations to Alex Fernandez, VSI Assistant Director for Advocacy, for his hard work and diligence on this issue! #NoLimits



Legislative Summary

HB 2439 – Effects on Burleson

1. Masonry Constructions Standards (Chapter 10) will be void
2. Any exterior materials requirements in zoning ordinance (e.g. overlays and PDs) will be void
3. We may be able to make argument that Old Town Overlay qualifies as an architecturally-significant district
4. We may review landscaping and fencing requirements, where appropriate
5. Use of incentives, encouragement of HOAs
6. There are still some questions:
 - A. Applies to residential and commercial buildings. What about others?
 - B. Can architectural requirements (e.g. building articulation) continue if we are silent on materials?
 - C. TML is meeting with a group of City attorney in late July to formulate options

Legislative Summary

HB 3167 – Development Approval Procedures

1. Current law says that City must act on a plat within 30 days after the plat is filed. If it goes to P&Z and Council, then its 30 days for each. If it is not acted upon, then it is deemed approved.
 - A. Definition of “filed”
 - B. Most delays are caused by waiting for revisions from applicant
 - C. Voluntary waivers
2. New law would broaden applicability to include preliminary plat, general plan, final plat, subdivision development plan, subdivision construction plan, site plan, land development application and site development plan which must be approved or denied within 30 days.
3. HB 3167 replaces “act on” with “approve, approve with conditions, or disapprove” and applies to “plan or plat.”
4. If groundwater certification is required, then 30 days starts when certification is received.

Legislative Summary

HB 3167 – continued

1. Applicant may request a single 30-day extension
2. Requires that Mayor sign all plats (including administrative plats)
3. If plat or plan is conditionally-approved or denied, then written statement is required for each specific condition or reason, including a citation of the municipal ordinance that requires each condition.
 1. Applicant may submit a written response that satisfies each condition. City cannot impose a deadline on the applicant.
 2. City has 15 days to review the response and either approve or disapprove the plat or plan.
4. If the City adopts an alternate plan for approval, the applicant can request to be processed under the alternate plan, if the process allows for a shorter approval period.
5. City cannot request or require the applicant to waive a deadline

Legislative Summary

HB 3167 – continued

1. In a court case, City has burden of proof to show that plat or plan does not meet ordinance requirements.
2. Replatting (incorporates HB 3314): eliminates requirement for a public hearing for a residential replat as long as no variances or exceptions are required. City is required to provide written notice to property owners even if a public hearing is not required. The notice has to include the zoning designation and a telephone number and email to contact the City.
3. Also applies to County subdivision approval. In addition, the County may not require a development plan, preliminary plat, site plan, or site development plan.

Effective September 1, 2019

Vote in House: 119 Yeas, 18 Nays, 1 present not voting

Vote in Senate: 27 Yeas, 3 Nays, 1 present not voting

Legislative Summary

HB 3167 – Effects on Burleson

1. Will require a reassessment of plat and plan processes
2. Will require denial letters when applicants have not met requirements
3. May need to think about eliminating public hearings for plats (not required by State law and public notices take time)

Legislative Summary

Other Legislation of Note

- HB 852 (Building Permit Fees): City may not base residential building permit fees on value of construction.
- HB 2858 (Swimming Pools): Adopts the International Swimming Pool and Spa Code as the official code in Texas.
- HB 2496 (Local Historic Landmarks): Provides that City may not designate a property as a local historic landmark unless the owner consents (incorporated into HB 2439)
- HB 1385 (Industrialized Housing): Removes the height limit from Industrialized residential and commercial structures
- SB 1510 (Rough Proportionality): Provides that rough proportionality requirement extends into ETJ
- SB 357 (Billboards): Limits billboards along highways to 42-1/2 feet in height
- HB 3314 (Replats): Eliminates requirement of a public hearing on residential replats if no variances or waivers are proposed (incorporated into HB 3167)

Legislative Summary

QUESTIONS?

1 AN ACT

2 relating to certain regulations adopted by governmental entities
3 for the building products, materials, or methods used in the
4 construction or renovation of residential or commercial buildings.

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

6 SECTION 1. Title 10, Government Code, is amended by adding
7 Subtitle Z to read as follows:

8 SUBTITLE Z. MISCELLANEOUS PROVISIONS PROHIBITING CERTAIN

9 GOVERNMENTAL ACTIONS

10 CHAPTER 3000. GOVERNMENTAL ACTION AFFECTING RESIDENTIAL AND

11 COMMERCIAL CONSTRUCTION

12 Sec. 3000.001. DEFINITIONS. In this chapter:

13 (1) "National model code" has the meaning assigned by
14 Section 214.217, Local Government Code.

15 (2) "Governmental entity" has the meaning assigned by
16 Section 2007.002.

17 Sec. 3000.002. CERTAIN REGULATIONS REGARDING BUILDING
18 PRODUCTS, MATERIALS, OR METHODS PROHIBITED. (a) Notwithstanding
19 any other law and except as provided by Subsection (d), a
20 governmental entity may not adopt or enforce a rule, charter
21 provision, ordinance, order, building code, or other regulation
22 that:

23 (1) prohibits or limits, directly or indirectly, the
24 use or installation of a building product or material in the

1 construction, renovation, maintenance, or other alteration of a
2 residential or commercial building if the building product or
3 material is approved for use by a national model code published
4 within the last three code cycles that applies to the construction,
5 renovation, maintenance, or other alteration of the building; or

6 (2) establishes a standard for a building product,
7 material, or aesthetic method in construction, renovation,
8 maintenance, or other alteration of a residential or commercial
9 building if the standard is more stringent than a standard for the
10 product, material, or aesthetic method under a national model code
11 published within the last three code cycles that applies to the
12 construction, renovation, maintenance, or other alteration of the
13 building.

