

HB 2833 passed by the 81st Texas Legislature allows counties to require building code standards, inspections and notices for certain residential construction begun after September 1, 2009 in the unincorporated portions of the county by enacting Subchapter F, Chapter 233, Texas Local Government Code.

A county may adopt a resolution or order requiring all new residential construction and certain home additions begun after September 1, 2009 to be built to either:

- the version of the International Residential Code (IRC) published as of May 1, 2008; or
- the version of the IRC that is applicable in the county seat of that county.

Upon adoption of this requirement, a minimum of three inspections must be performed, as applicable, to ensure building code compliance for:

- single-family house or duplex construction on a vacant lot; and
- 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.

The three required inspections during the construction project, as applicable, must be performed at the following stages:

- the foundation stage, before the placement of concrete;
- the framing and mechanical systems stage, before covering with drywall or other interior wall covering; and
- completion of construction of the residence.

For remodeling construction to an existing residence in which the structure's square footage or value will increase by more than fifty percent, the inspection requirements apply and must be performed as necessary based on the scope of work of the construction project.

The builder is responsible for contracting to perform the required inspections with:

- a licensed engineer;
- a registered architect;
- a professional inspector licensed by the Texas Real Estate Commission;
- a plumbing inspector employed by a municipality and licensed by the Texas State Board of Plumbing Examiners;
- a building inspector employed by a political subdivision; or
- an individual certified as a residential combination inspector by the International Code Council.

A builder may use the same inspector for all the required inspections or a different inspector for each required inspection.

Upon the adoption of a resolution or order by the county to have Subchapter F, Chapter 233, Texas Local Government Code apply in the county, that county may require a builder to provide notice of a construction project prior to beginning the project on a form prescribed by the county. The notice must include:

- the location of the new residential construction;
- the approximate date by which the new residential construction will be commenced; and
- the version of the IRC that will be used by the builder to construct the new residential construction.

Upon the adoption of a resolution or order by the county to have Subchapter F, Chapter 233, Texas Local Government Code apply in the county, that county may require a builder to provide notice of building inspections. The builder shall submit the required notice on a form required by the county not later than the 10th day after the date of the final inspection, stating whether or not the project is in compliance with the building code. The form must be submitted to:

- the county employee, department, or agency designated by the commissioners court of the county to receive the information; and
- the person for whom the new residential construction is being built, if different from the builder.

If a builder is in violation of the notice provisions, the county may take any or all of the following actions:

- refer the inspector to the appropriate regulatory authority for discipline;
- 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
- refer the builder for prosecution under a Class C misdemeanor.

Implementing the provisions of Subchapter F, Chapter 233, Texas Local Government Code to the county, with the permissible notice requirements, will allow a county to more easily track increases in the property tax base.

An individual is exempted from the Class C misdemeanor referral for failure to provide notice if:

- the new residential construction is built by the individual or the individual acts as the individual's own contractor; and
- the individual intends to use the residence as the individual's primary residence.

HB 2833 specifically states that Subchapter F, Chapter 233, Texas Local Government Code cannot be construed to:

- require prior approval by the county before the beginning of new residential construction;
- authorize the commissioners court of a county to adopt or enforce zoning regulations; or
- affect the application of the provisions of Subchapter B, Chapter 232, Texas Local Government Code to land development.

HB 2833 further prohibits a county from charging a fee to a person to defray the costs of enforcing these standards.