

LOCAL GOVERNMENT CODE

TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES, AND
RELATED ACTIVITIES

SUBTITLE B. COUNTY REGULATORY AUTHORITY

CHAPTER 233. COUNTY REGULATION OF HOUSING AND OTHER STRUCTURES

SUBCHAPTER A. DANGEROUS SUBSTANCES

Sec. 233.001. REQUIRING REPAIR, REMOVAL, OR DEMOLITION OF BUILDING OR OTHER STRUCTURE. (a) If the commissioners court of a county that borders the Gulf of Mexico and is adjacent to a county with a population of more than 3.3 million finds that a bulkhead or other method of shoreline protection, hereafter called "structure," in an unincorporated area of the county is likely to endanger persons or property, the commissioners may:

(1) order the owner of the structure, the owner's agent, or the owner or occupant of the property on which the structure is located to repair, remove, or demolish the structure or the part of the structure within a specified time; or

(2) repair, remove, or demolish the structure or the part of the structure at the expense of the county on behalf of the owner of the structure or the owner of the property on which the structure is located and assess the repair, removal, or demolition expenses on the property on which the structure was located.

(b) The commissioners court shall provide by order for:

(1) the assessment of repair, removal, or demolition expenses incurred under Subsection (a)(2);

(2) a method of giving notice of the assessment; and

(3) a method of recovering the expenses.

(c) Promptly after the assessment, the county must file for record, in recordable form in the office of the county clerk in which the property is located, a written notice of the imposition of a lien, if any, that is imposed on the property. The notice must contain a legal description of the property, the amount of the assessment, and the owner if known. The lien arises and attaches to the property at the time the notice of the assessment is recorded and indexed in the office of the county clerk in the county in which

the property is located. The notice to secure the assessment is inferior to any previously recorded bona fide mortgage lien attached to the property to which the county's lien attaches if the mortgage lien was filed for record in the office of the county clerk of the county in which the property is located before the date the notice is recorded and indexed in the office of the county clerk. The assessment lien is superior to all other previously recorded judgment liens.

(d) A person commits an offense if the person does not comply with an order issued under Subsection (a)(1). An offense under this section is a Class C misdemeanor.

(e) This section does not apply to a:

- (1) residential building; or
- (2) building or other structure that is owned or held in trust by the state or a political subdivision of this state; or
- (3) building or structure used on or in connection with an agricultural operation.

Added by Acts 1995, 74th Leg., ch. 762, Sec. 1, eff. June 16, 1995.
Renumbered from Sec. 239.001 by Acts 2001, 77th Leg., ch. 1420, Sec. 14.002(4), eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 82, eff. September 1, 2011.

SUBCHAPTER B. BUILDING AND SETBACK LINES

Sec. 233.031. AUTHORITY LIMITED TO UNINCORPORATED AREAS; CONFLICT WITH MUNICIPAL AUTHORITY. (a) The authority under this subchapter to establish building and set-back lines applies only to areas outside the corporate limits of municipalities.

(b) If the lines conflict with lines adopted by a municipality, the municipal lines prevail if they are in the extraterritorial jurisdiction of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 54(d), eff. Aug, 28, 1989. Renumbered from Sec. 233.001 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(3), eff. Sept. 1, 2001.

Sec. 233.032. POWERS AND DUTIES OF COMMISSIONERS COURT.

(a) If the commissioners court of a county determines that the general welfare will be promoted, the court may:

(1) establish by order building or set-back lines on the public roads, including major highways and roads, in the county; and

(2) prohibit the location of a new building within those building or set-back lines.

(b) A building or set-back line established under this subchapter may not extend:

(1) more than 25 feet from the edge of the right-of-way on all public roads other than major highways and roads; or

(2) more than 50 feet from the edge of the right-of-way of major highways and roads.

(c) The commissioners court may designate the public roads that are major highways and roads.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 54(d), eff. Aug. 28, 1989. Renumbered from Sec. 233.002 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(3), eff. Sept. 1, 2001.

Sec. 233.033. HEARING; ADOPTION OF LINES. (a) Before the establishment or change of building or set-back lines, the commissioners court must hold at least one public hearing on the establishment or change. The court shall publish notice of the time and place of the hearing in a newspaper of general circulation in the county before the 15th day before the date of the hearing. The court may adjourn the hearing from time to time.

