

HARRIS COUNTY

PUBLIC INFRASTRUCTURE DEPARTMENT
Architecture & Engineering

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August 18, 2009

Honorable County Judge
& Commissioners' Court
Building

SUBJECT: Recommendation by the Director of Architecture & Engineering that Commissioners' Court Adopt an Order Requiring Application of the Provisions of Subchapter F of Chapter 233 of the Texas Local Government Code, Captioned "Residential Building Code Standards Applicable to Unincorporated Areas of Certain Counties", to Harris County and Requiring Notice of Commencement of New Residential Construction and Notice After Final Inspection

Dear Court Members:

It is recommended that Commissioners' Court adopt an order requiring that the provisions of Subchapter F of Chapter 233 of the Texas Local Government Code, captioned "Residential Building Code Standards Applicable to Unincorporated Areas of Certain Counties," apply to Harris County and requiring notice of commencement of new residential construction and notice after final inspection, with an effective date of September 1, 2009. The proposed Order is attached. The new law requires that new residential construction in the unincorporated areas of counties that have ordered that the statute apply must conform to either the version of the Intentional Residential Code published as of May 1, 2008 or the version of the International Building Code that is applicable in the County seat. The statute also requires that the builders obtain certain inspections. The proposed order requires that notice of inspection required by the statute be given to the County through a County maintained website. The statute replaces the program administered by the Texas Residential Construction Commission, which will cease to exist on August 31, 2009.

Sincerely,


John R. Blount, P.E.
Director, Architecture & Engineering

Attachments

cc: Arthur L. Storey, Jr.
Jackie L. Freeman
Raymond J. Anderson ✓
Joshua Stuckey
Sheryl Herbert
Agenda File

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PERMITS

Vote of the Court:

	Yes	No	Abstain
Judge Emmett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Radack	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Eversole	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Presented to Commissioner's Court

AUG 25 2009

APPROVE G/L

Recorded Vol _____ Page _____

AUG 25 2009

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

ORDER

APPROVE _____
Recorded Vol _____ Page _____

On the 25th day of August, 2009, at a regular meeting of the Commissioners' Court, sitting as the governing body of Harris County, Texas convened at a regular meeting of said Court at the Harris County Administration Building in the City of Houston, Texas with the following members present, to-wit:

- | | |
|------------------|--------------------------|
| Ed Emmett | County Judge |
| El Franco Lee | Commissioner, Precinct 1 |
| Sylvia R. Garcia | Commissioner, Precinct 2 |
| Steve Radack | Commissioner, Precinct 3 |
| Jerry Eversole | Commissioner, Precinct 4 |

And the following member(s) absent, to wit: none, constituting a quorum, when among other business the following was transacted:

ORDER REQUIRING APPLICATION OF THE PROVISIONS OF SUBCHAPTER F OF CHAPTER 233 OF THE TEXAS LOCAL GOVERNMENT CODE, CAPTIONED "RESIDENTIAL BUILDING CODE STANDARDS APPLICABLE TO UNINCORPORATED AREAS OF CERTAIN COUNTIES," TO HARRIS COUNTY AND REQUIRING NOTICE OF COMMENCEMENT OF NEW RESIDENTIAL CONSTRUCTION AND NOTICE AFTER FINAL INSPECTION

Commissioner *Sylvia R. Garcia* introduced an order and made a motion that the same be adopted. Commissioner *El Franco Lee* seconded the motion for the adoption of the order. The motion carrying with it the adoption of the order prevailed by the following vote:

	Yes	No	Abstain
Judge Emmett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Garcia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Radack	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Eversole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully been adopted. The order reads as follows:

RECITALS:

1. House Bill 2833 of the regular session of the 81st Texas Legislature, amended Chapter 233 of the Texas Local Government Code by adding Subchapter F, captioned "Residential Building Code Standards Applicable to Unincorporated Areas of Certain Counties," said subchapter to be effective September 1, 2009 and consisting of Texas Local Gov't Code Sections 233.151 through 233.157, hereinafter sometimes referred to as the "Act." A copy of the Act is attached hereto as Appendix A, for reference.

