APA-3
07/04

CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE REFERENCE SERVICE
JERRY L. BASSETT, DIRECTOR

(Pursuant to Code of Alabama 1975, §41-22-6, as amended).

I certify that the attached is/are correct copy/copies of rule/s as promulgated and adopted on the 7th day of August, 2014, and filed with the agency secretary on the 7th day of August, 2014.

AGENCY NAME: ALABAMA BUILDING COMMISSION

_____Amendment __X__ New _____Repeal (Mark appropriate space)

Rule No. 170X-8
(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

Rule Title: Collection of User Fees

ACTION TAKEN: State whether the rule was adopted with or without changes from the proposal due to written or oral comments:

The chapter is adopted without changes from the proposal due to written comments. The comments received did not propose any change to the proposed rule. One minor grammatical correction was made.

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XXXII, ISSUE NO. 8, AAM, DATED MAY 30, 2014.

Statutory Rulemaking Authority: Code of Alabama 1975, §41-9-141 and 142.

(Date Filed)
(For LRS Use Only)

RECD & FILED
AUG 07 2014
LEGISLATIVEREFSERVICE

Katherine Lynn
Certifying Officer or his or her Deputy

(NOTE: In accordance with §41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.

STATE OF ALABAMA BUILDING COMMISSION
CHAPTER 170X - 8
COLLECTION OF USER FEES

170-X-8-.01 APPLICABILITY
170-X-8-.02 CALCULATION OF FEES
170-X-8-.03 FEES REQUIRED
170-X-8-.04 PAYMENT OF FEES
170-X-8-.05 FINAL COST OF THE WORK
170-X-8-.06 PENALTIES
170-X-8-.07 CONTRACT DOCUMENT ADMINISTRATION FEES

170-X-8-.01 APPLICABILITY

The following procedures and user fees are applicable to new construction, additions or alteration projects for buildings under the jurisdiction of the Alabama Building Commission as defined by the Code of Alabama, Title 41, Section 41-9-162 and authorized by Sections 41-9-141(a) (8) and 41-9-142 (b). These rules apply to projects having the first or final project submittal received for review by the Building Commission on or after October 1, 2014 and projects bid after October 1, 2014. Projects reviewed prior to October 1, 2014 but bid after October 1, 2014 shall only be required to pay the permit fee. The contract document administration fee shall apply to contract documents requiring the Building Commission's approval submitted for approval after October 1, 2014.

Author: Katherine Lynn
Statutory Authority: Code of Alabama 1975, 41-9-141 (a)(8), 41-9-142(b)
History: Filed May 20, 2014; Certified August 7, 2014; Effective October 1, 2014.

170-X-8-.02 CALCULATION OF FEES

Total Valuation	Plan Review Fee	Permit Fee
Less than $1000	No fee.	No fee, unless inspection required, in which case a $15.00 fee for each inspection shall be charged.
$1,001 to $50,000	One-half of the permit fee which is $15.00 for the first $1,000.00 plus $5.00 for each additional thousand or fraction thereof, to and including $50,000.00.	$15.00 for the first $1,000.00 plus $5.00 for each additional thousand or fraction thereof, to and including $50,000.00.
$50,001 to $100,000	One-half of the permit fee which is $260.00 for the first $50,000.00 plus $4.00 or each additional thousand or fraction thereof, to and including $100,000.00.	$260.00 for the first $50,000.00 plus $4.00 or each additional thousand or fraction thereof, to and including $100,000.00.

$100,001 to $500,000	One-half of the permit fee which is $460.00 for the first $100,000.00 plus $3.00 for each additional thousand or fraction thereof, to and including $500,000.00.	$460.00 for the first $100,000.00 plus $3.00 for each additional thousand or fraction thereof, to and including $500,000.00.
$500,001 and up	One-half of the permit fee which is $1,660.00 for the first $500,000.00 plus $2.00 for each additional thousand or fraction thereof.	$1,660.00 for the first $500,000.00 plus $2.00 for each additional thousand or fraction thereof.

The total valuation of work shall be the cost of construction. The "cost of construction" shall include the cost of the actual building construction, addition, or alteration work, including sitework.

Author: Katherine Lynn
Statutory Authority: Code of Alabama 1975, 41-9-141 (a)(8)
History: Filed May 20, 2014; Certified August 7, 2014; Effective October 1, 2014.

170-X-8-.03 FEES REQUIRED

(1) Initial Fee: The first submittal of each new project shall be accompanied by ½ of the plan review fee not to exceed $500.00. Submittals sent in without this initial fee will not be reviewed until the fee payment is received.

