

A BILL TO BE ENTITLED

AN ACT

relating to the enforcement of building codes in unincorporated areas of Fort Bend County; providing a civil penalty.

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

SECTION 1. Chapter 233, Local Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. RESIDENTIAL BUILDING CODE IN UNINCORPORATED AREAS OF FORT BEND COUNTY

Sec. 233.101. DEFINITIONS. In this subchapter:

(1) "Another entity" includes the federal government, the State of Texas, a municipality, finance corporation, charitable or nonprofit organization, foundation, board, council, or commission, or any other person.

(2) "Commissioners court" means the commissioners court of Fort Bend County.

(3) "County" means Fort Bend County.

(4) "County residential building code" means the residential building code of the county adopted under Section 233.102.

(5) "International Residential Code" means the International Residential Code for One- and Two-Family Dwellings promulgated by the International Code Council.

(6) "Residential" means having the character of a detached one-family or two-family dwelling or a multiple

1 single-family dwelling that is not more than three stories high
2 with separate means of egress, including the accessory structures
3 of the dwelling, and that does not have the character of a facility
4 used for the accommodation of transient guests or a structure in
5 which medical, rehabilitative, or assisted living services are
6 provided in connection with the occupancy of the structure.

7 (7) "Residential building developer" includes any
8 business entity or person who, for a fixed price, commission, fee,
9 wage, or other compensation, constructs or supervises or manages
10 the construction of at least one residential structure.

11 Sec. 233.102. AUTHORITY TO ADOPT AND ENFORCE RESIDENTIAL
12 BUILDING CODE. (a) To protect the public health, safety, and
13 welfare, the International Residential Code, as it existed on May
14 1, 2006, is adopted as a county residential building code in Fort
15 Bend County.

16 (b) The International Residential Code applies to all
17 construction, alteration, remodeling, enlargement, and repair of
18 residential structures in the unincorporated area of the county.

19 (c) The commissioners court may establish procedures:

20 (1) to adopt later additions of the International
21 Residential Code;

22 (2) to reject later additions of the International
23 Residential Code; and

24 (3) for the administration and enforcement of the
25 International Residential Code.

26 (d) The commissioners court may review, consider, or reject
27 amendments made by the International Code Council to the

1 International Residential Code after May 1, 2006.

2 (e) The commissioners court may adopt protective measures
3 that exceed the standards of the code described by Subsection (a).

4 Sec. 233.103. BUILDING PERMIT; APPLICATION. (a) A person
5 may not construct or substantially improve a building described by
6 Section 233.102(b) in an unincorporated area of the county unless
7 the person obtains a building permit issued in accordance with this
8 subchapter.

9 (b) A person may apply for a building permit by providing to
10 any person, entity, or county office designated by the
11 commissioners court to receive building permit applications and
12 fees:

13 (1) a plan of the proposed building containing
14 information required by the commissioners court; and

15 (2) an application fee in an amount set by the
16 commissioners court.

17 (c) Not later than the 30th day after the date any person,
18 entity, or county office designated by the commissioners court to
19 receive building permit applications and fees in accordance with
20 Subsection (b) receives an application, a plan, and the fee, the
21 commissioners court shall:

22 (1) issue the permit if the plan complies with the
23 county residential building code; or

24 (2) deny the permit if the plan does not comply with
25 the county residential building code.

26 (d) If any person, entity, or county office designated by
27 the commissioners court to receive building permit applications,

1 plans, and fees in accordance with Subsection (b) receives an
2 application, plan, and fee and the commissioners court does not
3 issue the permit or deny the application before the 31st day after
4 the application, plan, and fee are received, the construction or
5 substantial improvement of the building that is the subject of the
6 application is approved for the purposes of this subchapter.

7 (e) The commissioners court may adopt different procedures
8 for the submission, acceptance, and granting of residential
9 building permit applications.

10 Sec. 233.104. INSPECTIONS. (a) The county shall inspect a
11 building subject to this subchapter to determine whether a building
12 complies with the county residential building code.

13 (b) The commissioners court may provide that a county
14 employee or an employee of another entity under contract or another
15 person under contract may perform the inspection.

16 (c) A building inspector designated by the commissioners
17 court may enter and perform the inspection at a reasonable time at
18 any stage of the building's construction or substantial improvement
19 and after completion of the building.

20 (d) Not later than the date that construction or substantial
21 improvement of a building subject to this subchapter is completed,
22 the owner of the building shall request in writing that the county
23 inspect the building for compliance with the county residential
24 building code.