2. The new Local Government Code §233.152 states that the subchapter applies only to a county that has adopted a resolution or order requiring application of the provisions of the subchapter and that is either located within 50 miles of an international border or has a population of more than 100.

3. The Commissioners Court, as the governing body of Harris County, a county with a population of more than 100, desires to adopt an order requiring application of the provisions of the subchapter to Harris County.

4. The new Local Government Code §§ 233.154(b) and (c) provide that, if required by a county, a builder shall provide certain notices to a County before commencing new residential construction and after the date of final inspection required by the statute, and the Commissioners Court desires to require such notices and to provide for the form of such notices and the county department to receive such notices as authorized by the Act.

5. As builders are presently required to submit a Development Permit Application to the County Engineer under the separate Regulations of Harris County for Flood Plain Management, the Court desires to provide that pre-construction notification to the County under the Act of the location of the new residential construction, the approximate date of commencement of such construction, and of the code that will be applied be made in appropriate spaces on the Development Permit Application.

6. As builders were previously required to provide notices to the Texas Residential Construction Commission (TRCC) through an on-line system, and after sunset of the TRCC, notices of similar information are required in counties requiring application of the provisions of the Act, Commissioners Court would like to adopt an on-line system for notification after the final inspection to closely replicate the TRCC process.

ORDER

THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF HARRIS COUNTY, TEXAS, THAT:

Section 1. The provisions of Subchapter F of Chapter 233 of the Texas Local Government Code, as enacted by the 81st Texas Legislature and as it may be amended in the future, shall apply to Harris County.

Section 2. The County Engineer shall revise the form for Development Permit Application under the Regulations of Harris County for Flood Plain Management to include spaces in which a builder required to provide notice of new construction under the Act may notify the County of (1) the location of the new residential construction, (2) the approximate date by which the new residential construction will be commenced, and (3) the version of the International Residential Code that will be used to construct the new residential construction before commencing construction.

Section 3. Before beginning construction subject to the Act in the unincorporated portion of Harris County, the builder shall give notification to the

County of (1) the location of the new residential construction, (2) the approximate date by which the new residential construction will be commenced, and (3) the version of the International Residential Code that will be used to construct the new residential construction by filling in such information on the Development Permit Application under the Regulations of Harris County for Flood Plain Management as prescribed by the County Engineer and delivering the Application to the County Engineer in the manner prescribed for delivery of such Application in the Regulations of Harris County for Flood Plain Management.

Section 4. The County Engineer shall design and install an on-line system under which a builder subject to the Act or an inspector doing inspections under the Act may give notice after final inspection. The System shall allow builders and inspectors to obtain a user names and passwords, and by using the Permit Number given in association with submission of the Development Permit Application, to connect to the proper web page or pages and provide the date of each inspection required under the Act and indicate whether or not the inspection showed compliance with the building code standards applicable to each inspection.

Section 5. On or before the 10th day after the date of the final inspection in regard to each new residential construction subject to the Act in the unincorporated portion of Harris County, the builder shall be responsible for providing notice of the date of each inspection required under the Act and to indicate whether or not the inspection showed compliance with the building code standards applicable to each inspection using the on-line system developed by the County Engineer, provided that provision of such notice by the inspector providing inspection of the new residential construction under the Act shall also satisfy the requirement that the Builder give the notice.

Section 6. This Order shall be effective September 1, 2009.

AN ACT

relating to certain building code standards applicable to the unincorporated areas of certain counties; providing a penalty.

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

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

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

Sec. 233.151. DEFINITIONS. (a) In this subchapter, "new residential construction" includes:

(1) residential construction of a single-family house or duplex on a vacant lot; and

(2) construction of an addition to an existing single-family house or duplex, if the addition will increase the square footage or value of the existing residential building by more than 50 percent.

(b) The term does not include a structure that is constructed in accordance with Chapter 1201, Occupations Code, or a modular home constructed in accordance with Chapter 1202, Occupations Code.