14 (b) A governmental entity that adopts a building code
15 governing the construction, renovation, maintenance, or other
16 alteration of a residential or commercial building may amend a
17 provision of the building code to conform to local concerns if the
18 amendment does not conflict with Subsection (a).

19 (c) This section does not apply to:

20 (1) a program established by a state agency that
21 requires particular standards, incentives, or financing
22 arrangements in order to comply with requirements of a state or
23 federal funding source or housing program;

24 (2) a requirement for a building necessary to consider
25 the building eligible for windstorm and hail insurance coverage
26 under Chapter 2210, Insurance Code;

27 (3) an ordinance or other regulation that regulates

1 outdoor lighting that is adopted for the purpose of reducing light
2 pollution and that:

3 (A) is adopted by a governmental entity that is
4 certified as a Dark Sky Community by the International Dark-Sky
5 Association as part of the International Dark Sky Places Program;
6 or

7 (B) applies to outdoor lighting within five miles
8 of the boundary of a military base in which an active training
9 program is conducted;

10 (4) an ordinance or order that:

11 (A) regulates outdoor lighting; and

12 (B) is adopted under Subchapter B, Chapter 229,
13 Local Government Code, or Subchapter B, Chapter 240, Local
14 Government Code;

15 (5) a building located in a place or area designated
16 for its historical, cultural, or architectural importance and
17 significance that a municipality may regulate under Section
18 211.003(b), Local Government Code, if the municipality:

19 (A) is a certified local government under the
20 National Historic Preservation Act (54 U.S.C. Section 300101 et
21 seq.); or

22 (B) has an applicable landmark ordinance that
23 meets the requirements under the certified local government program
24 as determined by the Texas Historical Commission;

25 (6) a building located in a place or area designated
26 for its historical, cultural, or architectural importance and
27 significance by a governmental entity, if designated before April

1 1, 2019;

2 (7) a building located in an area designated as a
3 historic district on the National Register of Historic Places;

4 (8) a building designated as a Recorded Texas Historic
5 Landmark;

6 (9) a building designated as a State Archeological
7 Landmark or State Antiquities Landmark;

8 (10) a building listed on the National Register of
9 Historic Places or designated as a landmark by a governmental
10 entity;

11 (11) a building located in a World Heritage Buffer
12 Zone; and

13 (12) a building located in an area designated for
14 development, restoration, or preservation in a main street city
15 under the main street program established under Section [442.014](#).

16 (d) A municipality that is not a municipality described by
17 Subsection (c)(5)(A) or (B) may adopt or enforce a regulation
18 described by Subsection (a) that applies to a building located in a
19 place or area designated on or after April 1, 2019, by the
20 municipality for its historical, cultural, or architectural
21 importance and significance, if the municipality has the voluntary
22 consent from the building owner.

23 (e) A rule, charter provision, ordinance, order, building
24 code, or other regulation adopted by a governmental entity that
25 conflicts with this section is void.

26 Sec. 3000.003. INJUNCTION. (a) The attorney general or an
27 aggrieved party may file an action in district court to enjoin a

1 violation or threatened violation of Section 3000.002.

2 (b) The court may grant appropriate relief.

3 (c) The attorney general may recover reasonable attorney's
4 fees and costs incurred in bringing an action under this section.

5 (d) Sovereign and governmental immunity to suit is waived
6 and abolished only to the extent necessary to enforce this chapter.

7 Sec. 3000.004. OTHER PROVISIONS NOT AFFECTED. This chapter
8 does not affect provisions regarding the installation of a fire
9 sprinkler protection system under Section 1301.551(i), Occupations
10 Code, or Section 775.045(a)(1), Health and Safety Code.

11 Sec. 3000.005. SEVERABILITY. If any provision of a rule,
12 charter provision, ordinance, order, building code, or other
13 regulation described by Section 3000.002(a) is held invalid under
14 this chapter, the invalidity does not affect other provisions or
15 applications of the rule, charter provision, ordinance, order,
16 building code, or other regulation that can be given effect without
17 the invalid provision or application, and to this end the
18 provisions of the rule, charter provision, ordinance, order,
19 building code, or other regulation are severable.

20 SECTION 2. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 2439 was passed by the House on April 30, 2019, by the following vote: Yeas 124, Nays 21, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2439 on May 23, 2019, by the following vote: Yeas 133, Nays 9, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2439 was passed by the Senate, with amendments, on May 19, 2019, by the following vote: Yeas 26, Nays 5.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to county and municipal approval procedure for land development applications.

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

SECTION 1. Section 212.001, Local Government Code, is amended by amending Subdivision (2) and adding Subdivision (3) 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 212.0085 to read as follows:

Sec. 212.0085. APPROVAL PROCEDURE: APPLICABILITY. The approval procedures under this subchapter apply to a municipality regardless of whether the municipality has entered into an interlocal agreement, including an interlocal agreement between a municipality and county under Section 242.001(d).

SECTION 3. The heading to Section 212.009, Local Government Code, is amended to read as follows:

Sec. 212.009. APPROVAL PROCEDURE: INITIAL APPROVAL.

