

SENATE COMMITTEE ON INTERNATIONAL RELATIONS AND TRADE
80TH LEGISLATURE

SENATOR EDDIE LUCIO, JR.
Chair

RECEIVED

FEB 06 2007

OPINION COMMITTEE

February 06, 2007



SENATOR DAN PATRICK
Vice Chair
SENATOR CRAIG ESTES
SENATOR TROY FRASER
SENATOR MARIO GALLEGOS
SENATOR KEL SELIGER
SENATOR CARLOS URESTI

FILE # ML-45116-07
I.D. # 45116

The Honorable Greg Abbott
Office of the Attorney General
Attn: Nancy Fuller
Director, Opinion Committee
209 West 14th St.
Austin, TX 78701

RQ-0567-GA

Via Hand Delivery

Re: Clarification and Interpretation of Section 214, Subchapter G of the Texas Local Government Code

Dear General Abbott:

As chair of the Senate Committee on International Relations & Trade, and on behalf of the City of Pharr, I ask for your opinion on several questions regarding clarification and interpretation of the Texas Local Government Code relating to building standards as outlined herein.

Recently, the City of Pharr has stated they have encountered issues in local development that stem from vague readings of adopted building standards pursuant to the Texas Local Government Code, Section 214, and Subchapter G. The City of Pharr requests clarification as to the application of these standards as well as available options that may exist under the law.

The Texas Local Government Code, Section 214.212 states the following:

- (c) *A municipality may establish procedures:*
 - (1) *to adopt local amendments to the International Residential Code;*
 - and*
 - (2) *for the administration and enforcement of the International Residential Code.*

- (d) *A municipality may review and consider amendments made by the International Code Council to the International Residential Code after May 1, 2001.*



Further, Texas Local Government Code, Section 214.216 states the following:

- (c) *A municipality may establish procedures:*
 - (1) *to adopt local amendments to the International Building Code; and*
 - (2) *for the administration and enforcement of the International Building Code.*

- (d) *A municipality may review and consider amendments made by the International Code Council to the International Building Code after May 1, 2003.*

- (e) *A municipality that has adopted a more stringent commercial building code before January 1, 2006, is not required to repeal that code and may adopt future editions of that code.*

As a result of the adoption of the International Building Code pursuant to Texas Local Government Code, Section 214.216, municipalities are required to comply with any and all code provisions. Under 903.2.7 Group R of the International Building Code, various commercial developments are required to include sprinkler systems to all applicable construction projects. However, the international provisions do not provide for the type, range, installation, or areas in which such sprinkler systems should be operated and maintained. As background, I have included a copy of the applicable provisions of the International Building Code.

Both Sections 214.212 and 214.216 indicate that a municipality "may" establish procedures to adopt local amendments and "may" review and consider amendments to the code itself. Due to high costs of development that result from requiring that construction projects include sprinkler systems, and the economic effect such requirements will have on local commercial development, I am requesting your opinion of the following:

- (1) Whether a municipality may by ordinance refuse to adopt the International Residential Code and International Building Code?
- (2) Whether a municipality may by ordinance adopt selected provisions of the International Residential Code and International Building Code?
- (3) Whether a municipality may by ordinance refuse to adopt selected provisions of the International Residential Code and International Building Code?
- (4) Whether a municipality may by ordinance include reasonable alternatives to the sprinkler system requirement of the International Building Code?
- (5) Whether a municipality or its appeal board or Board of Adjustment may consider variances from the sprinkler system requirement for developers that show need or hardship?
- (6) Whether developed areas are excluded from the sprinkler system

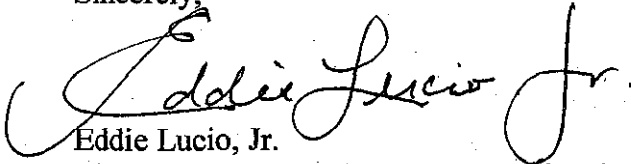
The Honorable Greg Abbott
City of Pharr Request
February 06, 2007
Page 3

requirement if a development plan occurred prior to the effective date of Sections 214.212 and 214.216 of Texas Local Government Code?