(b) The commissioners court may establish or change a building or set-back line only by an order passed by at least a majority vote of the full membership of the court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 54(d), eff. Aug. 28, 1989. Renumbered from Sec. 233.003 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(3), eff. Sept. 1, 2001.

Sec. 233.034. NOTICE; LIMITATIONS PERIOD. (a) An owner of real property that fronts along a road that has a building or set-back line established under this subchapter is charged with notice of the building or set-back line order.

(b) The commissioners court shall show in a general manner each building or set-back line established under this subchapter on a map. The map shall be filed with the county clerk.

(c) If the county does not begin the construction of the improvement or widening of a road along which a building or set-back line has been established within four years after the date the building or set-back line is established, the building or set-back line becomes void, unless the county and the affected property owners agree to extend the time period for the improvements or widening.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 54(d), eff. Aug. 28, 1989. Renumbered from Sec. 233.004 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.002(3), eff. Sept. 1, 2001.

Sec. 233.035. BOARD OF BUILDING LINE ADJUSTMENT. (a) The commissioners court may appoint a board of building line adjustment consisting of five freeholders of the county. Members must be appointed for staggered terms of two years, with two members' terms expiring in one year and three members' terms expiring the next year. However, in making the initial appointments, the commissioners court shall designate two members for one-year terms and three members for two-year terms. The court may remove a member for cause on a written charge after a public hearing. The court shall fill a vacancy on the board for the unexpired term of the member whose term becomes vacant.

(b) The board shall elect its own chairman and shall adopt rules of procedure. The meetings of the board are open to the public. The board shall keep minutes of its proceedings that shall be filed in the board's office. The minutes of board meetings constitute a public record.

(c) Subject to appropriate conditions and safeguards, the board may modify or vary the regulations affecting building or

set-back lines in a case in which unnecessary hardship may result from a literal enforcement of those regulations, in order to do substantial justice and to observe the purpose of the regulations in protecting the public welfare and safety.

(d) The board shall hear and decide an appeal in a case in which, because of exceptional narrowness, shallowness, shape, topography, existing building development, or another exceptional and extraordinary situation or condition of a specific piece of property, the strict application of a building line established under this subchapter would result in peculiar and exceptional difficulties or hardships to the owner of the property. On appeal, the board may authorize a variance from the strict application of the regulation, under conditions imposed by the board, to relieve the hardship or difficulty if that relief can be granted without substantially impairing the intent and purpose of the building line or set-back line.

(e) With appropriate safeguards, the board shall authorize the construction of an improvement or a structure that may encroach on a building or set-back line. However, if the county proceeds with projected improvements of the affected road within the time provided by Section 233.034(c), the owner of the improvement or structure must remove it at no expense to the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Sec. 233.005 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.002(3), eff. Sept. 1, 2001.

Sec. 233.036. ENFORCEMENT. If a structure is erected, constructed, or reconstructed in violation of a building or set-back line established under this subchapter, the commissioners court, the district or county attorney, or an owner of real property in the county may institute an injunction, mandamus, abatement, or other appropriate action to prevent, abate, remove, or enjoin the unlawful erection, construction, or reconstruction.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Sec. 233.006 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.002(3), eff. Sept. 1, 2001.

Sec. 233.037. APPEAL. (a) An owner of property who is aggrieved by an action or order adopted by the board of building line adjustment may appeal to the commissioners court. The person must bring the appeal within 30 days after the date the action or order was adopted.

(b) A property owner in the county who is aggrieved by a final order of the board or of the commissioners court may appeal to the district court or to another court with proper jurisdiction. The appellant must bring the appeal within 30 days after the date on which the final order in question was adopted. The appellant must execute an appeal bond in an amount fixed by the court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 233.007 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(3), eff. Sept. 1, 2001.

SUBCHAPTER C. FIRE CODE IN UNINCORPORATED AREA

Sec. 233.061. AUTHORITY TO ADOPT AND ENFORCE FIRE CODE. (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.

(b) The commissioners court, or any municipality in the county, may contract with one another for the administration and enforcement of the fire code.

Added by Acts 1989, 71st Leg., ch. 296, Sec. 1, eff. Jan. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 598, Sec. 1, eff. June 11, 1997. Renumbered from Sec. 235.001 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(4), eff. Sept. 1, 2001.

Sec. 233.0615. DEFINITIONS; SUBSTANTIAL IMPROVEMENT; CONSTRUCTION. (a) In this subchapter:

(1) "Building" includes an establishment or multifamily dwelling.