SECTION 4. Section 212.009, Local Government Code, is amended by amending Subsections (a), (b), (c), and (d) and adding

1 Subsections (b-1) and (b-2) to read as follows:

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

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

17 (b-1) Notwithstanding Subsection (a) or (b), if a
18 groundwater availability certification is required under Section
19 212.0101, the 30-day period described by those subsections begins
20 on the date the applicant submits the groundwater availability
21 certification to the municipal authority responsible for approving
22 plats or the governing body of the municipality, as applicable.

23 (b-2) Notwithstanding Subsection (a) or (b), the parties
24 may extend the 30-day period described by those subsections for a
25 period not to exceed 30 days if:

26 (1) the applicant requests the extension in writing to
27 the municipal authority responsible for approving plats or the

1 governing body of the municipality, as applicable; and

2 (2) the municipal authority or governing body, as
3 applicable, approves the extension request.

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

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

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

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

18 SECTION 5. Subchapter A, Chapter 212, Local Government
19 Code, is amended by adding Sections 212.0091, 212.0093, 212.0095,
20 212.0096, 212.0097, and 212.0099 to read as follows:

21 Sec. 212.0091. APPROVAL PROCEDURE: CONDITIONAL APPROVAL OR
22 DISAPPROVAL REQUIREMENTS. (a) A municipal authority or governing
23 body that conditionally approves or disapproves a plan or plat
24 under this subchapter shall provide the applicant a written
25 statement of the conditions for the conditional approval or reasons
26 for disapproval that clearly articulates each specific condition
27 for the conditional approval or reason for disapproval.

1 (b) Each condition or reason specified in the written
2 statement:

3 (1) must:

4 (A) be directly related to the requirements under
5 this subchapter; and

6 (B) include a citation to the law, including a
7 statute or municipal ordinance, that is the basis for the
8 conditional approval or disapproval, if applicable; and

9 (2) may not be arbitrary.

10 Sec. 212.0093. APPROVAL PROCEDURE: APPLICANT RESPONSE TO
11 CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional
12 approval or disapproval of a plan or plat under Section 212.0091,
13 the applicant may submit to the municipal authority or governing
14 body that conditionally approved or disapproved the plan or plat a
15 written response that satisfies each condition for the conditional
16 approval or remedies each reason for disapproval provided. The
17 municipal authority or governing body may not establish a deadline
18 for an applicant to submit the response.

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

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

1 (1) must comply with Section 212.0091; and

2 (2) may disapprove the plan or plat only for a specific
3 condition or reason provided to the applicant under Section
4 212.0091.

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

10 (d) A previously conditionally approved or disapproved plan
11 or plat is approved if:

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

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

18 Sec. 212.0096. APPROVAL PROCEDURE: ALTERNATIVE APPROVAL
19 PROCESS. (a) Notwithstanding Sections 212.009, 212.0091, 212.0093,
20 and 212.0095, an applicant may elect at any time to seek approval
21 for a plan or plat under an alternative approval process adopted by
22 a municipality if the process allows for a shorter approval period
23 than the approval process described by Sections 212.009, 212.0091,
24 212.0093, and 212.0095.

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

27 (1) required to satisfy the requirements of Sections

1 212.009, 212.0091, 212.0093, and 212.0095 before bringing an action
2 challenging a disapproval of a plan or plat under this subchapter;
3 and

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

7 Sec. 212.0097. APPROVAL PROCEDURE: WAIVER PROHIBITED. A
8 municipal authority responsible for approving plats or the
9 governing body of a municipality may not request or require an
10 applicant to waive a deadline or other approval procedure under
11 this subchapter.

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

18 SECTION 6. Section 212.014, Local Government Code, is
19 amended to read as follows:

20 Sec. 212.014. REPLATTING WITHOUT VACATING PRECEDING PLAT.
21 A replat of a subdivision or part of a subdivision may be recorded
22 and is controlling over the preceding plat without vacation of that
23 plat if the replat:

24 (1) is signed and acknowledged by only the owners of
25 the property being replatted;

26 (2) is approved [~~after a public hearing on the matter~~
27 ~~at which parties in interest and citizens have an opportunity to be~~

1 ~~heard,~~] by the municipal authority responsible for approving plats;
2 and

3 (3) does not attempt to amend or remove any covenants
4 or restrictions.

5 SECTION 7. Section 212.015, Local Government Code, is
6 amended by adding Subsections (a-1), (f), and (g) and amending
7 Subsection (b) to read as follows:

8 (a-1) If a proposed replat described by Subsection (a)
9 requires a variance or exception, a public hearing must be held by
10 the municipal planning commission or the governing body of the
11 municipality.

12 (b) Notice of the hearing required under Subsection (a-1)
13 [~~Section 212.014~~] shall be given before the 15th day before the date
14 of the hearing by:

15 (1) publication in an official newspaper or a
16 newspaper of general circulation in the county in which the
17 municipality is located; and

18 (2) by written notice, with a copy of Subsection (c)
19 attached, forwarded by the municipal authority responsible for
20 approving plats to the owners of lots that are in the original
21 subdivision and that are within 200 feet of the lots to be
22 replatted, as indicated on the most recently approved municipal tax
23 roll or in the case of a subdivision within the extraterritorial
24 jurisdiction, the most recently approved county tax roll of the
25 property upon which the replat is requested. The written notice may
26 be delivered by depositing the notice, properly addressed with
27 postage prepaid, in a post office or postal depository within the

1 boundaries of the municipality.

