

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No. 170 Department or Agency State of Alabama Building Commission  
Rule No. 170-X-8  
Rule Title: Collection of User Fees  
X New \_\_\_\_\_ Amend \_\_\_\_\_ Repeal \_\_\_\_\_ Adopt by Reference \_\_\_\_\_

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? \_\_\_\_\_ Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? ----- Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? \_\_\_\_\_ No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? \_\_\_\_\_ Yes - Minimal

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? \_\_\_\_\_ No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? \_\_\_\_\_ Yes

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Does the proposed rule have an economic impact? \_\_\_\_\_ Yes

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

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Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Katherine Lynn

Date 5-19-14

(DATE FILED)  
(STAMP)

**Alabama Building Commission**

**NOTICE OF INTENDED ACTION**

AGENCY NAME: State of Alabama Building Commission

RULE NO. & TITLE: 170X-8 Collection of User Fees

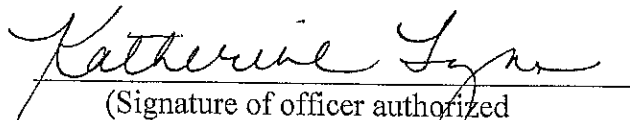
INTENDED ACTION: The Building Commission proposes to adopt a new rule to establish procedures for the collection of user fees as provided for in the Code of Alabama, 1975, Sections 41-9-141 and 142.

SUBSTANCE OF PROPOSED ACTION: The rule establishes the procedures for collecting fees for the services provided by the Building Commission and applies to projects for new construction, additions or alterations that are under the Building Commission's jurisdiction.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held only if requested by an interested party. A written request should be submitted to the agency contact person listed below. Interested persons may present their views in writing to the Alabama Building Commission, 770 Washington Avenue, Suite 444, P.O. Box 301150, Montgomery, AL 36130-1150.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: The Alabama Building Commission will accept comments no later than July 7, 2014 at 5 P.M.

CONTACT PERSON AT AGENCY: Katherine Lynn, Alabama Building Commission, P.O. Box 301150, Montgomery, AL 36130-1150, Phone 334-242-4082 or [Katherine.lynn@bc.alabama.gov](mailto:Katherine.lynn@bc.alabama.gov).

  
(Signature of officer authorized  
to promulgate and adopt  
rules or his or her deputy)

**ECONOMIC IMPACT STATEMENT  
FOR APA RULE  
(Section 41-22-23(f))**

Control No. 170 Department or Agency State of Alabama Building Commission  
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 New  Amend  Repeal  Adopt by Reference

Control No. 170 Department or Agency State of Alabama Building Commission  
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This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

The rule is needed so that the Building Commission can collect fees for their services that will enable the Commission to continue to promulgate and enforce the State Building Code.

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

The rule will enable the Commission to charge fees to the users for the services provided rather than relying on state funding sources.

3. EFFECT OF THIS RULE ON COMPETITION:

None

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

Impact will be the same statewide and will have an inconsequential impact on the costs of living and doing business.

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

None

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

The initial implementation and enforcement will come from the agency's funds but once implemented, the fees collected from the rule will be used to sustain the implementation and enforcement.

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

The economic impact of this rule is that the cost for the services provided by the Building Commission will be borne only by the entities using and benefitting from the services rather than by all taxpayers.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

This is a new rule and it is uncertain that funds generated by the collection of fees, which is based on the 1999 Southern Standard Building Code Fee Schedule, will be sufficient to cover the cost of providing the services.

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

The rule will ensure that the Building Commission is able to continue to enforce the State Building Code which protects

the life safety, health and welfare of the citizens of Alabama.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

If the rule is not adopted, the Building Commission will have to look at significantly reducing services which in turn will affect the enforcement of the State Building Codes and will create life safety, health and welfare issues for all school children and all citizens who visit or work in state buildings, public schools, state community colleges, public universities, private schools, hotels/motels, or motion picture theaters. In addition, the Building Commission will not be able to adequately review and inspect storm shelters built in public schools, community colleges or public universities.

**\*\*Additional pages may be used if needed.**

# New Rule

## 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 be 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

### 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

**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

#### **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

#### **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



**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

**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

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, &sect;1; Acts 1951, No. 356, p. 644, &sect;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, &sect;2; Acts 1993, No. 93-344, p. 533, &sect;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, &sect;&sect;2, 3.)*