

By: Paxton

S.B. No. 38

A BILL TO BE ENTITLED

AN ACT

relating to incorporation as a Type C general-law municipality by certain areas located in or near a special flood hazard area.

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

SECTION 1. Chapter 8, Local Government Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. INCORPORATION AS TYPE C GENERAL-LAW MUNICIPALITY
FOR CERTAIN MUNICIPALITIES IN OR NEAR SPECIAL FLOOD HAZARD AREA

Sec. 8.011. DEFINITIONS. In this subchapter:

(1) "Outdoor warning siren" means a system that produces a sound designed to alert a person who is outdoors of an imminent disaster and encourage that person to immediately seek shelter.

(2) "Special flood hazard area" means land in a floodplain subject to at least a one percent annual chance of flooding as designated by the director of the Federal Emergency Management Agency.

Sec. 8.012. AUTHORITY TO INCORPORATE AS TYPE C GENERAL-LAW MUNICIPALITY. Notwithstanding Subchapter A, an unincorporated area located outside the extraterritorial jurisdiction of a municipality may incorporate under this subchapter as a Type C general-law municipality if:

(1) the area contains a special flood hazard area; or

(2) a special flood hazard area is located within

1 1,000 feet of the area.

2 Sec. 8.013. PETITION TO INCORPORATE; INCORPORATION. (a)
3 The residents or landowners of an area eligible to become a Type C
4 general-law municipality under this subchapter may initiate an
5 incorporation under this subchapter by filing with the county judge
6 for the county in which the area is wholly or primarily located a
7 written petition that:

8 (1) complies with the territorial requirements for a
9 general-law municipality under Section 5.901;

10 (2) is signed by each resident of and owner of land in
11 the area; and

12 (3) includes the text of a proposed flood preparedness
13 ordinance that complies with Section 8.014.

14 (b) On receipt of a petition that complies with Subsection
15 (a), the county judge shall accept the petition, issue an order of
16 incorporation with immediate effect for the area as a Type C
17 general-law municipality, and enter the order in the minutes of the
18 commissioners court reflecting that the area is incorporated.

19 Sec. 8.014. FLOOD PREPAREDNESS ORDINANCE. Not later than
20 the 90th day after the date of incorporation, the governing body of
21 a municipality incorporated under this subchapter shall adopt a
22 flood preparedness ordinance that must:

23 (1) establish requirements regarding flood hazard
24 mitigation, preparedness, and response that meet applicable state
25 and federal requirements;

26 (2) require compliance with the minimum requirements
27 of the National Flood Insurance Program;

1 (3) establish an office of municipal flood hazard
2 mitigation administrator to ensure compliance with the
3 requirements of an ordinance under this section;

4 (4) require that the issuance of any building permit
5 for a new structure or expansion to an existing structure designed
6 for human occupancy is subject to compliance with an ordinance
7 under this section;

8 (5) prohibit, without exception, the building of a new
9 structure or expansion of an existing structure designed for human
10 occupancy within a special flood hazard area, unless otherwise
11 required by state or federal law;

12 (6) prohibit the building of a new structure or
13 expansion of an existing structure within 1,000 feet of a special
14 flood hazard area if:

15 (A) more than 10 years have passed since the
16 effective date of the flood insurance rate map published by the
17 Federal Emergency Management Agency for the area proposed for
18 development; or

19 (B) the flood insurance rate map has not been
20 updated within one year of publication of the most recent version of
21 the NOAA Precipitation Frequency Atlas of the United States, as
22 that phrase is defined by 15 U.S.C. Section 9707; and

23 (7) provide an exception to the prohibition under
24 Subdivision (6) if:

25 (A) the person requesting to build a new
26 structure or expand an existing structure within 1,000 feet of a
27 special flood hazard area:

1 (i) agrees to pay the cost of a Letter of
2 Map Revision from the Federal Emergency Management Agency and
3 receives the Letter of Map Revision; or

4 (ii) has the area redesignated from Zone A
5 to Zone AE, as defined by the Federal Emergency Management Agency,
6 to ensure detailed elevation studies and an accurate flood map, as
7 required by the municipality; or

8 (B) a current elevation certificate shows that
9 the adjacent grade of the area for the proposed development is
10 exclusively on land that is elevated at least 20 feet above the
11 special flood hazard area and there is a means of safe egress from
12 the proposed development area to an area outside of and elevated at
13 least 20 feet above the special flood hazard area.

14 Sec. 8.015. ADOPTION OF ORDINANCE REQUIRED; AUTOMATIC
15 DISSOLUTION. A municipality incorporated under this subchapter is
16 dissolved by operation of law on a finding by the county judge of
17 the county with whom the petition was filed under Section 8.013 that
18 the municipality did not adopt the flood preparedness ordinance
19 filed under Section 8.013 as a municipal ordinance on or before the
20 90th day after the date of incorporation.

21 Sec. 8.016. INCENTIVE PROGRAM. A municipality that
22 incorporates under this subchapter shall adopt an ordinance
23 establishing an incentive program to encourage the relocation or
24 demolition of structures designed for human occupancy from a
25 special flood hazard area.

26 Sec. 8.017. FLOOD HAZARD MITIGATION, PREPAREDNESS, AND
27 RESPONSE PLAN. A municipality that incorporates under this

1 subchapter shall, on or before the 90th day after the date of
2 incorporation, adopt a plan for flood hazard mitigation,
3 preparedness, and response. The plan must:

4 (1) provide for the coordination of the municipality's
5 elected officials, emergency officials, and city manager with the
6 applicable county, state, and federal emergency management
7 officials regarding future, current, or past flood events;

8 (2) include a communication plan for future, current,
9 or past flood events;

10 (3) include search and rescue protocols; and

11 (4) include a proposal of mutual aid agreements for
12 potential flood events that may occur within a five-mile radius of
13 the municipality inside the county or counties in which the
14 municipality is located.

15 Sec. 8.018. REQUIRED OUTDOOR WARNING SIREN. (a) In
16 addition to any other requirements regarding disaster alert systems
17 under state or federal law, a municipality that incorporates under
18 this subchapter shall require the installation of an outdoor
19 warning siren to provide advance warning of an anticipated flood
20 event that will alert the residents of any structure that is located
21 within 1,000 feet of a special flood hazard area.

22 (b) If another governmental entity maintains an outdoor
23 warning siren that fulfills the requirements of this section, the
24 municipality is not required to install an additional outdoor
25 warning siren.

26 Sec. 8.019. BARRIERS FOR FLOOD-PRONE ROADWAYS. A
27 municipality that incorporates under this subchapter shall install

1 automated crossing arms and visual and auditory alarms to impede
2 non-emergency pedestrian and vehicle traffic over any portion of a
3 roadway under the control of the municipality that is within the
4 special flood hazard area.

5 Sec. 8.020. CONFLICTS WITH STATE LAW. To the extent another
6 state law conflicts with this subchapter, the more strict
7 requirement regarding emergency management controls.

8 SECTION 2. This Act takes effect on the 91st day after the
9 last day of the legislative session.