

By: Dominguez

H.B. No. 4080

A BILL TO BE ENTITLED

AN ACT

relating to the applicability and enforcement of building and fire codes in the unincorporated areas of a county; authorizing a fee.

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

SECTION 1. Section 233.061(a), Local Government Code, is amended to read as follows:

(a) The commissioners court of a county [~~with a population of over 250,000 or a county adjacent to a county with a population of over 250,000~~] may adopt a fire code and rules necessary to administer and enforce the fire code.

SECTION 2. Sections 233.062(a) and (c), Local Government Code, are amended to read as follows:

(a) The fire code applies only to the following buildings constructed in an unincorporated area of the county:

(1) a commercial establishment;

(2) a public building; and

(3) a single or multifamily residential dwelling [~~consisting of four or more units~~].

(c) Except as provided by Subsection (d), the [~~The~~] fire code must:

(1) conform to:

(A) the International Fire Code, as published by the International Code Council, as the code existed on May 1, 2015

[~~2005~~]; or

1 (B) the Uniform Fire Code, as published by the
2 National Fire Protection Association, as the code existed on May 1,
3 2015 [~~2005~~]; or

4 (2) establish protective measures that exceed the
5 standards of the codes described by Subdivision (1).

6 SECTION 3. Section 233.064(b), Local Government Code, is
7 amended to read as follows:

8 (b) The commissioners court may provide that a county
9 employee, [or] an employee of another governmental entity under
10 intergovernmental contract, or an approved third-party inspector
11 may perform the inspection.

12 SECTION 4. The heading to Subchapter F, Chapter 233, Local
13 Government Code, is amended to read as follows:

14 SUBCHAPTER F. [~~RESIDENTIAL~~] BUILDING CODE STANDARDS APPLICABLE TO
15 UNINCORPORATED AREAS OF CERTAIN COUNTIES

16 SECTION 5. Section 233.151, Local Government Code, is
17 amended to read as follows:

18 Sec. 233.151. DEFINITIONS. (a) In this subchapter:

19 (1) "New commercial construction" includes:

20 (A) commercial construction of a building on a
21 vacant lot; and

22 (B) construction of an addition to or a
23 renovation of an existing commercial building, if the addition or
24 renovation will increase the square footage or value of the
25 existing building by more than 50 percent.

26 (2) "New construction" means new commercial
27 construction and new residential construction.

1 (3) "New [~~,"new~~] residential construction" includes:

2 (A) [~~(1)~~] residential construction of a
3 single-family house, a [~~or~~] duplex, or a multifamily building not
4 more than three stories high on a vacant lot; and

5 (B) [~~(2)~~] construction of an addition to or a
6 renovation of an existing single-family house, a [~~or~~] duplex, or a
7 multifamily building not more than three stories high, if the
8 addition or renovation will increase the square footage or value of
9 the existing residential building by more than 50 percent.

10 (b) The term "new residential construction" does not
11 include a structure that is constructed in accordance with Chapter
12 [1201](#), Occupations Code, or a modular home constructed in accordance
13 with Chapter [1202](#), Occupations Code.

14 SECTION 6. Section [233.153](#), Local Government Code, is
15 amended by amending Subsections (a), (b), (d), and (f) and adding
16 Subsections (b-1) and (g) to read as follows:

17 (a) Except as provided by Subsection (b-1), new [New]
18 residential construction [~~of a single-family house or duplex~~] in
19 the unincorporated area of a county to which this subchapter
20 applies shall conform to the version of the International
21 Residential Code published as of May 1, 2015 [~~2008, or the version~~
22 ~~of the International Residential Code that is applicable in the~~
23 ~~county seat of that county~~].

24 (b) Except as provided by Subsection (b-1), new commercial
25 construction in the unincorporated area of a county shall conform
26 to the version of the International Building Code published as of
27 May 1, 2015 [~~Standards required under this subchapter apply only to~~

1 ~~new residential construction that begins after September 1, 2009].~~

2 (b-1) The commissioners court of a county may:

3 (1) adopt and apply later versions of the
4 International Residential Code or the International Building Code
5 to new construction; or

6 (2) establish standards for new construction that
7 exceed the standards of those codes.

8 (d) This subchapter may not be construed to:

9 (1) ~~[require prior approval by the county before the~~
10 ~~beginning of new residential construction;~~

11 ~~[(2)]~~ authorize the commissioners court of a county to
12 adopt or enforce zoning regulations; or

13 (2) [(3)] affect the application of the provisions of
14 Subchapter B, Chapter 232, to land development.

15 (f) A county may ~~[not]~~ charge a fee to a person subject to
16 standards under this subchapter to defray the costs of enforcing
17 the standards.

18 (g) The commissioners court of a county may adopt rules
19 necessary to administer and enforce the building code standards
20 adopted under this subchapter.