2 (f) If a proposed replat described by Subsection (a) does
3 not require a variance or exception, the municipality shall, not
4 later than the 15th day after the date the replat is approved,
5 provide written notice by mail of the approval of the replat to each
6 owner of a lot in the original subdivision that is within 200 feet
7 of the lots to be replatted according to the most recent
8 municipality or county tax roll. This subsection does not apply to
9 a proposed replat if the municipal planning commission or the
10 governing body of the municipality holds a public hearing and gives
11 notice of the hearing in the manner provided by Subsection (b).

12 (g) The notice of a replat approval required by Subsection
13 (f) must include:

14 (1) the zoning designation of the property after the
15 replat; and

16 (2) a telephone number and e-mail address an owner of a
17 lot may use to contact the municipality about the replat.

18 SECTION 8. Subchapter A, Chapter 232, Local Government
19 Code, is amended by adding Section 232.0023 to read as follows:

20 Sec. 232.0023. APPROVAL PROCEDURE: APPLICABILITY. The plat
21 application approval procedures under this subchapter apply to a
22 county regardless of whether the county has entered into an
23 interlocal agreement, including an interlocal agreement between a
24 municipality and county under Section 242.001(d).

25 SECTION 9. The heading to Section 232.0025, Local
26 Government Code, is amended to read as follows:

27 Sec. 232.0025. APPROVAL PROCEDURE: TIMELY APPROVAL OF PLATS

1 AND PLANS.

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

5 (d) Except as provided by Subsection (f), the commissioners
6 court or the court's designee shall approve, approve with
7 conditions, or disapprove [~~take final action on~~] a plat
8 application[~~, including the resolution of all appeals,~~] not later
9 than the 30th [~~60th~~] day after the date the [~~a~~] completed [~~plat~~]
10 application is received by the commissioners court or the court's
11 designee. An application is approved by the commissioners court or
12 the court's designee unless the application is disapproved within
13 that period and in accordance with Section 232.0026.

14 (d-1) Notwithstanding Subsection (d), if a groundwater
15 availability certification is required under Section 232.0032, the
16 30-day period described by that subsection begins on the date the
17 applicant submits the groundwater availability certification to
18 the commissioners court or the court's designee, as applicable.

19 (f) The 30-day [~~60-day~~] period under Subsection (d):

20 (1) may be extended for a [~~reasonable~~] period not to
21 exceed 30 days, if:

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

25 (B) [~~(2) may be extended 60 additional days if~~]
26 Chapter 2007, Government Code, requires the county to perform a
27 takings impact assessment in connection with the [~~a~~] plat

1 application; and

2 (2) [~~(3)~~] applies only to a decision wholly within the
3 control of the commissioners court or the court's designee.

4 (g) The commissioners court or the court's designee shall
5 make the determination under Subsection (f)(1) [~~(f)(2)~~] of whether
6 the 30-day [~~60-day~~] period will be extended not later than the 20th
7 day after the date a completed plat application is received by the
8 commissioners court or the court's designee.

9 (h) The commissioners court or the court's designee may not
10 require [~~compel~~] an applicant to waive the time limits or approval
11 procedure contained in this subchapter [~~section~~].

12 (i) If the commissioners court or the court's designee fails
13 to approve, approve with conditions, or disapprove a plat
14 application [~~take final action on the plat~~] as required by this
15 subchapter [~~Subsection (d)~~]:

16 (1) the commissioners court shall refund the greater
17 of the unexpended portion of any [~~plat~~] application fee or deposit
18 or 50 percent of an [~~a plat~~] application fee or deposit that has
19 been paid;

20 (2) the [~~plat~~] application is granted by operation of
21 law; and

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

26 SECTION 11. Subchapter A, Chapter [232](#), Local Government
27 Code, is amended by adding Sections 232.0026, 232.0027, 232.0028,

1 232.00285, and 232.0029 to read as follows:

2 Sec. 232.0026. APPROVAL PROCEDURE: CONDITIONAL APPROVAL OR
3 DISAPPROVAL REQUIREMENTS. (a) A commissioners court or designee
4 that conditionally approves or disapproves of a plat application
5 under this subchapter shall provide the applicant a written
6 statement of the conditions for the conditional approval or the
7 reasons for disapproval that clearly articulates each specific
8 condition for the conditional approval or reason for disapproval.

9 (b) Each condition or reason specified in the written
10 statement:

11 (1) must:

12 (A) be directly related to the requirements of
13 this subchapter; and

14 (B) include a citation to the law, including a
15 statute or order, that is the basis for the conditional approval or
16 disapproval, if applicable; and

17 (2) may not be arbitrary.

18 Sec. 232.0027. APPROVAL PROCEDURE: APPLICANT RESPONSE TO
19 CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional
20 approval or disapproval of a plat application under Section
21 232.0026, the applicant may submit to the commissioners court or
22 designee that conditionally approved or disapproved the
23 application a written response that satisfies each condition for
24 the conditional approval or remedies each reason for disapproval
25 provided. The commissioners court or designee may not establish a
26 deadline for an applicant to submit the response.