25 (e) A building inspector designated by the commissioners
26 court shall begin the inspection of the building not later than the
27 fifth day after the date the county receives a written inspection

1 request. If any inspection is properly requested and the county
2 does not begin the inspection within the period provided by this
3 subsection, the building that is the subject of the request is
4 considered approved for the purposes of this subchapter.

5 (f) A building inspector designated by the commissioners
6 court shall issue a final certificate of occupancy to the owner of
7 the building inspected under this section if the inspector
8 determines, after an inspection of the completed building, that the
9 building complies with the county residential building code.

10 (g) If the building inspector designated by the
11 commissioners court determines, after an inspection of the
12 completed building, that the building does not comply with the
13 county residential building code:

14 (1) the county shall deny the certificate of
15 occupancy; and

16 (2) the building may not be occupied.

17 (h) The commissioners court may adopt procedures for the
18 proper submission of written requests for inspection.

19 Sec. 233.105. FEES. (a) The commissioners court may
20 develop a fee schedule based on building type and may set and charge
21 fees for the issuance of a building permit, for performing an
22 inspection, and for the issuance of a final certificate of
23 occupancy under this subchapter.

24 (b) The fees must be set in amounts necessary to cover the
25 cost of administering and enforcing this subchapter.

26 (c) The building inspector designated by the commissioners
27 court shall deposit fees received under this subchapter in a

1 special fund in the county treasury, and money in that fund may be
2 used only for the administration and enforcement of the county
3 residential building code.

4 (d) The fee for a residential building code inspection under
5 this subchapter must be reasonable and reflect the approximate cost
6 of the inspection personnel, materials, and administrative
7 overhead.

8 Sec. 233.106. AUTHORITY TO CONTRACT WITH ANOTHER ENTITY.

9 (a) The commissioners court may contract with a person or another
10 entity for the administration and enforcement of the county
11 residential building code including:

12 (1) the receipt, approval, and rejection of
13 applications for building permits under Section 233.103;

14 (2) the receipt, approval, and rejection of requests
15 for building inspections under Section 233.104;

16 (3) the performance of building inspections under
17 Section 233.104;

18 (4) the collection of fees on behalf of the county
19 under Section 233.105;

20 (5) the deposit of any fees collected on behalf of the
21 county into a designated special fund in the county treasury under
22 Section 233.105;

23 (6) the issuance of building permits under Section
24 233.103;

25 (7) the issuance of certificates of occupancy under
26 Section 233.104; and

27 (8) any other good or service necessary for the

1 administration and enforcement of the county residential building
2 code.

3 (b) The commissioners court may adopt procedures whereby a
4 residential building developer may contract with a person approved
5 by the commissioners court or another entity approved by the
6 commissioners court to provide the goods and services described in
7 Subsection (a) and receive a building permit or certificate of
8 occupancy from the county including:

9 (1) setting requirements for the demonstration of
10 professional qualification to administer and enforce the county
11 residential building code through inspections; and

12 (2) any other procedures necessary to ensure the
13 selection of qualified personnel by a residential building
14 developer for the purpose of administration and enforcement of the
15 county residential building code.

16 (c) The commissioners court may deny the issuance of a
17 building permit or certificate of occupancy if a residential
18 building developer does not comply with the procedures adopted by
19 the commissioners court under Subsection (b).

20 (d) This section does not limit or otherwise interfere with
21 the county's ability to contract with a third-party for the
22 performance of services that the county is authorized to undertake
23 on its own behalf under other law.

24 Sec. 233.107. AUTHORITY TO CONTRACT WITH MUNICIPALITY TO
25 ENFORCE MUNICIPAL BUILDING CODE. (a) The commissioners court may
26 contract with a municipality to enforce that municipality's
27 municipal building code within that municipality's

1 extraterritorial jurisdiction.

2 (b) This section applies only if:

3 (1) a residential building developer is seeking to
4 build a residential structure within both the county and the
5 extraterritorial jurisdiction of a municipality whose building
6 code the county seeks to enforce; and

7 (2) the municipal building code that the county seeks
8 to enforce on behalf of the municipality meets or exceeds the
9 minimum requirements set by the county residential building code.