21 SECTION 7. Section 233.154, Local Government Code, is
22 amended by amending Subsections (a) and (c) and adding Subsections
23 (a-1) and (a-2) to read as follows:

24 (a) A person who builds new ~~[residential]~~ construction
25 ~~[described by Section 233.153]~~ shall have the construction
26 inspected to ensure building code compliance in accordance with
27 this section as follows:

1 (1) for new ~~[residential]~~ construction as described by
2 Section 233.151(a)(1)(A) or (3)(A) ~~[on a vacant lot]~~, a minimum of
3 three inspections must be performed during the construction project
4 to ensure code compliance, as applicable, at the following stages
5 of construction:

6 (A) the foundation stage, before the placement of
7 concrete;

8 (B) the framing and mechanical systems stage,
9 before covering with drywall or other interior wall covering; and

10 (C) on completion of construction of the
11 residence or building; and

12 (2) for new ~~[residential]~~ construction ~~[of an addition~~
13 ~~to an existing residence]~~ as described by Section 233.151(a)(1)(B)
14 or (3)(B) ~~[233.151(a)(2)]~~, the inspections under Subdivision (1)
15 must be performed as necessary based on the scope of work of the
16 construction project.

17 (a-1) A county shall employ a building inspector certified
18 by the International Code Council to review construction plans and
19 inspect new construction or shall require ~~[, and~~

20 ~~[(3) for new residential construction on a vacant lot~~
21 ~~and for construction of an addition to an existing residence, the~~
22 ~~builder]:~~

23 (1) the builder of new residential construction to
24 contract for inspection ~~[(A) is responsible for contracting to~~
25 ~~perform the inspections required by this subsection]~~ with:

26 (A) ~~[(i)]~~ a licensed engineer;

27 (B) ~~[(ii)]~~ a registered architect;

1 (C) [~~(iii)~~] ~~a professional inspector licensed by~~
2 ~~the Texas Real Estate Commission;~~

3 [~~(iv)~~] a plumbing inspector employed by a
4 municipality and licensed by the Texas State Board of Plumbing
5 Examiners;

6 (D) [~~(v)~~] a building inspector employed by a
7 political subdivision; or

8 (E) [~~(vi)~~] an individual certified as a
9 residential combination inspector by the International Code
10 Council; or

11 (2) the general contractor for new commercial
12 construction to contract for inspection with:

13 (A) a licensed engineer;

14 (B) a registered architect;

15 (C) a certified building inspector employed by a
16 political subdivision; or

17 (D) an inspector certified by the International
18 Code Council as a commercial building inspector, commercial
19 electrical inspector, commercial mechanical inspector, or
20 commercial plumbing inspector.

21 (a-2) A builder or general contractor ~~and~~

22 [~~(B)~~] may use the same inspector for all the
23 required inspections or a different inspector for each required
24 inspection under Subsection (a) if the builder or general
25 contractor contracts for the inspection.

26 (c) If required by the county for new residential
27 construction, not later than the 10th day after the date of the

1 final inspection under this section, the builder shall submit
2 notice of the inspection stating whether or not the inspection
3 showed compliance with the building code standards applicable to
4 that phase of construction in a form required by the county to:

5 (1) the county employee, department, or agency
6 designated by the commissioners court of the county to receive the
7 information; and

8 (2) the person for whom the new residential
9 construction is being built, if different from the builder.

10 SECTION 8. Sections 233.155(a) and (b), Local Government
11 Code, are amended to read as follows:

12 (a) If proper notice for new residential construction is not
13 submitted in accordance with Section 233.154(c) [~~Sections~~
14 ~~233.154(b) and (c)~~], the county may take any or all of the following
15 actions:

16 (1) [~~refer the inspector to the appropriate regulatory~~
17 ~~authority for discipline,~~

18 [~~(2)~~] in a suit brought by the appropriate attorney
19 representing the county in the district court, obtain appropriate
20 injunctive relief to prevent a violation or threatened violation of
21 a standard or notice required under this subchapter from continuing
22 or occurring; or

23 (2) [~~(3)~~] refer the builder for prosecution under
24 Section 233.157.

25 (b) If the notice the builder provided to the county under
26 Section 233.154(c) does not indicate that the inspection showed
27 compliance with the applicable building code standards, the county

1 may take either or both of the actions under Subsections (a)(1)
2 [~~(a)(2)~~] and (2) [~~(3)~~].

3 SECTION 9. Sections 233.157(a) and (c), Local Government
4 Code, are amended to read as follows:

5 (a) A builder commits an offense if:

6 (1) the builder fails to provide proper notice in
7 accordance with Section 233.154(c) [~~Sections 233.154(b) and (c)~~];
8 or

9 (2) as provided by Section 233.155(b), the builder
10 does not provide notice under Section 233.154(c) that indicates
11 that the inspection showed compliance with the applicable building
12 code standards.

13 (c) An individual who fails to provide proper notice in
14 accordance with Section 233.154(c) [~~Sections 233.154(b) and (c)~~] is
15 not subject to a penalty under this subsection if:

16 (1) the new residential construction is built by the
17 individual or the individual acts as the individual's own
18 contractor; and

19 (2) the individual intends to use the residence as the
20 individual's primary residence.

21 SECTION 10. Sections 233.154(b) and 233.157(d), Local
22 Government Code, are repealed.

23 SECTION 11. The changes in law made by this Act apply only
24 to new construction that commences on or after January 1, 2020. New
25 construction that commences before January 1, 2020, is governed by
26 the law in effect immediately before that date, and that law is
27 continued in effect for that purpose.

1 SECTION 12. This Act takes effect January 1, 2020.