

STATE OF TEXAS

§

COUNTY OF EL PASO

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**AN ORDER OF THE COMMISSIONERS COURT OF EL PASO COUNTY TO  
APPROVE AND ADOPT RESIDENTIAL BUILDING CODE STANDARDS  
APPLICABLE TO UNINCORPORATED AREAS OF THE COUNTY AND TO  
PROVIDE FOR ENFORCEMENT**

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**CHAPTER 1  
PREAMBLE**

§ 1.01. PREAMBLE.

**WHEREAS**, Subchapter F of Chapter 233 of the Texas Local Government Code authorizes and allows counties located within fifty (50) miles of an international border, or having a population of more than 100 persons, to require residential building code standards for new residential construction, in the unincorporated areas of those counties; and

**WHEREAS**, El Paso County is located within fifty (50) miles of an international border and has a population of more than 100 residents; and

**WHEREAS**, the Commissioners Court of El Paso County, Texas has determined it to be in the best interest of the County and its residents to adopt and enforce building code standards for new residential construction in the unincorporated areas of the County;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF EL PASO COUNTY THAT:

§ 1.02. PRELIMINARY FINDINGS.

The foregoing recitals, having been found by the Commissioners Court to be true and correct, are hereby incorporated into this Order as findings of fact.

§ 1.03. ORDER ADOPTED.

1. The Commissioners Court hereby adopts and approves the application of Subchapter F, Chapter 233 of the Texas Local Government Code to the unincorporated areas of El Paso County, Texas such subchapter establishing building code standards for new residential construction in the unincorporated areas of the County, as well as certain enforcement provisions and penalties for the violation of such provisions.
2. The El Paso County Commissioners Court hereby elects to require all persons who construct or cause to be constructed a new single-family house or duplex, or who construct or cause to be constructed an addition to an existing single-family house or duplex, as defined in this Order, to provide the required notices set forth herein, including but not limited to those notices set forth in Section 233.154(b) and Sections 233.154(c)(Texas Local Government Code). Such notices shall be tendered to the El Paso County Road and Bridge Department.
3. It is hereby officially found and determined that the meeting at which this Order was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code.

4. This Order shall be effective on the 1st day of January 2012.

## CHAPTER 2 DEFINITIONS

### § 2.01. DEFINITIONS.

- A. **“New residential construction”** includes:
1. residential construction of a single-family house or duplex on a vacant lot;
  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 “new residential construction” 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.
- C. **“Single family house”** – A single structure that is built on a site, containing sleeping, kitchen, and bathroom facilities designed for and used or held ready for use as a residence by one family.
- D. **“Days”** - Days shall be calculated based on normal business days and exclude Saturdays, Sundays, and legal holidays or days upon which the County of El Paso does not conduct a normal full business day, unless otherwise specified. In computing days, any period of time prescribed or allowed by these rules, the day of the act or event after which the designated period of time begins to run is not to be included.
- E. **“Duplex”** - (two-family dwelling) is a building designed or occupied as two dwelling units, either side-by-side or on two different floors each of which has an independent entrance.

**CHAPTER 3**  
**BUILDING CODE STANDARDS APPLICABLE**

§ 3.01. APPLICABILITY.

- A. New residential construction of a single-family house or duplex in the unincorporated area of El Paso County shall conform to the version of the International Residential Code published as of May 1, 2008 and adopted by the City of El Paso, Texas, or to that version of the International Residential most recently adopted by the City of El Paso, including amendments adopted by the City of El Paso, Texas.
- B. Standards required under this Order apply only to new residential construction that begins after the effective date of this Order.
- C. If a municipality located within the area to which this Order 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 Order may not be construed to:
1. require prior approval by the County of El Paso before the beginning of a new residential construction;
  2. authorize the commissioners court to adopt or enforce zoning regulations; or
  3. affect the application of the provisions of Subchapter B, Chapter 232, to land development.

§ 3.02. CONFLICT.

In the event of a conflict between this Order and Subchapter B, Chapter 232 of the Texas Local Government Code, the provisions of Subchapter B, Chapter 232, control.

**CHAPTER 4**  
**INSPECTION AND NOTICE REQUIREMENTS**

§ 4.01. INSPECTION REQUIREMENTS.

A. A person who builds new residential construction described by this Order shall have the construction inspected to ensure building code compliance in accordance with this Order 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 2.01(A) above, the inspections under Section 4.01(A)(1) must be performed as necessary based on the scope of the 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.

§ 4.02. NOTICE REQUIREMENTS.

A. Before the commencing of new residential construction, a builder, subject to the provisions of this Order, shall provide notice to the El Paso County Road and Bridge Department on a form prescribed by said department:

- 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.

B. Not later than the tenth (10<sup>th</sup>) business 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 the form required by the El Paso County Road and Bridge Department:

- 1. to the El Paso County Road and Bridge Department; and
- 2. the person for whom the new residential construction is being built, if different from the builder.

C. All notices must at a minimum contain thorough and accurate information. Notices containing inaccurate, incomplete, or false information shall not be considered proper notices as required by this Order.

**CHAPTER 5  
ENFORCEMENT OF STANDARDS**

**§ 5.01. ENFORCEMENT.**

- A. If proper notice is not submitted in accordance with this Order, 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 Local Government Code Section 233.157.

**§ 5.02. EXISTING AUTHORITY UNAFFECTED.**

- A. The authority granted by this Order does not affect the authority of the El Paso County Commissioners Court to adopt an order or exercise other remedies under other law.

**§ 5.03. PENALTY.**

- A. A person commits an offense if the person fails to provide proper notice in accordance with this Order [Local Government Code Section 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 4.01 and 4.02 of this Order is not subject to a penalty under this section 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.

**BE IT SO ORDERED.**

Passed and Approved this 17th day of September, 2012, by a vote of 3 in favor and 1 against, \_\_\_\_\_ abstaining with the effective date declared to be \_\_\_\_\_ 2012.

EL PASO COUNTY, TEXAS

By: \_\_\_\_\_

Veronica Escobar  
COUNTY JUDGE

Attest:

Debra Briones  
COUNTY CLERK

Approved as to form:

[Signature]  
Assistant County Attorney