Given the importance of following standards set in the Texas Government Code relating to building regulations, I respectfully request your opinion on these questions.

Thank you in advance for your consideration of this matter. Please do not hesitate to contact me if you have any questions or need further information.

Sincerely,

A handwritten signature in cursive script that reads "Eddie Lucio, Jr." The signature is written in black ink and is positioned above the printed name and title.

Eddie Lucio, Jr.

Chair, Senate Committee on International Relations & Trade

Enclosure

ELJ/pcc

FIRE PROTECTION SYSTEMS

tem shall not be less than that required by this code for the occupancy hazard classifications in accordance with Table 903.2.4.2. Where the design area of the sprinkler system consists of a corridor protected by one row of sprinklers, the maximum number of sprinklers required to be calculated is 13.

[F] TABLE 903.2.4.2
GROUP H-S SPRINKLER DESIGN CRITERIA

LOCATION	OCCUPANCY HAZARD CLASSIFICATION
Fabrication areas	Ordinary Hazard Group 2
Service corridors	Ordinary Hazard Group 2
Storage rooms without dispensing	Ordinary Hazard Group 2
Storage rooms with dispensing	Extra Hazard Group 2
Corridors	Ordinary Hazard Group 2

[F] 903.2.4.3 **Pyroxylin plastics.** An automatic sprinkler system shall be provided in buildings, or portions thereof, where cellulose nitrate film or pyroxylin plastics are manufactured, stored or handled in quantities exceeding 100 pounds (45 kg).

[F] 903.2.5 **Group I.** An automatic sprinkler system shall be provided throughout buildings with a Group I fire area.

Exception: An automatic sprinkler system installed in accordance with Section 903.3.1.2 or 903.3.1.3 shall be allowed in Group I-1 facilities.

[F] 903.2.6 **Group M.** An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy where one of the following conditions exists:

1. Where a Group M fire area exceeds 12,000 square feet (1115 m²);
2. Where a Group M fire area is located more than three stories above grade; or
3. Where the combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m²).

[F] 903.2.6.1 **High-piled storage.** An automatic sprinkler system shall be provided in accordance with the *International Fire Code* in all buildings of Group M where storage of merchandise is in high-piled or rack storage arrays.

[F] 903.2.7 **Group R.** An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

[F] 903.2.8 **Group S-1.** An automatic sprinkler system shall be provided throughout all buildings containing a Group S-1 occupancy where one of the following conditions exists:

1. A Group S-1 fire area exceeds 12,000 square feet (1115 m²);
2. A Group S-1 fire area is located more than three stories above grade; or
3. The combined area of all Group S-1 fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m²).

[F] 903.2.8.1 **Repair garages.** An automatic sprinkler system shall be provided throughout all buildings used as repair garages in accordance with Section 406, as shown:

1. Buildings two or more stories in height, including basements, with a fire area containing a repair garage exceeding 10,000 square feet (929 m²).
2. One-story buildings with a fire area containing a repair garage exceeding 12,000 square feet (1115 m²).
3. Buildings with a repair garage servicing vehicles parked in the basement.

[F] 903.2.8.2 **Bulk storage of tires.** Buildings and structures where the area for the storage of tires exceeds 20,000 cubic feet (566 m³) shall be equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

[F] 903.2.9 **Group S-2.** An automatic sprinkler system shall be provided throughout buildings classified as enclosed parking garages in accordance with Section 406.4 or where located beneath other groups.

Exception: Enclosed parking garages located beneath Group R-3 occupancies as applicable in Section 101.2.

[F] 903.2.9.1 **Commercial parking garages.** An automatic sprinkler system shall be provided throughout buildings used for storage of commercial trucks or buses where the fire area exceeds 5,000 square feet (464 m²).

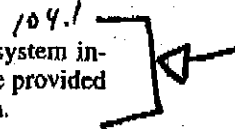
[F] 903.2.10 **All occupancies except Groups R-3 and U.** An automatic sprinkler system shall be installed in the locations set forth in Sections 903.2.10.1 through 903.2.10.1.3.