27 Sec. 232.0028. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL

1 OF RESPONSE. (a) A commissioners court or designee that receives a
2 response under Section 232.0027 shall determine whether to approve
3 or disapprove the applicant's previously conditionally approved or
4 disapproved plat application not later than the 15th day after the
5 date the response was submitted under Section 232.0027.

6 (b) A commissioners court or designee that conditionally
7 approves or disapproves a plat application following the submission
8 of a response under Section 232.0027:

9 (1) must comply with Section 232.0026; and

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

13 (c) A commissioners court or designee that receives a
14 response under Section 232.0027 shall approve a previously
15 conditionally approved or disapproved plat application if the
16 applicant's response adequately addresses each condition for the
17 conditional approval or each reason for the disapproval.

18 (d) A previously conditionally approved or disapproved plat
19 application is approved if:

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

22 (2) the commissioners court or designee that received
23 the response does not disapprove the application on or before the
24 date required by Subsection (a) and in accordance with Section
25 232.0026.

26 Sec. 232.00285. DEVELOPMENT PLAN REVIEW. (a) In this
27 section, "development plan" includes a preliminary plat,

1 preliminary subdivision plan, subdivision construction plan, site
2 plan, general plan, land development application, or site
3 development plan.

4 (b) Unless explicitly authorized by another law of this
5 state, a county may not require a person to submit a development
6 plan during the plat approval process required by this subchapter.
7 If a county is authorized under another law of this state to require
8 approval of a development plan, the county must comply with the
9 approval procedures under this subchapter during the approval
10 process.

11 Sec. 232.0029. JUDICIAL REVIEW OF DISAPPROVAL. In a legal
12 action challenging a disapproval of a plat application under this
13 subchapter, the county has the burden of proving by clear and
14 convincing evidence that the disapproval meets the requirements of
15 this subchapter or any applicable case law. The court may not use a
16 deferential standard.

17 SECTION 12. Section 232.0025(e), Local Government Code, is
18 repealed.

19 SECTION 13. The change in law made by this Act applies only
20 to a plat application filed on or after the effective date of this
21 Act. A development or plan application filed before the effective
22 date of this Act is governed by the law in effect immediately before
23 the effective date of this Act, and that law is continued in effect
24 for that purpose.

25 SECTION 14. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 3167 was passed by the House on May 2, 2019, by the following vote: Yeas 119, Nays 18, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3167 was passed by the Senate on May 21, 2019, by the following vote: Yeas 27, Nays 3, 1 present, not voting.

Secretary of the Senate

APPROVED: _____

Date

Governor

Summary of Planning-Related Legislation Passed in the 86th Texas Legislative Session

BUILDING MATERIALS

HB 2439 (Phelan) – Building Materials and Methods: (Governor signed 6.14.19, effective 9.1.19)

would provide that: (1) a governmental entity may not adopt or enforce a rule, charter provision, ordinance, order, or other regulation that prohibits, directly or indirectly, the use of a building product, material, or method in the construction, renovation, maintenance, or other alteration of a residential or commercial structure if the building product, material, or method is approved for use by a national model code that: (a) is adopted by the governmental entity; and (b) governs the construction, renovation, use, or maintenance of buildings and building systems; (2) a rule, charter provision, ordinance, order, or other regulation adopted by a governmental entity that conflicts with the bill is void; (3) the attorney general may bring an action in the name of the state to enjoin a violation of the bill; and (4) the attorney general may recover reasonable attorney's fees and costs incurred in bringing an action under the bill. (Companion bill is SB 1266 by Buckingham) (Ed Note – After review, it appears the intent is to have a broad sweeping bill that will preempt city development ordinances. The wording is broad enough, the bill DOES appear to stop cities from using zoning, subdivisions and building codes. Local amendments just went out the window. Form based codes and planned developments are not listed in CH 211 so can't do them because they'll affect builders and developers who do business in more than one city. They want to have state law preempt city ordinances so they don't have to fight the individual ordinance each session. For example, this prohibits masonry requirements if various types of wood siding meet national codes. Precludes design standards such as historic guidelines, planned development or overlay districts with agreed upon architecture, etc.)

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB2439>

PLAT/PLAN REVIEW SHOT CLOCK

HB 3167 (Oliverson) – Plat/Plan Approval Shot Clock: (Governor signed 6.14.19, effective 9.1.19)

Changes 30 day requirement from “act on” to **must approve or disapprove** within 30 days. Also requires written statement of notice of disapproval listing all reasons for disapproval and limiting required amendments on subsequent submissions to those listed in the notice. Bill was amended to include “approval with conditions” which would have been a serious problem for everyone. Ed. Note – Intended to limit delays when actual result will be additional delays with cities reluctant to accept or process plats with minor problems. (Companion bill is SB 2370 by Bettencourt) <https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB3167>

AFFORDABLE HOUSING

SB 493 (Alvarado) – Housing Tax Credits: (Governor signed 6.10.19, effective 9.1.19) would allow the Texas Department of Housing and Community Affairs to allocate housing tax credits to more than one development in a single community, in the same calendar year, if: (1) the developments are located in an area declared to be a disaster by the state; and (2) the communities are located within a county with a population that exceeds one million.

<https://capitol.texas.gov/Search/DocViewer.aspx?ID=86RSB004931B&QueryText=%22sb+493%22&DocType=B>

ALCOHOLIC BEVERAGES

HB 1443 (S. Thompson) – Alcohol: (05/27/2019 E Signed by the Governor, effective 9.1.19) would require that, not later than the 30th day after the date a prospective applicant for an alcoholic beverage permit or license requests certification, the city secretary or clerk certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the permit or license is sought is prohibited by charter or ordinance. (Companion bill is SB 699 by Hall.)

