

By: Reynolds

H.B. No. 2408

A BILL TO BE ENTITLED

AN ACT

relating to building codes applicable in the unincorporated areas of a county; authorizing a fee.

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

SECTION 1. The heading to Subchapter F, Chapter 233, Local Government Code, is amended to read as follows:

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

SECTION 2. Section 233.151, Local Government Code, is amended to read as follows:

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

(1) "New commercial construction" includes:

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

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

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

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

(A) [~~(1) residential~~] construction of a single-family house, a [~~or~~] duplex, or other construction defined as a residential building by the International Residential Code on

1 a vacant lot; and

2 (B) [(2)] construction of an addition to or a
3 renovation of an existing single-family house, a [or] duplex, or
4 other construction defined as a residential building by the
5 International Residential Code, if the addition or renovation will
6 increase the square footage or value of the existing residential
7 building by more than 50 percent.

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

12 (c) For purposes of this section, "International
13 Residential Code" means the International Residential Code as it
14 existed on January 1, 2023.

15 SECTION 3. Section 233.153, Local Government Code, is
16 amended by amending Subsections (a), (b), (d), and (f) and adding
17 Subsections (b-1) and (g) to read as follows:

18 (a) Except as provided by Subsection (b-1), new [New]
19 residential construction [of a single-family house or duplex] in
20 the unincorporated area of a county to which this subchapter
21 applies shall conform to the [version of the] International
22 Residential Code as it existed on January 1, 2023 [published as of
23 May 1, 2008, or the version of the International Residential Code
24 that is applicable in the county seat of that county].

25 (b) Except as provided by Subsection (b-1), new commercial
26 construction in the unincorporated area of a county to which this
27 subchapter applies shall conform to the International Building Code

1 as it existed on January 1, 2023 [~~Standards required under this~~
2 ~~subchapter apply only to new residential construction that begins~~
3 ~~after September 1, 2009~~].

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

5 (1) adopt and apply a version of the International
6 Residential Code or the International Building Code published after
7 January 1, 2023, to new construction; or

8 (2) establish standards for new construction that
9 exceed the standards of those codes.

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

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

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

15 (2) [~~(3)~~] affect the application of the provisions of
16 Subchapter B, Chapter 232, to land development.

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

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

23 SECTION 4. Subchapter F, Chapter 233, Local Government
24 Code, is amended by adding Section 233.1535 to read as follows:

25 Sec. 233.1535. NOTICE AND PUBLIC COMMENT. (a) A
26 commissioners court of a county shall publish notice of the
27 proposed adoption of or amendment to a building code under this

1 subchapter in a conspicuous location on the county's Internet
2 website at least 30 days before the date of the adoption of or
3 amendment to the building code.

4 (b) The commissioners court shall:

5 (1) as provided by Section 551.007, Government Code,
6 allow public testimony regarding the adoption of or amendment to a
7 building code under this subchapter before formal action is taken
8 by the commissioners court; and

9 (2) make a reasonable effort to encourage public
10 comment from persons affected by the adoption of or amendment to a
11 building code under this subchapter.

12 (c) On the written request from five or more persons, the
13 commissioners court of the county shall hold a public hearing open
14 to public comment on the proposed adoption of or amendment to a
15 building code under this subchapter. The hearing must be held on or
16 before the 14th day before the date the commissioners court adopts
17 or amends the building code.

18 SECTION 5. Section 233.154, Local Government Code, is
19 amended by amending Subsections (a) and (c) and adding Subsections
20 (a-1) and (a-2) to read as follows:

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

25 (1) for new [~~residential~~] construction described by
26 Section 233.151(a)(1)(A) or (3)(A) [on a vacant lot], a minimum of
27 three inspections must be performed during the construction project

1 to ensure code compliance, as applicable, at the following stages
2 of construction:

3 (A) the foundation stage, before the placement of
4 concrete;

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

7 (C) on completion of construction of the
8 residence or building; and

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

14 (a-1) A county may employ a building inspector certified by
15 the International Code Council to review construction plans and
16 inspect new construction or shall require~~;~~ and

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

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

23 (A) [(i)] a licensed engineer;

24 (B) [(ii)] a registered architect;

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

27 [(iv)] a plumbing inspector employed by a

1 municipality and licensed by the Texas State Board of Plumbing
2 Examiners;

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

5 (E) [~~(vi)~~] an individual certified as a
6 residential combination inspector by the International Code
7 Council; or

8 (2) the general contractor for new commercial
9 construction to contract for inspection with:

10 (A) a licensed engineer;

11 (B) a registered architect;

12 (C) a certified building inspector employed by a
13 political subdivision; or

14 (D) an inspector certified by the International
15 Code Council as a commercial building inspector, commercial
16 electrical inspector, commercial mechanical inspector, or
17 commercial plumbing inspector.

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

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

23 (c) If required by the county for new residential
24 construction, not later than the 10th day after the date of the
25 final inspection under this section, the builder shall submit
26 notice of the inspection stating whether or not the inspection
27 showed compliance with the building code standards applicable to

1 that phase of construction in a form required by the county to:

2 (1) the county employee, department, or agency
3 designated by the commissioners court of the county to receive the
4 information; and

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

7 SECTION 6. Section 233.155, Local Government Code, is
8 amended to read as follows:

9 Sec. 233.155. ENFORCEMENT OF STANDARDS. (a) If proper
10 notice for new residential construction is not submitted in
11 accordance with Section 233.154(c) [~~Sections 233.154(b) and (c)~~],
12 the county may take any or all of the following actions:

13 (1) [~~refer the inspector to the appropriate regulatory~~
14 ~~authority for discipline,~~

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

20 (2) [~~(3)~~] refer the builder for prosecution under
21 Section 233.157.

22 (b) If the notice the builder provided to the county under
23 Section 233.154(c) does not indicate that the inspection showed
24 compliance with the applicable building code standards, the county
25 may take either or both of the actions under Subsections (a)(1)
26 [~~(a)(2)~~] and (2) [~~(3)~~].

27 SECTION 7. Sections 233.157(a) and (c), Local Government

1 Code, are amended to read as follows:

2 (a) A builder commits an offense if:

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

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

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

13 (1) the new residential construction is built by the
14 individual or the individual acts as the individual's own
15 contractor; and

16 (2) the individual intends to use the residence as the
17 individual's primary residence.

18 SECTION 8. Sections 233.154(b) and 233.157(d), Local
19 Government Code, are repealed.

20 SECTION 9. Subchapter F, Chapter 233, Local Government
21 Code, as amended by this Act, applies only to new construction that
22 commences on or after the effective date of this Act. New
23 construction that commences before the effective date of this Act
24 is governed by the law in effect immediately before that date, and
25 that law is continued in effect for that purpose.

26 SECTION 10. Section 233.157, Local Government Code, as
27 amended by this Act, applies only to an offense committed on or

1 after the effective date of this Act. An offense committed before
2 the effective date of this Act is governed by the law in effect on
3 the date the offense was committed, and the former law is continued
4 in effect for that purpose. For purposes of this section, an
5 offense was committed before the effective date of this Act if any
6 element of the offense occurred before that date.

7 SECTION 11. This Act takes effect January 1, 2024.