Exception: Group R-3 as applicable in Section 101.2 and Group U.

[F] 903.2.10.1 **Stories and basements without openings.** An automatic sprinkler system shall be installed throughout every story or basement of all buildings where the floor area exceeds 1,500 square feet (139.4 m²) and where there is not provided at least one of the following types of exterior wall openings:

1. Openings below grade that lead directly to ground level by an exterior stairway complying with Section 1009 or an outside ramp complying with Section 1010. Openings shall be located in each 50 linear feet (15 240 mm), or fraction thereof, of exterior wall in the story on at least one side.
2. Openings entirely above the adjoining ground level totaling at least 20 square feet (1.86 m²) in each 50 linear feet (15 240 mm), or fraction thereof, of exterior wall in the story on at least one side.

[F] 903.2.10.1.1 **Opening dimensions and access.** Openings shall have a minimum dimension of not less than 30 inches (762 mm). Such openings shall be accessible to the fire department from the exterior and shall not be obstructed in a manner that fire fighting or rescue cannot be accomplished from the exterior.



USE AND OCCUPANCY CLASSIFICATION

each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.

SECTION 309
MERCANTILE GROUP M

309.1 Mercantile Group M. Mercantile Group M occupancy includes, among others, buildings and structures or a portion thereof, for the display and sale of merchandise, and involves stocks of goods, wares or merchandise incidental to such purposes and accessible to the public. Mercantile occupancies shall include, but not be limited to, the following:

- Department stores
- Drug stores
- Markets
- Motor fuel-dispensing facilities
- Retail or wholesale stores
- Sales rooms

309.2 Quantity of hazardous materials. The aggregate quantity of nonflammable solid and nonflammable or noncombustible liquid hazardous materials stored or displayed in a single control area of a Group M occupancy shall not exceed the quantities in Table 414.2.4.

SECTION 310
RESIDENTIAL GROUP R

310.1 Residential Group R. Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I. Residential occupancies shall include the following:

R-1 Residential occupancies where the occupants are primarily transient in nature, including:

- Boarding houses (transient)
- Hotels (transient)
- Motels (transient)

less than 30 days

R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

- Apartment houses
- Boarding houses (not transient)
- Convents
- Dormitories
- Fraternities and sororities
- Monasteries
- Vacation timeshare properties
- Hotels (nontransient)
- Motels (nontransient)

more than 30 days

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2, R-4 or I and where buildings do not contain more than two dwelling units as applicable in Section 101.2, or adult and child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours. Adult and child care facilities that are within a single-family home are permitted to comply with the

International Residential Code in accordance with Section 101.2.

R-4 Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including more than five but not more than 16 occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3 except as otherwise provided for in this code or shall comply with the *International Residential Code* in accordance with Section 101.2.

310.2 Definitions. The following words and terms shall, for the purposes of this section and as used elsewhere in this code, have the meanings shown herein.

BOARDING HOUSE. A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit.

DORMITORY. A space in a building where group sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members of the same family group, under joint occupancy and single management, as in college dormitories or fraternity houses.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

PERSONAL CARE SERVICE. The care of residents who do not require chronic or convalescent medical or nursing care. Personal care involves responsibility for the safety of the resident while inside the building.

RESIDENTIAL CARE/ASSISTED LIVING FACILITIES. A building or part thereof housing persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment which provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This classification shall include, but not be limited to, the following: residential board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug abuse centers and convalescent facilities.

SECTION 311
STORAGE GROUP S

311.1 Storage Group S. Storage Group S occupancy includes, among others, the use of a building or structure, or a portion thereof, for storage that is not classified as a hazardous occupancy.

311.2 Moderate-hazard storage, Group S-1. Buildings occupied for storage uses which are not classified as Group S-2 including, but not limited to, storage of the following:

- Aerosols, Levels 2 and 3
- Aircraft repair hangar
- Bags; cloth, burlap and paper
- Bamboos and rattan
- Baskets