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB1443>

ANNEXATION, DEVELOPMENT, STRATEGIC PARTNERSHIP AGMTS

HB 347 (P. King) – Annexation: **(Governor signed 5.24.19, effective immediately)** would essentially eliminate most unilateral annexations by any city, regardless of population or location. Specifically, **the bill would:** (1) **eliminate the distinction between Tier 1 and Tier 2 cities** and counties created by SB 6 (2017); (2) eliminate existing annexation authority that applied to Tier 1 cities and make most annexations subject to the three consent annexation procedures created by SB 6 (2017), which allow for annexation: (a) on request of the each owner of the land; (b) of an area with a population of less than 200 by petition of voters and, if required, owners in the area; and (c) of an area with a population of at least 200 by election of voters and, if required, petition of landowners; and (3) authorize certain narrowly-defined types of annexation (e.g., city-owned airports, navigable streams, etc.) to continue using a service plan, notice, and hearing annexation procedure.– (Companion bill is SB 745 (Birdwell) Enrolled version: <https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB347>

SB 1024 (Perry) – Annexation: **(Governor signed 6.4.19, effective 9.1.19)** would provide that: (1) a Tier 1 city shall provide access to services provided to an annexed area under a service plan that is identical or substantially similar to access to those services in the city; (2) a person residing in an annexed area subject to a service plan may apply for a writ of mandamus against a city that fails to provide access to services in accordance with (1); (3) in the action for the writ: (a) the court may order the parties to participate in mediation; (b) the city has the burden of proving that it complied with (1); (c) the person may provide evidence that the costs for the person to access the services are disproportionate to the costs incurred by a municipal resident to access those services; and (d) if the person prevails, the city shall dis-annex the property that is the subject of the suit within reasonable period specified by the court or comply with (1) and court shall award person’s attorney’s fees and costs incurred in bringing the action for the writ; and (4) a city’s governmental immunity to suit and from liability is waived and abolished to extent of liability created by the bill.

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB1024>

SB 1303 (Bettencourt) – Annexation/Extraterritorial Jurisdiction: **(Governor signed 6.14.19, effective 9.1.19)** would provide that: (1) a home rule city shall make publicly available a digital map (in addition to a paper map under current law) reflecting annexations and extraterritorial jurisdiction (ETJ) changes; (2) a city, before the 90th day after the date it adopts or amends an annexation plan, shall give written notice with certain provisions to each property owner in any area that would be newly included in the city’s extraterritorial jurisdiction as a result of the proposed annexation; (3) a home rule city, before the 90th day after the date it adopts or amends an annexation plan, shall create and make publicly available a digital map that identifies the area proposed for annexation and any area that would be newly included in the city’s ETJ as a result of the proposed annexation; (4) in addition to publishing notice of annexation hearings in a newspaper of general circulation in the city and area to be annexed, the notice must be published in a newspaper of publish notice of the hearings in a newspaper of general circulation in any area that would be newly included in the city’s ETJ resulting from the proposed annexation; and (5) if applicable, the notice for each annexation hearing must include: (a) a statement that the completed annexation of the area will expand the city’s ETJ; (b) a description of the area that would be newly included in the city’s ETJ; (c) a statement of the purpose of ETJ designation; and (d) a list of municipal ordinances that would be applicable in the area that would be newly included in the city’s ETJ; and (6) in addition to the notice requirements for a plan-exempt annexation, a home rule city, before it may institute annexation proceedings, shall create and make publicly available a digital map that identifies the area proposed for annexation and any area that would be newly included in the city’s ETJ as a result of the proposed annexation.

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB1303>

SB 1468 (Campbell) – Annexation: **(Governor signed 6.10.19, effective immediately)** would: (1) apply to a city that operates a municipally owned water utility and uses revenue from the utility partly for general municipal purposes or other purposes not related to the water utility; and (2) provide that such a city may not annex a water district for full purposes under the terms of an existing strategic partnership agreement, but rather must comply with the more restrictive annexation requirements enacted by SB 6 (2017).

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB1468>

BOARD OF ADJUSTMENTS

HB 2497 (Cyrier) – Board of Adjustment (Governor signed 6.10.19, effective 9.1.19) would allow the following persons to appeal to the board of adjustment a decision made by an administrative official: (1) a person who filed an application that is the subject of the decision; or (2) a person who is the owner of property that is the subject of the decision. <https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB2497>

BUILDING AND FIRE CODES/INSPECTION

HB 852 (Holland) – Permit Fees: (Signed by the Governor 5.21.19, effective immediately) would provide that: (1) in determining the amount of a building permit or inspection fee required in connection with the construction or improvement of a residential dwelling, a city may not consider: (a) the value of the dwelling; or (b) the cost of constructing or improving the dwelling; and (2) a city may not require the disclosure of information related to the value of or cost of constructing or improving a residential dwelling as a condition of obtaining a building permit. (companion bill by SB 855 Fallon below)

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB855>

HB 2546 (Guillen) – Industrialized Housing and Buildings: (Governor signed 6.14.19, effective 9.1.19) would provide that a manufacturer or builder of industrialized housing or buildings may construct industrialized housing or buildings in accordance with the energy efficiency performance standards outlined in: (a) the energy efficiency chapter of the International Residential Code; or (2) a local amendment to that code that is applicable to the city or county in which the industrialized housing or buildings will be located and determined by the State Energy Conservation Laboratory to be equally or more stringent than the state-adopted version of the energy efficiency chapter of the International Residential Code.