Sec. 233.152. APPLICABILITY. This subchapter applies only to a county that has adopted a resolution or order requiring the application of the provisions of this subchapter and that:

- (1) is located within 50 miles of an international border; or
- (2) has a population of more than 100.

Sec. 233.153. BUILDING CODE STANDARDS APPLICABLE. (a) New residential construction of a single-family house or duplex in the unincorporated area of a county to which this subchapter applies shall conform to the version of the International Residential Code published as of May 1, 2008, or the version of the International Residential Code that is applicable in the county seat of that county.

(b) Standards required under this subchapter apply only to new residential construction that begins after September 1, 2009.

(c) If a municipality located within a county to which this subchapter applies has adopted a building code in the municipality's extraterritorial jurisdiction, the building code adopted by the municipality controls and building code standards under this subchapter have no effect in the municipality's extraterritorial jurisdiction.

(d) This subchapter may not be construed to:

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

(2) authorize the commissioners court of a county to adopt or enforce zoning regulations; or

(3) affect the application of the provisions of Subchapter B, Chapter 232, to land development.

(e) In the event of a conflict between this subchapter and Subchapter B, Chapter 232, the provisions of Subchapter B, Chapter 232, control.

(f) A county may not charge a fee to a person subject to standards under this subchapter to defray the costs of enforcing the standards.

Sec. 233.154. INSPECTION AND NOTICE REQUIREMENTS. (a) A person who builds new residential construction described by Section 233.153

shall have the construction inspected to ensure building code compliance in accordance with this section as follows:

(1) for new residential construction on a vacant lot, a minimum of three inspections must be performed during the construction project to ensure code compliance, as applicable, at the following stages of construction:

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

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

(C) on completion of construction of the residence;

(2) for new residential construction of an addition to an existing residence as described by Section 233.151(a)(2), the inspections under Subdivision (1) must be performed as necessary based on the scope of work of the construction project; and

(3) for new residential construction on a vacant lot and for construction of an addition to an existing residence, the builder:

(A) is responsible for contracting to perform the inspections required by this subsection with:

(i) a licensed engineer;

(ii) a registered architect;

(iii) a professional inspector licensed by the Texas Real Estate Commission;

(iv) a plumbing inspector employed by a municipality and licensed by the Texas State Board of Plumbing Examiners;

(v) a building inspector employed by a political subdivision; or

(vi) an individual certified as a residential combination inspector by the International Code Council; and

(B) may use the same inspector for all the required inspections or a different inspector for each required inspection.

(b) If required by a county to which this subchapter applies, before commencing new residential construction, the builder shall provide notice to the county on a form prescribed by the county of:

(1) the location of the new residential construction;

(2) the approximate date by which the new residential construction will be commenced; and

(3) the version of the International Residential Code that will be used to construct the new residential construction before commencing construction.

(c) If required by the county, not later than the 10th day after the date of the final inspection under this section, the builder shall submit notice of the inspection stating whether or not the inspection showed compliance with the building code standards applicable to that phase of construction in a form required by the county to:

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

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

Sec. 233.155. ENFORCEMENT OF STANDARDS. If proper notice is not submitted in accordance with Sections 233.154(b) and (c), the county may take any or all of the following actions:

(1) refer the inspector to the appropriate regulatory authority for discipline;

(2) in a suit brought by the appropriate attorney representing the county in the district court, obtain appropriate injunctive relief to prevent a

violation or threatened violation of a standard or notice required under this subchapter from continuing or occurring;

(3) refer the builder for prosecution under Section 233.157.

Sec. 233.156. EXISTING AUTHORITY UNAFFECTED. The authority granted by this subchapter does not affect the authority of a commissioners court to adopt an order under other law.

Sec. 233.157. PENALTY. (a) A person commits an offense if the person fails to provide proper notice in accordance with Sections 233.154(b) and (c).

(b) An offense under this section is a Class C misdemeanor.

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

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

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

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.