88R7631 MP-D

By:  Zaffirini S.B. No. 1636

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of wildland-urban interface areas and the adoption and enforcement of the wildland-urban interface code; providing a civil penalty.

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

SECTION 1.  Chapter 12, Agriculture Code, is amended by adding Section 12.052 to read as follows:

Sec. 12.052.  WILDLAND-URBAN INTERFACE CODE AND AREAS. (a) In this section, "wildland-urban interface area" means the geographic area where structures and other human development meets or intermingles with wildland or vegetative fuels.

(b)  The department by rule shall:

(1)  adopt the Wildland-Urban Interface Code as it existed on January 1, 2023, as the wildland-urban interface code for this state; and

(2)  designate the wildland-urban interface areas of this state for which a municipality or county must under other law enforce the wildland-urban interface code.

(c)  In designating the wildland-urban interface areas of this state under Subsection (b)(2), the department:

(1)  shall consult:

(A)  the Parks and Wildlife Department; and

(B)  the Texas A&M AgriLife Extension Service; and

(2)  may consult any other relevant state or federal agency, political subdivision, or nongovernmental organization.

SECTION 2.  Subchapter G, Chapter 214, Local Government Code, is amended by adding Section 214.2165 to read as follows:

Sec. 214.2165.  WILDLAND-URBAN INTERFACE CODE. (a) Each municipality shall establish procedures for the administration and enforcement of the wildland-urban interface code adopted under Section 12.052, Agriculture Code, in a wildland-urban interface area designated under that section that is located in the municipality.

(b)  To the extent of a conflict between the wildland-urban interface code enforced under this section and an applicable fire or building code, the more stringent provision prevails.

SECTION 3.  The heading to Subchapter C, Chapter 233, Local Government Code, is amended to read as follows:

SUBCHAPTER C. FIRE AND WILDLAND-URBAN INTERFACE CODES [~~CODE IN UNINCORPORATED AREA~~]

SECTION 4.  Subchapter C, Chapter 233, Local Government Code, is amended by adding Section 233.0611 to read as follows:

Sec. 233.0611.  ENFORCEMENT OF WILDLAND-URBAN INTERFACE CODE. (a) The commissioners court of each county shall adopt rules necessary to administer and enforce the wildland-urban interface code adopted under Section 12.052, Agriculture Code.

(b)  A wildland-urban interface code enforced under this section applies only in the wildland-urban interface area designated under Section 12.052, Agriculture Code, that is located in the unincorporated area of the county.

(c)  To the extent of any conflict between the wildland-urban interface code enforced under this section and an applicable fire or building code, the more stringent provision prevails.

SECTION 5.  Sections 233.063(a) and (c), Local Government Code, are amended to read as follows:

(a)  A person may not construct or substantially improve a building subject to a code adopted or enforced under this subchapter [~~described by Section 233.062(a)~~] in an unincorporated area of the county unless the person obtains a building permit issued in accordance with this subchapter.

(c)  Within 30 days after the date the commissioners court receives an application and fee in accordance with Subsection (b), the commissioners court shall:

(1)  issue the permit if the plan complies with the applicable codes adopted or enforced under this subchapter [~~fire code~~]; or

(2)  deny the permit if the plan does not comply with the applicable codes adopted or enforced under this subchapter [~~fire code~~].

SECTION 6.  Sections 233.064(a), (d), (f), (g), and (h), Local Government Code, are amended to read as follows:

(a)  The county shall inspect a building subject to this subchapter to determine whether the building complies with the applicable codes adopted or enforced under this subchapter [~~fire code~~].

(d)  On or before the date that construction or substantial improvement of a building subject to this subchapter is completed, the owner of the building shall request in writing that the county inspect the building for compliance with the applicable codes [~~fire code~~].

(f)  The county shall issue a final certificate of compliance to the owner of a building inspected under this section if the inspector determines, after an inspection of the completed building, that the building complies with the applicable codes [~~fire code~~]. For a building or complex of buildings involving phased completion or build-out, the county may issue a partial certificate of compliance for any portion of the building or complex the inspector determines is in substantial compliance with the applicable codes [~~fire code~~].

(g)  If the inspector determines, after an inspection of the completed building, that the building does not comply with the applicable codes [~~fire code~~], the county may:

(1)  deny the certificate of compliance; or

(2)  issue a conditional or partial certificate of compliance and allow the building to be occupied.

(h)  A county that issues a conditional certificate of compliance under Subsection (g) shall notify the owner of the building of the violations of the applicable codes [~~fire code~~] and establish a reasonable time to remedy the violations. A county may revoke a conditional certificate of compliance if the owner does not remedy the violations within the time specified on the conditional certificate of compliance.

SECTION 7.  Sections 233.065(c) and (d), Local Government Code, are amended to read as follows:

(c)  The county shall deposit fees received under this subchapter in a special fund in the county treasury, and money in that fund may be used only for the administration and enforcement of a [~~the fire~~] code adopted or enforced under this subchapter.

(d)  The fee for an [~~a fire code~~] inspection under this subchapter must be reasonable and reflect the approximate cost of the inspection personnel, materials, and administrative overhead.

SECTION 8.  Section 233.066, Local Government Code, is amended to read as follows:

Sec. 233.066.  INJUNCTION. The appropriate attorney representing the county in the district court may seek injunctive relief to prevent the violation or threatened violation of a [~~the fire~~] code adopted or enforced under this subchapter.

SECTION 9.  Section 233.067(a), Local Government Code, is amended to read as follows:

(a)  The appropriate attorney representing the county in civil cases may file a civil action in a court of competent jurisdiction to recover from a person who violates a [~~the fire~~] code adopted or enforced under this subchapter a civil penalty in an amount not to exceed $200 for each day on which the violation exists. In determining the amount of the penalty, the court shall consider the seriousness of the violation.

SECTION 10.  (a) Not later than November 1, 2023, the Department of Agriculture by rule shall adopt a wildland-urban interface code and designate the wildland-urban interface areas of this state, as required by Section 12.052, Agriculture Code, as added by this Act.

(b)  Not later than December 1, 2023, the governing body of each municipality and county shall adopt procedures or rules necessary to administer and enforce the wildland-urban interface code, as required by Sections 214.2165 and 233.0611, Local Government Code, as added by this Act.

SECTION 11.  This Act takes effect September 1, 2023.