(2) "Substantial improvement" means:

(A) the repair, restoration, reconstruction, improvement, or remodeling of a building for which the cost exceeds

50 percent of the building's value according to the certified tax appraisal roll for the county for the year preceding the year in which the work was begun; or

(B) a change in occupancy classification involving a change in the purpose or level of activity in a building, including the renovation of a warehouse into a loft apartment.

(b) For purposes of this subchapter, substantial improvement begins on the date that the repair, restoration, reconstruction, improvement, or remodeling or the change in occupancy classification begins or on the date materials are first delivered for that purpose.

(c) For purposes of this subchapter, construction begins on the date that ground is broken for a building, or if no ground is broken, on the date that:

(1) the first materials are added to the original property;

(2) foundation pilings are installed on the original property; or

(3) a manufactured building or relocated structure is placed on a foundation on the original property.

Added by Acts 2005, 79th Leg., Ch. 331 (S.B. [736](#)), Sec. 1, eff. June 17, 2005.

Sec. 233.062. APPLICATION AND CONTENT OF FIRE CODE. (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 multifamily residential dwelling consisting of four or more units.

(b) The fire code does not apply to an industrial facility having a fire brigade that conforms to requirements of the Occupational Health and Safety Administration.

(c) 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, 2005;
or

(B) the Uniform Fire Code, as published by the National Fire Protection Association, as the code existed on May 1, 2005; or

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

(d) The commissioners court may adopt later editions of a fire code listed in Subsection (c).

Added by Acts 1989, 71st Leg., ch. 296, Sec. 1, eff. Jan. 1, 1991.
Renumbered from Sec. 235.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(4), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 331 (S.B. 736), Sec. 2, eff. June 17, 2005.

Sec. 233.063. BUILDING PERMIT; APPLICATION. (a) A person may not construct or substantially improve a building 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.

(b) A person may apply for a building permit by providing to the commissioners court:

(1) a plan of the proposed building containing information required by the commissioners court; and

(2) an application fee in an amount set by the commissioners court.

(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 fire code; or

(2) deny the permit if the plan does not comply with the fire code.

(d) If the commissioners court receives an application and fee in accordance with Subsection (b) and the commissioners court does not issue the permit or deny the application within 30 days

after receiving the application and fee, the construction or substantial improvement of the building that is the subject of the application is approved for the purposes of this subchapter.

Added by Acts 1989, 71st Leg., ch. 296, Sec. 1, eff. Jan. 1, 1991. Renumbered from Sec. 235.003 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(4), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 331 (S.B. 736), Sec. 3, eff. June 17, 2005.

Sec. 233.064. INSPECTIONS. (a) The county shall inspect a building subject to this subchapter to determine whether the building complies with the fire code.

(b) The commissioners court may provide that a county employee or an employee of another governmental entity under intergovernmental contract may perform the inspection.

(c) A building inspector may enter and perform the inspection at a reasonable time at any stage of the building's construction or substantial improvement and after completion of the building.

(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 fire code.

(e) The county shall begin the inspection of the building within five business days after the date of the receipt of the written inspection request. If an inspection is properly requested and the county does not begin the inspection within the time permitted by this subsection, the building that is the subject of the request is considered approved for the purposes of this subchapter.

(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 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 fire code.

(g) If the inspector determines, after an inspection of the completed building, that the building does not comply with the 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 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.

(i) A building may not be occupied until a county issues a final, conditional, or partial certificate of compliance for the building.

Added by Acts 1989, 71st Leg., ch. 296, Sec. 1, eff. Jan. 1, 1991. Renumbered from Sec. 235.004 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(4), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 331 (S.B. [736](#)), Sec. 4, eff. June 17, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 797 (H.B. [2266](#)), Sec. 1, eff. September 1, 2011.

Sec. 233.065. FEES. (a) The commissioners court may develop a fee schedule based on building type and may set and charge fees for an inspection and the issuance of a building permit and final certificate of compliance under this subchapter.

(b) The fees must be set in amounts necessary to cover the cost of administering and enforcing this subchapter.

(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 the fire code.

(d) The fee for a fire code inspection under this subchapter must be reasonable and reflect the approximate cost of the inspection personnel, materials, and administrative overhead. Added by Acts 1989, 71st Leg., ch. 296, Sec. 1, eff. Jan. 1, 1991. Renumbered from Sec. 235.005 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(4), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 331 (S.B. 736), Sec. 5, eff. June 17, 2005.