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB2546>

HB 2858 (Toth) – Swimming Pools (Governor did not sign or veto, effective 9.1.19) would provide that: (1) to protect the public health, safety, and welfare, the International Swimming Pool and Spa Code, as it existed on May 1, 2019, is adopted as the municipal swimming pool and spa code in this state; (2) the code applies to all construction, alteration, remodeling, enlargement, and repair of swimming pools and spas in a city that elects to regulate pools or spas; (3) a city may establish procedures for the administration and enforcement of the code; and (4) a city may review and adopt amendments made by the International Code Council to the code after May 1, 2019. <https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB2858>

CODE ENFORCEMENT

HB 36 (Ortega) – Substandard Buildings: (Signed by the Governor 6.14.19, effective immediately) would: (1) authorize an appeal from an interlocutory order denying a motion filed by a city related to a substandard building determination; and (2) require a court to expedite a proceeding, including an appeal, related to certain substandard building determinations.

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB36>

HB 2584 (Cortez) – Code Enforcement Officers: (Governor signed 6.14.19, effective 9.1.19) (1) exempts a code enforcement officer from prohibition on carrying a club, if the officer holds a certificate of registration as a code enforcement officer and is carrying the club to deter animal bites while the officer is on duty; and (2) require the Texas Commission of Licensing and Regulation to include educational training requirements regarding the principles and procedures to be followed when possessing or carrying an instrument used for deterring animal bites. (Companion bill SB 764 by Menendez.)

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB2584>

SB 254 (Rodriguez) – Substandard Property: (Signed by the Governor, effective immediately) would expand those persons a court may appoint as a receiver for a substandard property to include any individual that the city demonstrates is competent and able to fulfill the duties of a receiver. (Companion bill is HB 280 by Ortega)

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB254>

EMERGENCY SERVICE DISTRICTS (ESD's)

SB 1083 (Zaffirini) – Emergency Services Districts: (Governor signed 6.10.19, effective 9.1.19) would require a city to factor in sales tax revenue in the amount that must be paid to an emergency services district when the city seeks to remove territory from the district.

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB1083>

HEALTH CODES AND INSPECTIONS

HB 234 (Krause) – Sale of Lemonade: (Governor signed 6.14.19, effective 9.1.19) would provide that a city, county, or other local public health authority may not adopt or enforce an ordinance, order, or rule that prohibits an individual younger than 18 years of age from temporarily selling lemonade or other nonalcoholic beverage from a stand on private property. (Companion bill is SB 824 by Nelson)

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB234>

HB 1694 (Lambert) – Farmer's Markets: (Governor signed on 6.2.19, effective 9.1.) would prohibit a local government authority, including a local health department, from: (1) requiring a person to obtain a permit in order to provide samples of food at a farm or farmers' market; (2) regulating the provision of samples of food at a farm or farmers' market except as expressly provided in certain state law; and (3) adopting a rule requiring a farmers' market to pay a permit fee for: (a) conducting a cooking demonstration for educational purposes; or (b) providing samples of food. (Companion bill is SB 789 by Johnson.)

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB1694>

HB 2107 (Capriglione) – Food Regulation: (Governor signed on 5.31.19, effective on 9.1.19) would require a city to: (1) provide a response to a request for written information pertaining to the regulation of food not later than the 30th day after receipt of the request (unless prohibited by law); (2) provide an official written determination in regard to a request about the applicability of a food regulation or compliance with a food regulation not later than the 30th day after receipt of a written request; and (3) provide that a determination in (2) is valid until the regulation is amended by statute, rule, or regulation.

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB2107>

SB 572 (Kolkhorst) – Cottage Foods: (Governor signed 6.10.19, effective 9.1.19) would: (1) expand the definition of "cottage food production operation" to include pickled vegetables, fermented products, and canned goods that are acidified or low acid; (2) require a cottage food production operation producing a fermented product or a canned good that is acidified or low acid to submit the recipe to and get approval from the Texas Department of Health and Human Services (department) to sale the product; and (3) require the department to study the competitiveness of the Texas cottage food industry.

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB572>

SB 932 (Hughes) – Farmers' Markets: (Governor signed 5.31.19, effective 9.1.19) would provide that a temporary food establishment permit or permit issued by a public health district to a farmers' market must be valid for a term of not less than one year, may impose an annual fee not to exceed \$50, and must cover sales at all locations within the jurisdiction of the permitting authority

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB932>

HISTORIC

HB 1422 (Paddie) – Texas Historical Commission: (Signed by Governor 5.24.19, effective 9.1.19 except Section 16 takes effect 8.26.19) would: (1) continue the functions of the Texas Historical Commission (commission) until September 1; (2) authorize the commission to establish the Texas Heritage Trails Program to promote tourism to heritage and cultural attractions in the state; and (3) transfer jurisdiction over certain historic sites and parks from the Texas Parks and Wildlife Department to the commission. (See companion bill SB 605 by Buckingham) <https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB1422>