10 (c) If a residential building developer seeks to build a
11 residential structure within the county and the extraterritorial
12 jurisdiction of a municipality and that municipality either has no
13 municipal building code or has no procedures in place for the
14 administration or enforcement of the municipality's building code,
15 the commissioners court may contract with any entity to enforce the
16 county residential building code and to apply any procedures
17 enacted by the commissioners court for the administration and
18 enforcement of the county residential building code.

19 Sec. 233.108. EFFECT OF DENIAL. (a) A residential
20 building developer whose building permit application is denied by
21 the county, any person acting on behalf of the county, or another
22 entity acting on behalf of the county, may not begin construction of
23 a residential structure in the unincorporated areas of the county
24 until the residential building developer receives a building permit
25 for the structure.

26 (b) The denial of a residential building permit does not
27 prevent a residential building developer from resubmitting an

1 application after attempting to cure any defects in the previously
2 denied application.

3 (c) A certificate of occupancy may not be issued to a
4 residential building developer for a building that is not in
5 compliance with the county residential building code.

6 (d) A building that is not in compliance with the county
7 residential building code may not be occupied.

8 (e) The attorney representing the county in district court
9 may seek injunctive relief to prevent a violation or threatened
10 violation of Subsection (a) or (d) or any other violation or
11 threatened violation of the county residential building code.

12 (f) The attorney representing the county in district court
13 may institute an action in district court to recover a civil penalty
14 against a residential building developer who:

15 (1) violates or threatens to violate Subsection (a) or
16 (d);

17 (2) violates or threatens to violate any provision of
18 the county residential building code; or

19 (3) sells a residential structure before receiving a
20 certificate of occupancy from the appropriate entity.

21 (g) A civil penalty imposed against a residential building
22 developer under this section may not exceed \$200 for each
23 violation. Each day of violation of Subsection (f)(1) or (2)
24 constitutes a separate violation for the purposes of imposing a
25 civil penalty.

26 (h) A civil penalty imposed against a residential building
27 developer under this section for a violation of Subsection (f)(3)

1 may not exceed \$500 for each violation. Each day that a person
2 occupies a residential structure that has been sold by a
3 residential building developer in violation of Subsection (f)(3) is
4 a separate violation for the purposes of imposing a civil penalty.

5 (i) The attorney designated in Subsection (e) or (f) may
6 recover reasonable expenses incurred in obtaining injunctive
7 relief or a civil penalty under this section, including
8 investigation and court costs, reasonable attorney's fees, witness
9 fees, and other expenses. The expenses recovered under this
10 section shall be used for the administration and enforcement of
11 this subchapter.

12 (j) A civil penalty recovered in an action brought under
13 this section shall be deposited in a special fund in the county
14 treasury.

15 SECTION 2. Subsection (a), Section 262.024, Local
16 Government Code, is amended to read as follows:

17 (a) A contract for the purchase of any of the following
18 items is exempt from the requirement established by Section 262.023
19 if the commissioners court by order grants the exemption:

20 (1) an item that must be purchased in a case of public
21 calamity if it is necessary to make the purchase promptly to relieve
22 the necessity of the citizens or to preserve the property of the
23 county;

24 (2) an item necessary to preserve or protect the
25 public health or safety of the residents of the county;

26 (3) an item necessary because of unforeseen damage to
27 public property;

- 1 (4) a personal or professional service;
- 2 (5) any individual work performed and paid for by the
3 day, as the work progresses, provided that no individual is
4 compensated under this subsection for more than 20 working days in
5 any three month period;
- 6 (6) any land or right-of-way;
- 7 (7) an item that can be obtained from only one source,
8 including:
- 9 (A) items for which competition is precluded
10 because of the existence of patents, copyrights, secret processes,
11 or monopolies;
- 12 (B) films, manuscripts, or books;
- 13 (C) electric power, gas, water, and other utility
14 services; and
- 15 (D) captive replacement parts or components for
16 equipment;
- 17 (8) an item of food;
- 18 (9) personal property sold:
- 19 (A) at an auction by a state licensed auctioneer;
- 20 (B) at a going out of business sale held in
21 compliance with Subchapter F, Chapter 17, Business & Commerce Code;
22 or
- 23 (C) by a political subdivision of this state, a
24 state agency of this state, or an entity of the federal government;
25 [~~or~~]
- 26 (10) any work performed under a contract for community
27 and economic development made by a county under Section 381.004; or

1 (11) any work performed under a contract for the
2 administration and enforcement of a county residential building
3 code entered into by a county under Section 233.106.

4 SECTION 3. This Act takes effect September 1, 2007.