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 the fire code.

Added by Acts 1989, 71st Leg., ch. 296, Sec. 1, eff. Jan. 1, 1991. Renumbered from Sec. 235.006 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(4), eff. Sept. 1, 2001.

Sec. 233.067. CIVIL PENALTY. (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 the fire code 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.

(b) The county shall deposit amounts collected under this section in the fund and for the purposes described by Section 233.065(c).

Added by Acts 1989, 71st Leg., ch. 296, Sec. 1, eff. Jan. 1, 1991. Renumbered from Sec. 235.007 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(4), eff. Sept. 1, 2001.

SUBCHAPTER D. ALARM SYSTEMS

Sec. 233.091. DEFINITIONS. In this subchapter:

(1) "Alarm site" means the specific property or area of the premises on or within which an alarm system is installed or

placed.

(2) "Alarm system" means an alarm signal device, burglar alarm, heat or motion sensor, or other electrical, mechanical, or electronic device used:

(A) to prevent or detect burglary, theft, pilferage, fire, or other loss of property;

(B) to prevent or detect intrusion; or

(C) primarily to detect and summon aid for other emergencies.

(3) "False alarm" means an alarm signal received by a law enforcement official that is later determined not to involve a criminal offense, attempted criminal offense, fire, or other emergency.

Added by Acts 1991, 72nd Leg., ch. 147, Sec. 1, eff. Sept. 1, 1991.
Renumbered from Sec. 237.001 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(5), eff. Sept. 1, 2001.

Sec. 233.092. AUTHORITY TO REGULATE; ADOPTION OF RULES.

(a) The commissioners court of a county by order may authorize the sheriff of a county to:

(1) propose rules to implement this subchapter;

(2) regulate the incidence of and response to false alarms in accordance with the rules proposed by the sheriff and adopted or modified by the commissioners court under this subchapter;

(3) establish procedures for application for and renewal and revocation of an alarm system permit;

(4) establish procedures that include notice to the permit holder and an opportunity for a hearing for permit revocation or suspension if the permit holder violates this subchapter or an order of the commissioners court or a rule adopted under this subchapter;

(5) establish fees in accordance with this subchapter for the issuance of the permits;

(6) require that any permit issued under this subchapter be kept at the alarm site and produced for inspection on request of the sheriff or the sheriff's representative;

(7) require that a permit must be issued and unrevoked before a sheriff or other law enforcement official may respond; and

(8) establish a number of free false alarms for each category of alarm system and impose a service response fee for any alarm in excess of the number of free responses within the preceding 12-month period.

(b) Repealed by Acts 2005, 79th Leg., Ch. 1296, Sec. 5, eff. June 18, 2005.

(c) A penalty or fee imposed for a false alarm must be established by rule based on the type and level of emergency response provided. The fee for more than five false alarms shall not exceed \$75 per false alarm above the number of free responses. If there are more than nine false alarms in a one-year period, the alarm system permit may be revoked.

(d) Notwithstanding the other provisions of this section, the owner or lessee of premises on which an alarm system is installed may be charged the full costs incurred by the county when the owner or lessee or the agent or employee of the owner or lessee intentionally or knowingly activates the alarm system for any reason other than an emergency or threat of an emergency of the kind for which the alarm system was designed to give notice.

(e) The sheriff or the sheriff's representative shall provide a copy of the rules to a person and assess a fee for the copy in accordance with Chapter 552, Government Code.

Added by Acts 1991, 72nd Leg., ch. 147, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(88), eff. Sept. 1, 1995. Renumbered from Sec. 237.002 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(5), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1296 (H.B. 2626), Sec. 5, eff. June 18, 2005.

Sec. 233.093. PERMIT REQUIRED; EXCEPTIONS. (a) In a county in which the sheriff regulates alarm systems under this subchapter, a person may not use an alarm system without a permit issued in accordance with this subchapter.

(b) This subchapter does not apply to:

(1) emergency response systems managed by health care facilities licensed by the Texas Department of Health; or

(2) alarm systems installed on:

(A) a motor vehicle;

(B) premises occupied by the United States, this state, or the county; or

(C) premises located in an incorporated area within the county.

Added by Acts 1991, 72nd Leg., ch. 147, Sec. 1, eff. Sept. 1, 1991.

Renumbered from Sec. 237.003 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(5), eff. Sept. 1, 2001.