HB 2496 (Cyrier) – Local Historic Landmarks: (4.29.19 Received by the Senate, 4.26.19 Passed by House as amended and substituted) (Signed by Governor 5.25.19, effective immediately) would provide that a city that has established a process for designating places or areas of historical, culture, or architectural significance through zoning districts may not designate a property as a local historic landmark unless the owner of the property consents to the designation, and must allow the owner to withdraw consent at any time during the designation process.
<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB2496>

MANUFACTURED HOUSING/INDUSTRIALIZED BUILDINGS/RV PARKS

HB 1385 (T. King) – Industrialized Housing: (Signed by the Governor on 5.24.19, effective immediately) would expand the maximum allowable height of industrialized housing and buildings.
<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB1385>

ROUGH PROPORTIONALITY

SB 1510 (Schwertner) – Rough Proportionality: (Governor signed 6.10.19, effective 9.1.19) would provide that the rough proportionality requirement for development exactions in current law applies to, in addition to a city action, a requirement under a city/county subdivision agreement for regulation in the extraterritorial jurisdiction. <https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB1510>

SIGNS

SB 357 (Nichols) – Billboards: (Governor signed 6.14.19, effective 9.1.19) would amend the transportation code to provide that a billboard: (1) may not be higher than 42 ½ feet, excluding a cutout that extends above the rectangular border of the sign; and (2) a person may not rebuild a billboard at a height that exceeds 42 ½ feet. (Companion bill is HB 789)
<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB357>

SPECIAL DISTRICTS, TRUSTS

HB 304 (Paul) – Municipal Management Districts: (Governor signed 6.14.19, effective 9.1.19) would make various changes to the governance and operation of municipal management districts.
<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB304>

HB 1136 (Price) – Tourism Public Improvement Districts: (Signed by the Governor on 6.14.19, effective immediately) would authorize any city to establish a tourism public improvement district composed of territory in which the only businesses are one or more hotels
<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB1136>

HB 2018 (Thierry) – Municipal Management Districts: (Signed by the Governor on 6.10.19, effective immediately) would provide that, not later than the 90th day after the date a district annexes or excludes land, the district shall provide a description of the metes and bounds of the district, as of the date the annexation takes effect, to each city that, on the date the annexation takes effect: (1) has territory that overlaps with the district's territory; or (2) is adjacent to the district.
<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB2018>

SUBDIVISION PLATTING, RELATED DEVELOPMENT STANDARDS

HB 3314 (Romero) - Replats: (Governor signed 6.14.19, effective 9.1.19) Relating to certain requirements to replat certain municipal subdivision plats including changes to the public hearing addition of notice of approval requirements. Supported by TXAPA
<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB3314>

TRANSPORTATION

HB 1548 (Springer) – Golf Carts, Neighborhood Electric Vehicles, and Off-Highway Vehicles:

(Signed by Governor 6.14.19, effective immediately) would: (1) for purposes of the Recreational Use Statute, remove all-terrain vehicles and recreational off-highway vehicles from the definition of “recreation” and streamline the definition to reference “off-highway vehicles”; (2) for purposes of the Texas Clean Fleet Program and certain state law related to public beaches, define “golf cart” to mean a motor vehicle designed by the manufacturer primarily for use on a golf course; (3) include “all-terrain vehicle” and “recreational off-highway vehicle” in the definition of “off-highway vehicle” and make conforming amendments to various state laws; (4) provide that a golf cart, neighborhood electric vehicle (NEV), or off-highway vehicle (OHV) operated at a speed of not more than 25 miles per hour is required to display a slow-moving-vehicle emblem when operated on a highway; and (5) provide that an OHV that is registered under certain law is not subject to compulsory inspection.

With regard to Neighborhood Electric Vehicles, the bill: 22 1. provides that the Texas Department of Motor Vehicles (DMV) may not register a NEV for operation on a highway, but may issue a license plate and charge a related fee; 2. allows a NEV to be operated on a highway only if the vehicle displays a license plate; 3. provides that a city may allow an operator to operate a NEV on all or part of highway that is in the corporate boundaries of the city and has a posted speed limit of not more than 35 miles per hour; 4. allows a NEV to cross a highway at an intersection, including an intersection with a highway with a speed limit of more than 35 miles per hour; 5. authorizes a city to prohibit the operation of a NEV in a master planned community, on a public or private beach, or on a highway for which the posted speed is not more than 35 miles per hour if it is necessary in the interest of safety; and 6. exempts the operation of a NEV from the Motor Vehicle Safety Responsibility Act in some instances.

With regard to Golf Carts, the bill: 1. defines the term “golf cart” to mean a motor vehicle designed by the manufacturer primarily for use on a golf course; 2. provides that the DMV may not register a golf cart for operation on a highway, but may issue a license plate and charge a related fee; 3. allows a golf cart to be operated on a highway only if the vehicle displays a license plate; 4. removes a city’s authority to prohibit the operation of a golf cart in a master planned community and on a public or private beach, or on a highway for which the posted speed is not more than 35 miles per hour when operated within 2 miles of a golf course; 5. authorizes a city to either allow or prohibit the operation of a golf cart on a highway that is in the city limits and has a posted speed of not more than 35 miles per hour; 6. allows a golf cart to cross a highway at an intersection, including an intersection with a highway with a speed limit of more than 35 miles per hour; and 7. exempts the operation of a golf cart from the Motor Vehicle Safety Responsibility Act in some instances.

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB1548>

Texas Legislative Service was founded in 1924 under motto "Nulla Lex Sine Luce" which translated means "No law without light".....From their website.
