

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.