(2) Final Submittal Approval Fee: The final submittal of each project shall be accompanied by a payment for the balance of the total plan review fee payment. Submittals sent in without this final submittal fee will not be reviewed until the fee payment is received. The following conditions apply:

a. Written review comments must be sent by the Building Commission to the architect within 30 calendar days of receipt of the submittal. If the submittal is not reviewed within this time limitation, the Final Submittal Approval Fee is waived.

(3) Permit Fee: Upon approval of the construction contract and prior to scheduling the Pre-Construction conference to be performed by the Building Commission Inspector, payment shall be due immediately for the total permit fee. The following conditions apply:

a. The Pre-Construction conference will not be performed prior to receipt of the Permit Fee.

(4) Reviews and Inspections Covered by Fees: The Final Submittal Approval Fee shall include review of schematic, preliminary, final and one revised final submittals. The Permit Fee shall include the following building inspections: Pre-Construction Conference, Pre-Roofing Conference, Above-Ceiling Inspection, Final Inspection and Year-End Inspection. Additional required inspections such as fire alarm inspections, kitchen hood inspections, elevator inspections and other such inspections shall be included as part of the Permit Fee.

(5) Additional Fees:

a. If more than one revised final submittal is required, an additional fee shall be required for each additional revised final submittal. The additional fee shall be equal to the lesser of the following: 15% of the total fee or $2000. The time

restrictions and conditions which apply to routine submittals shall apply to additional submittals.

b. If the contractor schedules an inspection and it is determined by the Building Commission Inspector on site that the contractor is not ready for the scheduled inspection, the Building Commission shall require an additional fee of $1500. The additional inspection fee shall be applied to each additional inspection that is required to be rescheduled.

c. If additional drawings for change orders or addendum are submitted after approval as part of a larger project, the additional fees shall be assessed at the completion of the contract based on the actual construction contract cost.

Author: Katherine Lynn
Statutory Authority: Code of Alabama 1975, 41-9-141 (a)(8)
History: Filed May 20, 2014; Certified August 7, 2014; Effective October 1, 2014.

170-X-8-.04 PAYMENT OF FEES

(1) Final Submittal Approval Fee payment shall be accompanied by the "Final Submittal Approval Fee Worksheet" and a copy of the architect's latest estimated cost of building construction. The cost estimate shall be the basis for calculating the estimated total fee on the fee worksheet.

(2) Permit Fee payment shall be accompanied by the completed "Permit Fee Worksheet" and a copy of the executed construction contract. The construction contract shall be the basis for calculating the total fee on the fee worksheet.

(3) Fee payments are nonrefundable.

(4) Fee payments shall be by check or money order made payable to the "Alabama Building Commission".

(5) Fee payments shall be received only at the Alabama Building Commission's office in Montgomery.

Author: Katherine Lynn
Statutory Authority: Code of Alabama 1975, 41-9-141 (a)(8)
History: Filed May 20, 2014; Certified August 7, 2014; Effective October 1, 2014.

170-X-8-.05 FINAL COST OF THE WORK

The final cost of the work for the permit fee shall be adjusted for change orders and for sales tax credit received by the Owner. The final cost of the work for plan review fees shall be adjusted to include the lowest bid on additive unawarded alternates. The final adjustment along with a copy of the contractor's final pay request shall be submitted to the Building Commission with the Certificate of Substantial Completion.

Author: Katherine Lynn
Statutory Authority: Code of Alabama 1975, 41-9-141 (a)(8)
History: Filed May 20, 2014; Certified August 7, 2014; Effective October 1, 2014.

170-X-8-.06 PENALTIES

Where work for which Building Commission approval is required is started or proceeds prior to obtaining said approval, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of the Building Commission in the execution of the work nor from any other penalties prescribed herein.

Author: Katherine Lynn
Statutory Authority: Code of Alabama 1975, 41-9-141 (a)(8)
History: Filed May 20, 2014; Certified August 7, 2014; Effective October 1, 2014.

170-X-8-.07 CONTRACT DOCUMENT ADMINISTRATION FEES

For projects requiring the Building Commission's approval of the contract documents, a contract document administration fee equal to 1/2% of the construction cost will be charged to the Owner.

Author: Katherine Lynn
Statutory Authority: Code of Alabama 1975, 41-9-141 (a)(8)
History: Filed May 20, 2014; Certified August 7, 2014; Effective October 1, 2014.

CODE OF ALABAMA 1975, Sections 41-9-140 through 41-9-142

Section 41-9-140

Creation; composition; election and filling of vacancies of legislative members; officers; compensation and expenses of members; meetings generally.