Sec. 233.094. PERMIT FEES. (a) The sheriff of a county who regulates alarm systems under this subchapter may authorize the county auditor to assess and collect fees for the issuance or renewal of a permit under this subchapter in reasonable amounts set by the commissioners court.

(b) All fees received under this subchapter shall be remitted to the county treasurer to be deposited to the credit of the general fund of the county.

Added by Acts 1991, 72nd Leg., ch. 147, Sec. 1, eff. Sept. 1, 1991.

Renumbered from Sec. 237.004 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(5), eff. Sept. 1, 2001.

Sec. 233.095. MUNICIPAL AUTHORITY UNAFFECTED. This subchapter does not affect the authority of a municipality in the county to enact ordinances regulating alarm systems.

Added by Acts 1991, 72nd Leg., ch. 147, Sec. 1, eff. Sept. 1, 1991.

Renumbered from Sec. 237.005 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(5), eff. Sept. 1, 2001.

Sec. 233.096. CRIMINAL PENALTY. (a) A person who violates this subchapter, an order of the commissioners court, or a rule adopted under this subchapter commits an offense.

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

Added by Acts 1991, 72nd Leg., ch. 147, Sec. 1, eff. Sept. 1, 1991.

Renumbered from Sec. 237.006 and amended by Acts 2001, 77th Leg.,

ch; 1420, Sec. 12.003(5), eff. Sept. 1, 2001.

Sec. 233.097. COUNTY LIABILITY. The county, the commissioners court, the sheriff, and the sheriff's employees or agents are not liable for an action arising out of the regulation of or failure to regulate alarm systems.

Added by Acts 1991, 72nd Leg., ch. 147, Sec. 1, eff. Sept. 1, 1991.

Renumbered from Sec. 237.007 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(5), eff. Sept. 1, 2001.

Sec. 233.098. ENFORCED COLLECTION. The appropriate attorney representing the county may file a civil action in a court of competent jurisdiction to recover a penalty or fee imposed by a county under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1296 (H.B. 2626), Sec. 3, eff. June 18, 2005.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 1318 (H.B. 2833), Sec. 1, eff. September 1, 2009.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 1318 (H.B. 2833), Sec. 1, eff. September 1, 2009.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 1318 (H.B. 2833), Sec. 1, eff. September 1, 2009.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 1318 (H.B. [2833](#)), Sec. 1, eff. September 1, 2009.

Sec. 233.155. ENFORCEMENT OF STANDARDS. (a) 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; or
- (3) refer the builder for prosecution under Section

233.157.

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

Added by Acts 2009, 81st Leg., R.S., Ch. 1318 (H.B. 2833), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 774 (H.B. 2040), Sec. 1, eff. September 1, 2017.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 1318 (H.B. 2833), Sec. 1, eff. September 1, 2009.

Sec. 233.157. PENALTY. (a) A builder commits an offense if:

(1) the builder fails to provide proper notice in accordance with Sections 233.154(b) and (c); or

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

(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.

(d) It is an affirmative defense to prosecution for failure to submit proper notice under Section 233.154(c) if the builder's

failure to submit a notice is the result of the failure of the person who performed the inspection to provide appropriate documentation to the builder for submission to the county.

Added by Acts 2009, 81st Leg., R.S., Ch. 1318 (H.B. [2833](#)), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 774 (H.B. [2040](#)), Sec. 2, eff. September 1, 2017.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 233.901. TIME FOR ISSUANCE OF COUNTY BUILDING PERMIT.

(a) This section applies only to a permit required by a county with a population of 3.3 million or more to construct or improve a building or other structure in the county, but does not apply to a permit for an on-site sewage disposal system.

(b) Not later than the 45th day after the date an application for a permit is submitted, the county must:

- (1) grant or deny the permit;
- (2) provide written notice to the applicant stating the reasons why the county has been unable to act on the permit application; or
- (3) reach a written agreement with the applicant providing for a deadline for granting or denying the permit.

(c) For a permit application for which notice is provided under Subsection (b)(2), the county must grant or deny the permit not later than the 30th day after the date the notice is received.

(d) If a county fails to act on a permit application in the time required by Subsection (c) or by an agreement under Subsection (b)(3), the county:

- (1) may not collect any permit fees associated with the application; and
- (2) shall refund to the applicant any permit fees associated with the application that have been collected.

Added by Acts 2005, 79th Leg., Ch. 918 (H.B. [266](#)), Sec. 1, eff. September 1, 2005.