There is hereby created a building commission, to be known as the Building Commission, the membership of which shall consist of the Governor, the State Health Officer, the Director of Finance, the State Superintendent of Education, four members from the Senate to be elected by that body at each regular session of the Legislature and four members from the House of Representatives to be elected by that body at each regular session of the Legislature. In the event of a vacancy on the commission caused by the death or resignation of a member elected by the Senate, such vacancy shall be filled by election by the commission at the next regular meeting, such member to be elected from the membership of the Senate. In the event of a vacancy on the commission caused by the death or resignation of a member elected by the House of Representatives, such vacancy shall be filled by election by the commission at its next regular meeting, such member to be elected from the membership of the House.

The Governor shall be chairman of the commission, and the Budget Officer of the state Department of Finance shall be the secretary thereof, but he shall not be a member. The secretary shall be custodian of its books, records and papers which he shall keep at the office of the commission to be provided at the seat of government.

All members of said commission shall serve without compensation. The legislative members shall receive reimbursement for their expenses when actively engaged on the commission's business, such expenses to be paid in accordance with Article 2 of Chapter 7 of Title 36 of this Code.

Said commission shall convene upon the call of the Governor or at such other time or times as the commission shall designate by a resolution spread upon its minutes.

(Acts 1945, No. 128, p. 116, §1; Acts 1951, No. 356, p. 644, §1.)

Section 41-9-141

Powers and duties generally; appointment, etc., of officers, employees and agents; adoption of rules, regulations and plans; approval and allocation of funds; notice of meetings required.

(a) The commission shall have full power and authority for, and on behalf of, the State of Alabama to do any or all of the following:

(1) To acquire lands by purchase, condemnation, or otherwise.

(2) To plan buildings and designate the location thereof.

(3) To plan and provide for the improvement of all property now owned or hereafter acquired by the state or any institution or agency thereof.

(4) To construct, repair, equip, remodel, enlarge, renovate, furnish, refurnish, improve, and locate buildings, structures, and facilities for the use of the State of Alabama or any of its institutions or agencies as in its judgment shall be necessary for state, institutional, or agency purposes.

(5) To enter into contract to perform any of the functions provided for in this subsection.

(6) To receive any moneys, land, or equipment donated, appropriated, or otherwise acquired by it for the purposes provided for in this subsection.

(7) To take the action necessary to accomplish the purposes provided for in this subsection.

(8) To charge and provide for collection of user fees for its services. The fees established shall take into consideration the costs of operating the commission. It is provided, however, that the fees so established by this section shall not exceed the Appendix B Recommended Schedule of Permit Fees of the Southern Standard Building Code.

(b) The commission is authorized and empowered to use the services, facilities, or employees of the Alabama Development Office in furthering the objects of this article when its request so to do is approved by the Governor.

(c) The commission may appoint and dismiss any officers, employees, and agents including competent architectural and technical employees as may be necessary to effectuate the purposes of this article. All employees of the commission shall be subject to the provisions of the Merit System. The commission is authorized to fix by contract the fees or compensation of all architectural and technical employees without regard to the Merit System Act.

(d) The commission is authorized and empowered to make and adopt all necessary rules, regulations, and plans for its own guidance and for the proper conduct of the duties imposed upon it.

(e) The decisions of the commission with respect to approval and allocations of funds shall be final.

(f) No meeting of the commission shall be held on less than three days' actual notice to the members thereof.

(Acts 1945, No. 128, p. 116, §2; Acts 1993, No. 93-344, p. 533, §1.)

Section 41-9-142

Commission user fees to be deposited into revenue fund; permissible disbursements; limitations on uses; when commission may begin to charge.

(a) All user fees collected by the commission under Section 41-9-141 shall be deposited into the existing special revenue fund in the State Treasury designated as the Building Commission Operating Fund. The Director of the Technical Staff of the Building Commission may make deposits to the fund and expenditures from the fund to carry out the functions of the commission. The receipts shall be disbursed only by warrant of the State Comptroller upon itemized vouchers initiated by the Director of the Technical Staff of the state Building Commission and approved by the Secretary of the state Building Commission. Notwithstanding the foregoing, no funds shall be withdrawn or expended for any purpose whatsoever unless the funds have been budgeted and allotted in accordance with Sections 41-4-80 to 41-4-96, inclusive, and 41-19-1 to 41-19-12, inclusive. The balance remaining in the fund at the end of a fiscal year shall carry over into the next fiscal year and shall not revert to the State General Fund or any other fund.

(b) The state Building Commission may start charging fees for services as authorized by Section 41-9-141 no sooner than the first day of the first month which follows the adoption date of a fee schedule promulgated under the Alabama Administrative Procedure Act.

(Acts 1993, No. 93-344, p. 533, §§2, 3.)